

Quarterly Supplement To

Business, Legal,
And Tax Planning
for the Dental Practice

Second Edition,

The purpose of the Quarterly Supplement is to continually update the material contained in **Business, Legal, And Tax Planning for the Dental Practice**, Second Edition, as "free-standing" articles relative to current business, legal, tax and pending legislative matters that affect your practice. These Quarterly Supplements also reflect my ongoing experiences as an attorney representing dental and dental specialty practices. At times, articles will be written by friends who consist of tax attorneys, accountants, actuaries and dentists. The articles contained in the Quarterly Supplements are consistent with the chapters contained in my book, which you may download at www.wickenslaw.com at no charge.



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In This Supplement

Exit Strategies — Dental Practices

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This Quarterly Supplement is not intended to provide the reader with specific legal or tax advice. For specific solutions to legal and tax matters, please consult with your legal counsel and CPA.

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EXIT STRATEGIES — DENTAL PRACTICES

I like to think of myself as an example of "if you can dream it, you can do it!" In 1973, prior to practicing law, I started a career of selling dental supplies and equipment and running a dental equipment and supply company. While working full-time, I completed the Executive MBA Program in Systems Management at Baldwin-Wallace College on weekends and then law school immediately thereafter, in the night program at Cleveland Marshall College of Law. I joined our firm 19 years ago as of September 18. I am the author of Business, Legal, And Tax Planning for the Dental Practice, First Edition, 1994, Second Edition, 2001, PennWell Corporation, and I am working on the Third Edition. The first half of the Third Edition is titled, Joining And Leaving the Dental Practice and is available on this website at no charge; www.wickenslaw.com – click Dental Practice. It should come as no surprise that my area of concentration in our firm's practice of law is the representation of dentists and dental specialists in hiring the new doctor and "cashing out" the senior doctor.

Although readers of this article are not necessarily dentists, some may be another type of professional, e.g., physician, veterinarian, attorney or accountant. As such, much of the advice that I give dentists is very similar to the advice that I would give to other professional practice owners and, in some cases, any small or closely held business owner.

For professionals, there are five ways to leave a practice. First, sell the practice outright. This is the simplest and least stressful exit strategy. This means that the professional practiced as a sole practitioner, which I also recommend for dentists and dental specialists.

Second, hire an associate who will purchase the practice in one to three years when the professional is ready to retire. The young professional would have an employment agreement with the practice that contains a restrictive covenant to protect the practice if the purchase and sale does not occur for any reason, as well as the forfeiture of an escrow deposit in return for the practice owner keeping the practice off the market. The escrow portion of the transaction may not take effect for the first twelve months of the associate relationship.

Third, enter into a solo group arrangement. Here, the incoming associate develops his or her own patient base from the practice. In roughly three years after certain predetermined performance standards have been met, the incoming associate purchases his or her goodwill from the practice or practice owner. The new owner also purchases one-half of the tangible assets of the practice. Thereafter, the two dentists practice independently under the terms of an office sharing arrangement. A buy-sell agreement is also in place. Death and permanent disability typically provide for a mandatory buy-out, while retirement would be an optional buy-out. In the event of dispute, the buy-sell agreement would usually provide that the new owner would relocate and the founder would remain in the practice facility. In such case, the relocating professional would receive the fair market value for his or her ownership interest in the tangible assets and would retain ownership of his or her patient records and charts. The advantage of the solo group is two-fold. First, the incoming owner is not required to purchase the second half of the founding owner's practice upon retirement. Second, each owner can run his or her practice without interference from the other. Under this exit strategy, there may be common ownership

of the building, the practices would maintain separate telephone numbers and certain staff members could be shared.

Fourth, the practice can hire an associate and after predetermined quality and performance standards are met, elevate the associate to ownership. This "partnership" model is becoming increasingly popular due to increasing demand for patient services as practices become larger. Partnerships with owners as shareholders of an S or C-corporation or members of a limited liability company are complex by their nature. The reason for this is because three categories must be considered; the buy-in, the operations and the buy-out. Usually, only the buy-in and possibly the operations are considered. The buy-out is often overlooked. Operations consist of allocation of compensation, decision-making control and the role of the non-doctor spouse in the practice. Here, the buy-out upon an owner's retirement is usually mandatory. Added to the complexity of the three categories is that there are three basic business and tax structures of entering into partnerships.

Finally, the last way to leave practice is to work one or two more years than anticipated, then close the doors and walk away. This is becoming increasingly common with dental specialists because specialty practitioners are few in number. This is also the case with relatively small general practices because the new owner cannot earn enough money to pay living expenses, pay for the practice and service school debt.

With the five methods of leaving practice, I recommend planning the exit strategy five to ten years in advance. With sufficient time to plan, we can accomplish any desired result, including increasing practice value, so that closing the doors is not the only option for leaving a practice.