

Practical issues surrounding partnerships and retirement

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I suppose most dental practices have had those calls. The ones where a parent phoned up asking for the dental records of the child. The parents have separated. One parent is hoping that the dental records, notices of appointments, letters to the other parent, will help them in their battle against their evil and vicious ex-partner who is determined to destroy the children. It always pains me that these parents hate each other more than they like their children.

Business partnerships are not very different to marriages. In both cases people are working together in a common enterprise. In both cases each party needs to rely on the other for certain things. Either party can get hurt by the other acting in a way that is perceived to be against their interests.

So it is not very surprising that, as well as calls from members asking about one parent requesting notes of their children, we also get calls from members who are entrenched in a mutually destructive and expensive dispute with their ex-business partner.

It is, of course, so very easy to avoid. The right communication at the right time goes a very long way. Retiring from a practice can be done smoothly and profitably for both parties. There need be no battles. It simply needs the same mutual desire to reach a shared goal as kept the partnership alive in the first place; it's just that the end goal is different.

The first place to start, I suggest, is a look at the partnership agreement, or company articles and agreements, with the aid of a lawyer. We always suggest using a lawyer that understands the dental industry. To that end, a good place to start would be the National

Association of Specialist Dental Accountants and Lawyers. make sure you understand the process for leaving the partnership, and your rights and obligations.

The second thing to do on the list is to discuss the matter with your partner or partners. Explain that you are looking to retire and start discussing options for effecting your exit. People often need time to come to terms with news of this nature. If it is news that you are leaving the practice, then give your partners time to get used to that, to take their own advice. Listen to their thoughts as well. In some cases, a discussion one or two years in advance will help the remaining partners get in a position to buy the retiring partner's share.

If you are retiring, failing to take into account the wishes and anxieties of your existing partners will cause you problems. Likewise, they need to understand that you wish to retire with a fair reward for your share of the business.

Make sure that you follow your lawyer's advice on how to communicate with the other partners. There are likely to be formal notifications that you have to give it some time. This is not to say that you cannot have an informal discussion first, but it is best to take advice before you say anything.

At some point, the value of your share of the partnership or company may need to be determined. In many cases, the parties are able to reach a sensible way of finding a suitable value. Often, this will be instructing an independent valuer. In other cases, the selling partner may have been given an over exaggerated value of the practice by an expert of some kind. One or other party maybe greedy. In any event, the only people likely to gain from such fights are the lawyers. Be realistic. Be ready to compromise.

If you are selling your share in a partnership or company, then there has to be someone to buy that share. Who can

buy the outgoing partner's share is likely to depend on the partnership or company documentation. It is likely that the existing partners will have a right of first refusal. It may be that you have the right to find your own buyer. Regardless of that right, your existing partners are going to have to work closely with whoever you bring in. If you try and bring in someone they don't like, they are going to resist, and that is likely to lead to a dispute.

Be clear about what will happen to your patients and goodwill when you leave. You'll still be liable for any negligent treatment you may have provided. You will need to ensure you have insurance for that. Goodwill may be more difficult. Maybe you want to retain the right to treat some of your patients as an associate at a practice near your home. Anyone buying your share of the business is unlikely to be happy about you taking goodwill. These matters need to be discussed in detail before any sale is agreed.

Make sure that you use a good lawyer to deal with the terms of your retirement from the practice and the transfer of any share in the practice to a new partner. As I said above, it is important to use a lawyer who understand the dental industry. These discussions may help you agree a path that prevents disputes arising in the future. If there is an NHS contract, then using a dentally experienced lawyer is even more important. Transferring an NHS contract requires knowledge of NHS regulations.

In some cases, there will be no buyer. It may simply be the case that the practice has to shut down. The remaining partner may need to find a smaller venue to practice, if indeed they wish to continue at all. Shutting down a dental practice is not very difficult, but it does need some planning. Again, good communication between the partners – and good advice – will make the process less painful. ♦

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