



PIERCE & MANDELL, P.C.

Attorneys at Law

11 Beacon Street, Suite 800, Boston, MA 02108

617-720-2444 • www.piercemandell.com

STARTING UP A SUCCESSFUL DENTAL PRACTICE

1. Terminating Your Current Employment Relationship.

- If you are leaving your current practice to start your own practice, have you reviewed the terms of your current agreements to make sure you will not breach any contractual obligations related to notice provisions, restrictive covenants and improper use of patient lists or other proprietary information? Have you identified the legally and ethically appropriate means by which patients will be notified of your departure?
- Is your current professional liability policy a “claims made” or “occurrence” type policy? If it is a claims made policy, which party is responsible for securing and paying for tail coverage? How will the transition affect your insurance (life, disability) policies and benefits?
- New Massachusetts Noncompete Law: Noncompete agreements executed on or after October 1, 2018 are no longer enforceable against non-exempt employees under the Fair Labor Standards Act, undergraduate or graduate students employed as interns, employees who are laid off or terminated “without cause” and employees age 18 or younger. There are exceptions. For a noncompete agreement to otherwise be enforceable, new requirements include but are not limited to the following (there are also exceptions): duration and geographic limitation; it can be no broader than necessary to protect an employer’s trade secrets, confidential information and/or goodwill; the agreement must be reasonable in scope of prohibited activities as related to interests protected; must contain “Garden Leave” clause or “other mutually agreed-upon consideration.”

2. Office Space.

- Do you have a plan to locate the right office space and negotiate a lease or purchase agreement?

3. Vendor Relationships.

- Identify what services you may need to contract externally and negotiate and enter into service contracts (e.g. billing, practice management, CPA, information technology, waste disposal).

4. Start-up / Working Capital.

- New practices generally need working capital for the first 3 - 6 months until sufficient revenue is collected to cover all expenses. Where will it come from? If you borrow the money, you will need to negotiate and enter into loan agreements.

5. Choice of Entity.

- Select and establish a name and a choice of professional entity (S corporation, C corporation, limited liability company, limited liability partnership, non-profit corporation) to own and operate the new practice (the choice of entity decision should be made with input from both accounting and legal professionals).

6. Employees and Contractors.

- If there will be more than one dentist or clinical professional working on behalf of the practice, what terms of ownership, governance, compensation and employment need to be negotiated and set out in the proper legal documents?

7. Payer Credentialing.

- Are all necessary applications and credentialing forms going to be filed within the time frames established by payers to obtain provider numbers and ensure continued and uninterrupted participation with all third party payers?

8. Office Policies and Procedures.

- Does your new office have written office policies and procedures? These should include employee policies (e.g. background checks, sexual harassment, vacations, personal and family leave, etc), a HIPAA compliant privacy plan, including data security and breach policies and procedures, and policies for patient billing and collection.

For assistance with practice transitions, please contact 617-720-2444, or William Mandell, Esq. at bill@piercemandell.com, Hannah Schindler Spinelli, Esq. at hannah@piercemandell.com, Michael C. Fee, Esq. at mfee@piercemandell.com, Samuel R. Hoff, Esq. at shoff@piercemandell.com, or Julie Niejadlik, Esq. at julie@piercemandell.com.

The above practice points should be considered by dental professionals when starting a dental practice. This list does not constitute legal advice and is not conclusive. We recommend that dental practices and professionals obtain assistance from professionals (attorneys and CPAs) to ensure that agreements are complete and serve to adequately protect your interests.