



The Rules of Engagement:

The dental industry specific termination clauses

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There is a wise saying that says we should 'always hope for the best and plan for the worst'. Having worked closely with hundreds of dentists, I have seen a very common business error repeatedly made that leads to enormous stress and financial loss.

All working relationships will eventually come to an end. While most dentists will spend a lot of time working out how they should work with employees, contractors or partners, they rarely look into the details of how the relationships will end. When you think about it, this is the time of the relationship where much of the stress will occur and it is the most likely time to lead to legal entanglements.

Most employee/contractor agreements will have termination clauses that include notice periods, non solicitation and non competition of staff and clients (patients) -these clauses are common to all industries. There are some termination issues that are dentist- specific that lead to a lot of conflict that don't seem to appear in most agreements.

Warranty work (redos) after the dentist has left

There isn't a dentist alive who hasn't had to redo/adjust some of their own work at some stage. But what happens when the dentist responsible has left the practice and is no longer there?

Should another dentist (employee or principal) have to redo it? Should they do so at no charge? At full charge? How does the practice account for the time one employee dentist spends redoing the work of another employee dentist that has left the practice?

This issue comes up with such regularity that you'd think the industry would have worked out a standard that would appear in all employee/contractor agreements. Unfortunately this isn't the case and it is handled in a very haphazard way. Many practices will retain money for a period of time after the dentist has left the practice to account for redos. Some practices will do the warranty work at their own costs. Others will try to recoup the costs from the dentists somehow after they have left.

However the practice decides to handle this situation- it needs to be discussed in advance and put into the termination clauses of their contract. If there is going to be some retention from their final pay for this purpose then it needs to be reflected in their written agreement with the practice. The clause in their agreement needs to mention:

- How much will be retained?
- Where will it be retained from? (ie collections, net payment)
- How long will the money be retained?
- After this period of time, how will the money be reconciled and settled? What records of the redos will be provided to the exited dentist to show the redo work that was done?



Uncompleted work

What happens to work that the exiting dentist has not completed? Often when a dentist leaves a practice there are indirect cases that they have started but not completed. For example crown and bridgework that have had case acceptance by the patient and been prepped by the dentist before they left. All that is left to do is the fitting and cementing.

There is generally no question that in the case of a crown, the greatest part of the work is in getting the case acceptance and prepping the tooth. The work still to be done in fitting and cementing a crown is relatively less than the initial part.

However, one needs to acknowledge that the cementing of the crown also includes the responsibility of aftercare (including potential occlusal adjustments) and the warranting of the crown.

Again you would think that this should be such a common circumstance that an industry standard would exist for how to handle this. There is none.

Some practices apportion all of the receipts to whichever dentist was working when the receipts came in. If all the money comes in at the end then the dentist who fits the crown gets it all. This can cause all kinds of issues when the dentist who used to work there lays claim to a percentage of the fees received for that crown since it was work that they did.

Other practices apportion a percentage to each dentist. That is, an apportionment of the net fees (say 75% for example) would go to the dentist who does the prep, and the remainder of the net fees (25% in the example given before) to the dentist who cements the crown. If the new dentist feels the crown is not of suitable standard, then he/she should re-take the impression and re-start the procedure, with the concomitant full charge being allocated to this dentist.

Similar principles should exist for dentures, bridgework, inlays, implant procedures etc.

However it is decided to handle uncompleted work the decision should be clearly represented in the termination clauses of the contract in order to avoid misunderstandings, surprises and conflict. Like all issues, if an expectation is set at the beginning of the relationship on how these issues will be handled, then very few problems will ensue.

{Published in mid 2009}

