SELLING A PRACTICE

- All dental practices are going to transition.
- Hopefully the owner is able to get some value out of it through a sale.

STANDARD CASE 1: Succession

Selling Dentist

Buying Dentist
STANDARD CASE 2: Succession with Overlap

Buying Dentist

Selling Dentist

Buying Dentist

Selling Dentist (Employee)

GOALS

• Clarity regarding obligations.
• Meeting each party’s needs and goals.
• Managing tax issues and risks.
• Transitioning business operations.
GOALS - SELLER

• Get the best price for the business.
• Minimize ongoing obligations and liabilities.
• Maximize up front cash.

GOALS - BUYER

• Get the lowest price for the business.
• Minimize the risk the seller oversold the value of the business.
• Ensure you have a remedy if the seller breached the agreement.

DUE DILIGENCE

• Opportunity for Buyer to research Seller.
• Seller knows its own business better than the Buyer.
• Buyer wants to know what he/she is getting into.
• Covers everything.
DUE DILIGENCE – SELLER PREP

• If a Seller does not have good records, it increases the Buyer’s risk.
• Annually check to make sure corporate and financial records are in order.
• Buyers (and their financing sources) abhor risk.
• Poor records can easily sink a deal or substantially lower the price.

DUE DILIGENCE - DISCLOSURES

• Financials
• Assets and Real Estate
• Corporate Documentation
• Tax Information
• Litigation
• Employee Matters
• Regulatory/Payer Compliance

ADVANTAGES TO SELLING DENTAL PRACTICE

• Buyer already knows how business works.
• If Buyer an employee, already knows the business.
• Financing generally available.
TWO BASIC STRUCTURES

- Asset Purchase
- Stock Purchase

ASSET PURCHASE

- Generally preferred by Buyers.
- Best limits successor liability.
- Provides a stepped up basis.
- Requires depreciation recapture for Seller, if applicable.
- Generally ordinary income up to amount of depreciation recapture, then capital gains.

STOCK PURCHASE

- Generally preferred by Sellers.
- Can be simpler, no transfer of contracts, etc. (may have notice requirements).
- No step up in basis for Buyer.
- Generally all capital gains in excess of basis.
FINANCING
• Cash
• Bank
• Seller Financing
• Combination

INDEMNIFICATION AND REMEDIES
• Survival – Protection and Certainty
• Indemnification
• Defense of Claims
• Baskets, Caps
• Setoff
• Exclusivity of Remedies?

OTHER ISSUES
• Employment Agreement
• Non-Compete Obligations
• Confidentiality
• Earn Out
• Transition Assistance
Website:  www.brownwinick.com
Toll Free Phone Number:  1-888-282-3515

OFFICE LOCATIONS:

600 Grand Avenue, Suite 2000
Des Moines, Iowa  50309-2510
Telephone:  (515) 262-2400
Facsimile:  (515) 262-6231

616 Franklin Place
Pella, Iowa  50219
Telephone:  (641) 628-4513
Facsimile:  (641) 628-8494

DISCLAIMER: No oral or written statement made by BrownWinick attorneys should be interpreted by the recipient as suggesting a need to obtain legal counsel from BrownWinick or any other firm, nor as suggesting a need to take legal action. Do not attempt to solve individual problems upon the basis of general information provided by any BrownWinick attorney, as slight changes in fact situations may cause a material change in legal result.