Delayed buy-outs

Practice Transitions

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Once a dental practice has reached a degree of maturity, the decision to sell and the methods used in selling the practice may be among the most important business decisions being made by the practitioner. Proper timing, adequate preparation of the practice for sale, and choosing the optimal method of sale are the key variables determining a successful sale.

Methods for selling a practice have become increasingly sophisticated in recent years -- with a variety of provisions now being built into agreements to protect the interests of the parties involved. In this article, one increasingly popular method of sale will be discussed: delayed buy-out.

First, a definition: A delayed buy-out is a contract to purchase a dental practice with the closing to take place at a definitive time in the future. The closing usually occurs no longer than two years after the agreement. The price is established at the time of contract.

Substantial contract money is held in escrow by the seller’s attorney and additional money is payable on closing of the contract. The closing should occur after the transition period. The buyer is not an owner yet, nor is he a partner. The seller maintains control until the closing and the buyer’s status is in transition, just as the practice is in transition.

The delayed buy-out gives both buyer and seller the advantage of a more solid deal with fewer unknowns than with a direct sale or a partnership agreement. Furthermore, there is a maximum transfer of patients to the purchaser. Because of the well-structured and organized nature of the transfer agreement, this near guarantee of maximum patient transfer is discernable at the outset.

Naturally, structuring a deal this way through a delayed buy-out improves the terms of sale for the seller while protecting the future interest of the buyer. There also is greater opportunity for the two practitioners to share information in an optimal, protected environment.

So far, this sounds like a win-win situation for all parties involved. In many ways it is, but there are serious pitfalls that could present themselves. These potential problems must be considered. If any pose a real threat to either the buyer or seller, means of dealing with them must be written in the agreement. Many of these pitfalls are unique to the delayed buy-out and are relatively new problems to be faced.

The major potential problems tend to crop up between the time of contract and the closing of the practice sale. However, with proper guidance, the peace-of-mind and profitability in successfully executing a delayed buy-out are well worth the effort required. Dealing with the possible pitfalls usually is a matter of competent legal and dental-management advice in structuring the written agreement.

One key guideline is that the practice must be substantially the same as at the time of contract. Otherwise, reduction of the price or otherwise changing the terms will be necessary, as delineated in the agreement. If there is a substantial decline, there already must be a clause allowing a right to rescind the contract and return part or all of the escrow money. Depending on the circumstances, bear in mind that the seller is in control during the transition period.

These and other complications must be considered seriously and all provisions made in the written agreement. Competent guidance from advisers experienced in structured, delayed buy-outs is the key here.

A delayed buy-out is not something to be structured by an amateur. Its success lies in the people involved coming together to form an effective team. The most important goal in this process is the successful orchestration of the efforts of buyer, seller, broker, and various other professionals (dental consultant, accountants, and attorneys) who will be involved in the transaction. Such cooperation and mutual support will maximize the advantages to both buyer and seller.

This need for a straightforward approach on the part of all those involved may be one of the greatest advantages of the delayed buy-out. It eliminates many of the causes of uncertainty and antagonisms that almost always develop in the course of traditional buy/sell negotiations.

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