

# Smooth Transitions: What to Expect When You Buy a Dental Practice (and other Legal Stuff)

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Although your presenter today is a licensed attorney, nothing in this presentation should be taken as legal advice for a specific case, but purely general information regarding the dental practice transition process. If you have a specific legal need, please consult an attorney or other professional that is licensed in your state.

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## Legal Disclaimer



# Build Your A-Team

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- Attorney
- Accountant
- Banker
- Insurance Broker/Agent
- Real Estate/Lease Broker
- Practice Management Consultant
- Transitions Broker
- Equipment/Technology Representatives
- Marketing Specialists
- Financial Planners
- Architects/Contractors



Mergers & Acquisitions  
Business Law  
Contracts  
Real Estate/Landlord Tenant  
Employee Law  
Health Care Law

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**Dental Practice Transition Attorneys**

**Jack of all trades, master of one.**



# Where do I find my team & practices?

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## Team

- Google/Internet Search
- Referrals from dental friends/other dental professionals
- District or State Meetings' Exhibit Halls
- MDA Website

## Practices

- Local/National Transition Company's Website
- MDA Website
- Word of Mouth/Other Dental Professionals
- Send Letters to Dentists in Your Area

# What to look for in a dental practice?

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- Location
  - *Don't overlook practices in outer ring suburbs and greater MN!*
- Strong Hygiene (beating heart of a practice)
- Collections
- Active Patient Count
- Overhead (50-70%)
- Discretionary Expenses
- Percentage of referrals (ie pedo, perio, endo, ortho, etc)
- Ways for you to grow the practice
- Cash flow!!



# Journey to Practice Ownership

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- Start-Up
- Solo Practice
- Associate Buy-In

# Business Formations

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- Sole-Proprietor
- Partnership
- Corporation (C-Corp or S-Corp)
- Limited Liability Company
- Professional Firms Act



## Business Entity Comparison Chart

	<b>Sole Proprietorship</b>	<b>Partnership</b>	<b>C Corporation</b>	<b>S Corporation</b>	<b>LLC</b>
<b>Legal Status</b>	same entity as owner	same entity as owner	separate entity from owner	separate entity from owner	separate entity from owner
<b>Separate Taxable Entity from Owner</b>	No	No	Yes	No	Depends on tax status as sole proprietorship, partnership, or corporation
<b>Ease of Formation</b>	Very easy	Very easy; Partnership agreement is helpful	Articles of incorporation generally required	Articles of incorporation generally required	Articles of organization generally required
<b>How to Form</b>	No state filing required, unless doing business under an assumed name.	No state filing required, unless doing business under an assumed name.	State filing required.	State filing required; Subchapter S election typically must be made within 60 days of formation	State filing required.
<b>Owner Liability</b>	Owners have unlimited liability	Owners have unlimited liability	Shareholders are typically not personally liable for corporate debts.	Shareholders are typically not personally liable for corporate debts.	Members are not typically liable for the debts of the LLC.
<b>Formalities and Record-Keeping</b>	Relatively few legal requirements.	Relatively few legal requirements.	Formal board and shareholder meetings and minutes are required, and annual state reports required.	Formal board and shareholder meetings and minutes are required, and annual state reports required.	Formal meetings and minutes are not required; however annual state reports are required.
<b>Recommended for</b>	Owners wanting minimal formalities, maximum flexibility, and not worried about personal liability.	Owners wanting minimal formalities, maximum flexibility, and not worried about personal liability.	Owners needing maximum tax and ownership flexibility, combined with liability protection.	Owners wanting the liability protection of a corporation, with the simplicity of passthrough taxation of income	Owners wanting the liability protection of a corporation with less corporate formalities, and the simplicity of pass-through taxation of income.

# Minnesota Professional Firms Act

## Minn. Stat. Section 319B

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Dental practices in MN must be 100% owned by licensed dentists.



Keeps the actual business entity itself accountable to MN Board of Dentistry. Also allows dentists to hold onto the power of profession and keep dental practices in their hands.



Does not allow transfer of interest in dental practice to spouse or child, unless they are a dentist (ie divorce, death). Upon death of dentist, beneficiary has one year to sell.

# Assumed Names (“DBA”)

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- Assumed Names are normally reserved for sole proprietors, but are sometimes used by entities. For example, you want the legal name for your practice to be “Joe Exotic Dental Group, PLLC,” but you want the practice to be called “Tiger King Dental.”)
- Requires an additional filing with the Secretary of State and publication in local newspaper for two cycles.
- If you have an assumed name, don’t forget to renew with the SOS every year along with your legal entity



# Non- Competition Agreements

# Non-Competition Agreements

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- No statutes, rely on case law & industry standards
- Case by case basis
- Population density (how many dentists can population hold? General dentists will be different than specialist.)
- Courts weigh rights of business and person's ability to find another job
- “Reasonable” Standard
- Patient Rights to see health care provider of their choice (solicitation clauses)

# Non-Competition Agreements

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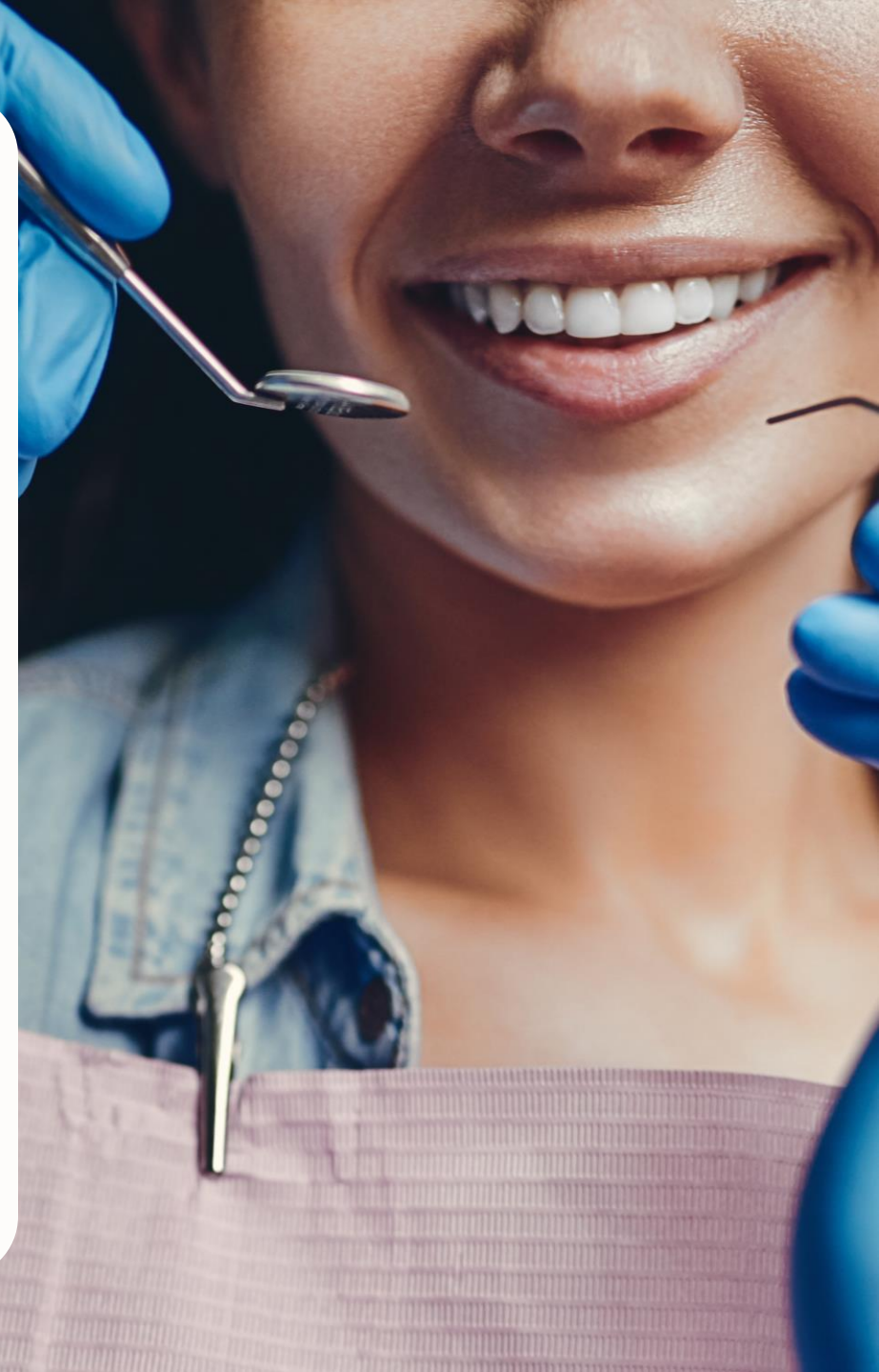
- Restricted Area and Period of Time
  - *Population density and “reasonable” standard*
  - *This will be different for general dentists vs. specialists*
- Solicitation of Patients
  - *Does not include general advertisements (ie websites, tv commercials, etc.)*
  - *Cannot prevent patient from seeing restricted dentist outside restricted area (ie “employee cannot interfere with business relationship of employer’s patients”=unenforceable)*
- Solicitation of Employees
  - *Cannot restrict non-solicited employees if they come of their own free will*



# Legal Documents

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- General Legal Documents for a start up, buying a solo practice or an associate buy-in
- Every transition process is different and will require a combination of these documents or even new/different documents
- **Think outside the box!**



# Start Up

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Lease/Purchase Agreement for  
Building



Business Formation Documents



Contracts with vendors, insurance  
company, employee handbook, etc.





LETTER OF INTENT  
(LOI)



BUSINESS FORMATION  
DOCS (IF ASSET  
PURCHASE SALE)



PURCHASE  
AGREEMENT (ASSETS  
OR STOCK)



EMPLOYMENT  
AGREEMENT/NON-  
COMPETE



LEASE/PURCHASE  
AGREEMENT OF  
BUILDING



BILL OF SALE

# Solo Practice

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# Associate Buy-In

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LOI/Terms Sheet (maybe)

Purchase or Buy/Sell  
Agreement (Asset, Stock,  
Membership Interest)

Business Formation (Asset,  
Seller Sole Proprietor)


Shareholder/Employment  
Agreement/Bylaws or  
Operating Agreement

Lease (if Seller owns  
Building)

Deferred Compensation  
Agreement/Promissory  
Note/Pledge  
Agreement/Bill of Sale

# Maintaining Your Legal Entity

- Annual Written Actions/Meeting Minutes
- Renew with Secretary of State & MN Board of Dentistry each year
- Keep proper records
- Keep corporate documents and accounts separate from personal
- “Piercing Corporate Veil” or “Liability Shield”
  - Can go after personal assets if the owner is siphoning funds/insolvent, non-functioning board/managers, company is façade for individual dealings, absence of corporate records and failure to observe formalities (formalities not as important for sole member LLCs)



“Success is doing the  
basics well, most of  
the time”

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Mark Leblanc



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# Additional Resources

- Books, Podcasts, Websites & Seminars for Small Businesses and/or Dentistry
  - 7 Habits of Highly Effective People by Steven Covey
  - Lean In by Sheryl Sandberg
  - Grow Your Business: What You Need to Know, What You Need To Do by Mark Leblanc
  - Zero to One: Notes on Startups, or How to Build the Future by Paul Thiel
  - The Trust Edge by David Horsager
  - “The Dental Amigos” Podcast
  - “Transition Talk” Podcast
  - “The Dentalpreneur” Podcast
  - “Achiever’s Circle Seminar” Mark Leblanc (Minneapolis based)
  - ADA Website. The ADA has a plethora of resources to help dental entrepreneurs.
- Local Transition Companies
  - MN Transitions
  - Shea Practice Transitions
  - Advanced Practice Management
  - Pine Lake
  - Edge Advisors (WI)
  - DDS Match (National with some local)