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We would like to have your feedback and suggestions for future topics. Please email us at editor@profitablepracticemagazine.com. We value your opinion.
This issue features war stories and horror stories, along with sound advice and good news articles. Warren Mackenzie returns with Part 2 on retirement advice. Two lawyers, Louis Laskovski and Mariana Bracic offer cogent legal advice. Louis deals with the intricacies of buying and selling a dental practice. Mariana provides legal insight about the new employment issues.

Also, in this issue, two books are reviewed. One by the violin playing, philosopher-dentist, Dr. Milan Somborac, who solves an ethical dilemma and provides a synopsis of his acclaimed book, Your Mouth, Your Health, Stop and Reverse Aging. David Scott Smith’s book, Breaking the Silence, recalls the heroics of his dentist father and those of his father’s boyhood chums in World War II.

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To Buy or Not To Buy... in the U.S.?

by Todd C. Slater

The answer is not surprisingly, “yes” and of course, “no”. Let's start off with why you should not buy in the U.S. Do not buy in the States if you think you are going to make a quick buck. That ship has sailed and the truth is the market could be looking at a 10 to 20 year recovery period.

Secondly, if you are buying as a rental income property, you will have to either manage it yourself, or have a management company in another country manage it for you. One major issue with U.S. rentals right now is the fact that the very people you are renting to, your tenants, have been through quite a lot in the last few years. Some have lost their homes and their credit ratings, and paying rent on time may not be very high on their priority list.

Keep in mind as well that due to the large number of foreclosures, in some areas you will find a lack of repairs to utilities, common areas & neighbourhoods, so you must be very careful where you choose to buy.

But there ARE opportunities for those of you that can manage it as IF you are willing to pay it.

But the real question still remains; should you buy real estate in the United States?

Wow, now that is a good question! The U.S. is scrambling with the worst downturn in real estate values since the Great Depression. I actually think it is worse than in the Depression because people have now turned their homes into ATM machines (which is a discussion for another time!).

Canada is now being bombarded with real estate offerings in the U.S. by people who thought Canada was a northern state! You see, we have never seen such a demand for Canadian money in the United States. The advertisements are telling you that you are buying at a third of the price.

In real estate, market value is defined as what a seller is willing to sell it for and what a buyer is willing to pay for it. So, MARKET VALUE is what they are REALLY telling you that you are buying at a third of the price.

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Would You Like to Increase Your Case Acceptance?

by Anita Jupp

Have you ever wondered why many patients do not accept the treatment you suggest to them? Here are some reasons:

1. Dentists talk very technically, and often provide too much information that patients do not understand.
2. Patients want dentists to listen to what they want and often are told what they need. Patients will accept the treatment they want when they understand the options.
3. Often treatment is explained too quickly and patients leave not completely sure of why they need the treatment.
4. The patient arrives at the business desk and tells the business team to remain on schedule. Often, hygienists cannot answer patient questions related to treatment and fees allowing the dental hygiene team to remain on schedule.
5. The treatment coordinator would answer patient questions in the event the patient asks questions at the business desk. It is difficult for the business team to know all the clinical information.
6. The patient starts the treatment and never completes it. For example, he or she leaves with a temporary crown that soon falls off.
7. It is ineffective if a team member or dentist says, “let us send a pre-determination to your insurance and see what is covered”, when a patient has said ‘no’ to treatment. Listen to what the patient has said in order not to waste time.
8. Dentists are often rushed and have little or no time to discuss treatment. It is difficult for the business team to know all the clinical information in the event the patient asks questions at the business desk. It is also important to consider the confidentiality of patient information. Patients waiting in the greeting area often listen to what is being discussed in an open reception area.

The clinical team should educate the patient and answer all of the patient’s questions. This is often difficult for the clinical team on a schedule with time constraints.

What is the answer?

You may need a Treatment Coordinator.

A well trained team member that has the knowledge of clinical treatment and the communication skills to present the dentist’s treatment plan to patients.

Low case acceptance is very costly to the practice, so I suggest the case acceptance be monitored for the following:

- The number of cases presented each month
- The number of treatment plans accepted and the dollar value scheduled
- The number of refused treatments and the reasons
- The number of treatments wanted but are waiting for a time and/or finances, with tracking and follow up procedures for these patients included
- The number of pre-determinations sent
- The number of pre-determinations followed up and scheduled

The Treatment Coordinator’s Role (These duties may vary)

- New patient interviews
- Patient education
- Reviewing and discussing new treatment plans
- Discussing the phases of the new treatment
- Answering patient’s questions with regard to the treatment
- Fee presentation, financial arrangements and insurance information
- Promoting the practice’s infection control procedures
- Following-up with patient letters, emails and phone calls
- Discussing the benefits of new services and technology
- Discussing and documenting of patient financial commitment

All of the above duties would take place in a consultation room to ensure privacy of the details of treatment and fees without other patients listening in.

The treatment coordinator would answer patient questions with regard to treatment and fees allowing the dental hygiene team to remain on schedule. Often, hygienists cannot answer patient questions related to fees, dental benefit coverage or discuss the options the dentist suggested.

The Benefits of a Treatment Coordinator

- Fewer unhappy patients as treatment and fees have been explained.
- Dramatically improved financial arrangements and commitment by patients to pay
- Increased case acceptance and production
- Less stress for the business and hygiene teams
- Well informed and more committed patients

Remember to track incomplete treatments and get patients back on schedule. All patients with incomplete treatment should either be in the tracking system or, after tracking, listed as “incomplete but tracked” in a patient chart.

I recommend that the Treatment Coordinator call all incomplete restorative patients twice and document doing so in their chart or computer. If the treatment is not booked after 2 phone calls, then send a “Treatment Incomplete?” letter and place a copy in their chart. At this point, you have done all you can.

Treatment that has been outstanding for many months or years should not be called. It is difficult to tell the patient that their treatment is very important as patients may say, “Why didn’t you tell me before if it was that important?”

Make sure the patient has a hygiene appointment and the doctor can then discuss the incomplete treatment with them.

The dentist presents treatment plans chair-side, and then refers the patient to the Treatment Coordinator to receive more information. The Treatment Coordinator will also be responsible for following up with patients.

The role of the Treatment Coordinator intertwines with every other position in the practice. He/She helps ‘close the dentist’s proposal’, including explanation of treatment, booking the appointment and making the financial arrangements, thereby increasing case acceptance.

It is an amazing full-time position for an enthusiastic person with excellent communication skills and clinical knowledge. Every dentist’s case acceptance will increase dramatically once the Treatment Coordinator meets with EVERY patient that requests a pre-determination and/or estimate of treatment.

Bottom Line: Practical advice on why a dental practice may require a Treatment Coordinator.
Interview with the Inimitable Dr. Howard Rocket

Howard Rocket entered the room exuding energy and an aura of wisdom despite a noticeable limp, the result of a stroke suffered 16 years ago.

He and partner, Dr. Brian Price, were branded ‘renegades’ who took the Royal Ontario College of Dentists to the Supreme Court and won. The Court’s ruling changed how dentists could advertise their services and still stands, 21 years later, as one of the most pivotal in Canadian legal history.

Dr. Rocket can be described as a ‘pioneer’ that pushed many of the edges of the dental profession and made only a few friends along the way.

Against considerable opposition and obstacles, he changed the way dentistry was delivered in Canada. His and Dr. Price’s company, Trident, relocated the typical 1970s second-floor dental office into malls across Canada. Their company was hugely successful.

Presently, he is involved in five business ventures, two related to dentistry and three that are not. Recently, his business acumen was evident in a ROI Corporation office where he offered advice – free – to a Western Canadian company looking to expand their already lucrative dental practice business. He imparted clarity to the proposed business model. Drawing on his investment experience, he guided the Alberta-based group through the pitfalls to avoid and sound business practices to employ.

Later, when asked what he would change in Canadian Dentistry, he replied “communication and education.” He stated that the Dentist and Hygienist Associations do not do enough to educate and communicate how important the mouth is, from both an aesthetic and health point of view. The sickness issues resulting from poor dental health are staggering. People have to know the ‘why’ of maintaining a healthy mouth for their total well-being.

He was distressed that many Canadians still do not have regular dental checkups and cleanings. Dr. Rocket (who ‘tells it the way it is’) attributed this to:

- fear of the chair and its perceived pain,
- fear of the potential costs (even with insurance),
- fear of being ‘tapped off’ and over serviced.

For him, these fears must be removed. He was critical of dentists who do not teach their patients proper mouth care and seem only interested in the financial bottom line of their practices.

He was proud that Trident changed the way dentists operated and were perceived. Located in malls, dentists became more accessible, worked more hours into the nighttime and on weekends.

Also, he was proud that he started a business that put Dental Hygienists in their own offices, located on Toronto subway lines, alleviating some of the fear and costs of dental care.

In essence, he wants to reverse the traditional roles of dentist and hygienist. People should see the hygienist first for the cleaning and if there is an issue recommend that the patient see a dentist. A dentist should be conveniently on call, once a week in that office. While this practice style is not widespread yet, he believes it will be, given time and greater consumer demand and awareness.

Dr. Rocket answered the following.

What changed after your stroke?

The event taught me the importance of family. They were my core. My wife and kids made it possible for me to survive to see my seven grandchildren and talk to them daily. Your friends and extended family are important; but, in time, they have to move on to their own life issues and events. Your family is permanent and provides the balance factor you need in your life.

It should be known that Dr. Rocket has given many inspirational speeches to stroke patients, spends at least one day a month in Toronto hospitals visiting, encouraging and aiding in their recovery.

Where do you see yourself in 6 years when you are seventy?

I will be out of any active involvement in business - BUT - ‘still looking’ for that perfect investment opportunity. I plan to spend more time with my family.

What are your final thoughts for Canadian Dentistry?

Dentists must educate, communicate and provide service in an ethically correct dental environment. If dentists follow this mandate, they will be happier, held in high esteem, impact positively on health care and earn a substantial income.

Bottom Line: An interview with an entrepreneur, a unique dentist and a revolutionary thinker who changed how dentistry is practiced in Canada.
Buying and Selling a Dental Practice

The role of the agreement and strategies in negotiating the deal
by Louis Laskovski

I am often retained to represent a buyer or seller in the purchase or sale of a dental practice. It is not unusual for an agreement to have been negotiated, drafted and signed by the parties without having a lawyer involved in the process. Often a broker will assist the parties with the agreement, which is made conditional on a lawyer’s review and approval.

Not surprisingly, the negotiations, prior to the involvement of a lawyer, tend to focus on deal structure and purchase price. However, the purchase and sale of a dental practice is complex and involves several other factors. One of the most important aspects of the purchase agreement are the statements made by the seller in respect of the dental practice. These statements are known as representations and warranties and they often cover a wide range of topics from legal matters regarding the ownership of the practice assets, to much more operationally specific matters regarding the financial condition of the dental practice.

A buyer will want to seek assurances from the seller to ensure that there are no surprises after closing. Conversely, a seller will want to limit and narrow the scope of such statements by qualifying them, so as not to create any unnecessary liabilities.

The negotiation of these statements is an extremely important tool in the buying process that allows a buyer, together with the buyer’s due diligence, to learn more about the practice before buying and to protect the buyer from any untrue or incorrect statements. If the seller is not prepared to make certain statements or alternatively, chooses to qualify those statements, this can be used as a means to negotiate the price.

Pre-Closing Covenants

These are promises made by a seller to do something, or not to do something, during the period between the signing of the agreement and the closing. An agreement should contain a sufficient number of promises that ensure that no changes are made to the practice until closing.

Promises that restrict a seller’s activities, also referred to as negative covenants, are designed to prevent a seller from making changes to the practice without first obtaining a buyer’s consent. An example of a negative covenant is not to increase the compensation paid to employees and associates of the practice.

Promises that obligate a seller to take certain actions prior to closing are also known as positive covenants. An example of a positive covenant is to operate the practice in the normal and usual course of business, consistent with past practice.

Conditions

The agreement will often contain one or more conditions, which must be satisfied in order to legally require the other party to close. Conditions are usually for the buyer’s benefit and should be drafted in clear and concise language. For example, care should be taken to ensure that a condition will not be deemed satisfied, fulfilled or otherwise waived unless the buyer gives written notice.

Watch out for conditions that are deemed to have been satisfied and/or waived unless written notice to the contrary is given. Conditions should also stipulate that they are to be satisfied at the sole discretion of the buyer and not by some other standard. For example, with respect to financing, it is not sufficient to say that the agreement is conditional on the buyer obtaining financing. This can and sometimes does lead to the seller arranging for the financing on terms that a buyer may not be prepared to accept but is forced to do so because of a poorly worded condition.

This can be rectified by wording such as the buyer obtaining financing at this sole discretion. Careful attention is required when drafting and wording conditions.

Restrictive Covenants

Placing restrictions on a seller’s ability to compete and in soliciting patients and employees of the practice is an important part of the agreement. A buyer will need to ensure that restrictions placed on a seller are adequate to protect the interests of a buyer. To determine what is adequate is dependent on many factors, including, the seller’s age, continued desire to work and other practice locations that may be owned by the seller.

In the case where a seller owns and operates another dental practice or intends to continue working after the sale, geographic restrictions alone may not be sufficient to protect a buyer’s legitimate interests in the practice. Consideration should be given to including not only non-solicitation covenants but also a clause entitling a buyer to a pre-determined amount of money as damages for each patent of the practice that, after closing, becomes a patient of the selling dentist. Such clauses will decrease patient attrition that results from a seller’s potential competition.

Indemnification

Often overlooked, these provisions are designed to protect a buyer from any matter for which indemnification has been obtained. Indemnification provisions typically address breaches of any of the seller’s representations and warranties and any pre-closing covenants. A buyer should also ensure that they are indemnified for any issues arising from dental work performed by the Seller prior to closing but which may not arise until after closing. Where shares of a dentistry professional corporation are being purchased, a buyer will also need to make certain that a seller remains liable for and agrees to indemnify for any taxes payable.

This article is not intended to be exhaustive in nature and does not replace the need to obtain professional legal advice. It is intended to provide the reader with some general knowledge and awareness of the various issues which can and should be properly addressed in the agreement of purchase and sale from the outset. Given the complexities, you should consult with your professional legal advisors early in the process.

Bottom Line: A legal planner with sound advice for buying or selling a dental practice.
Your dental career/practice is thriving. With annual revenues like these, a profitable career and comfortable retirement is a no-brainer.

Or is it?

Particularly against the backdrop of today’s uncertain economic landscape, an increasing number of dentists are beginning to take a more critical look at the long-term prospects for their financial situations.

“Too often, we hear from older dentists who are hanging on to their practices longer than they’d like to because they can’t afford to retire,” says David Bazak, Vice President at RBC Royal Bank. “They’ve built up exceptional value in their practices by developing loyal and profitable patient rosters. They’ve made excellent incomes throughout their careers and they’re shocked to find themselves working well into their retirement years. And in too many cases it’s because they didn’t go through some basic financial planning exercises.”

There’s an old financial planning maxim that says, “It’s not how much money you make that matters. Rather, it’s how much you keep.” And when it comes to dentists, there’s a lot of truth to that saying. Along with a dentist’s healthy income come the expenses associated with running a practice and, in many cases, maintaining an affluent lifestyle.

“Unless you have a sound financial strategy in place, you may find yourself spinning your wheels and making little financial headway year over year,” says Adam Melo, a Financial Planner with RBC Royal Bank.

Whether you’re just starting out, you have an established practice, or you’re approaching your retirement years, there are some practical and virtually painless steps you can take to continue to build equity in your practice while allowing you to keep more of the money you’re making and exercise greater control over your financial destiny.

The early years

You’re getting established in your career and developing an impressive clientele. Perhaps you have a position in another dentist’s office or you’ve just made the leap to your own practice. While these early years can be quite lucrative, they can also be incredibly expensive. In addition to the expenses associated with running a business, maybe you’re test-driving new cars or thinking of purchasing a home. Perhaps there’s a wedding on the horizon or the remnants of a student loan to pay off. Getting an early start on proper financial planning is key. Unfortunately, too few dentists take advantage of this opportunity early in their careers.

“The most common complaint I hear is ‘I can’t save because there’s nothing left over at the end of the month’,” says Melo. “But by making some small adjustments to their expenses and saving practices, anyone can find money to put aside.”

One of the most powerful tips is to pay yourself first. “Instead of waiting to see what’s left over at the end of the month, set up an automatic payment program into an investment account you’d be amazed at the difference a few small, short-term adjustments can make over the long term.”

The peak earning years

“I’m constantly amazed at the number of dentists who run their own practices who don’t have any sort of retirement strategy in place,” says Melo. “They’re busy professionals with very full lives. It’s simply not on their radar.”

In these prime earning years, however, there are some key things dentists should be doing to minimize taxes, mitigate financial risks and accumulate wealth.

“One of the most effective steps to help minimize taxes is to open an Individual Pension Plan (IPP) within the business,” says Melo. “This can be a very powerful way for high-earning professionals to augment their savings beyond RRSPs. There can also be a number of significant tax benefits for the company and the employee — both before and after retirement.”

If you own a practice, and whether you’re in an expansion phase, acquisition phase or stable growth period, it’s important to develop a sound strategy for earmarking funds out of the equity you’ve established. For example, there can be some attractive tax advantages associated with taking equity out of your practice via bank financing and using the proceeds to pay down personal debt obligations that aren’t tax deductible.

“Another strategy might be to use proceeds from the business to fund a savings plan while leaving ample money left over to fund the type of lifestyle your income allows you to enjoy,” says Melo.

The pre-retirement years

When asked about the financial planning gaps he sees with dentists late in their careers, Melo is quick to respond. “There are three common gaps: Estate planning, succession planning and retirement planning.”

“Retirement can last 30 years or more. A large percentage of dentists in their pre-retirement years simply aren’t prepared to fund that kind of retirement,” Melo says.

As they approach the ends of their careers, dentists should ensure they have wills, power of attorney agreements and succession plans in place. “All of these things can have significant tax implications,” he says. “The idea is to handle each of these pieces in the most tax efficient way to retain as much of their hard-earned revenue as possible.”

Many dentists Melo meets with say they’re planning to fund their retirement by selling their practice and downsizing their home. “That’s a common response, but it’s not a real exit strategy,” he says. “It’s risky to rely solely on those two things for retirement.”

The importance of creating a plan

The earlier you start developing your financial plan, the better. Having said that, it’s never too late to start. And just as your patients rely on you for your dental expertise, it’s wise to engage the insight of a professional — someone who has a track record of working with dentists and who’s familiar with their unique circumstances, challenges and objectives.

There are a number of practical strategies for dentists to minimize taxes and accumulate wealth without taking on excessive risk. “One of the key steps along the way is to begin placing as much emphasis on your personal finances as you do your professional finances. You need to make the time along the way to put a holistic sound financial plan in place.”

Bottom Line: This article presents strategies to maximize wealth over a dental career for a financially secure and long retirement.
It has been said that the purpose of the healing arts is to eliminate the need for their existence. How is dentistry doing? Consider the following:  

- The ODA 2011 Economic Report shows that in Ontario, 45% of revenue comes from preventative procedures (scaling, polishing, topical fluoride and pit and fissure sealant application).  
- The profession has been responsible for the fact that 45% of Canadians receive the benefits of water fluoridation.  
- We don’t build in obsolescence in our clinical treatment but target (although we don’t always achieve) a lifetime of function for our prostheses and restorative procedures.  

The record is impressive. It is noteworthy, however, to see that none of the ODA economic Reports over the years show an entry for nutritional counseling. We have here a major ethical dilemma. It is accepted today that the human genome is not aligned with the nutritional qualities of our food. Further, for over 40 years now, dental decay has been recognized as the ‘cancer in the crucible” of early warning for the onset of all dietary lifestyle diseases, namely, excess weight, diabetes, hyperlipidemia, hyperension, heart disease, constipation, diverticulitis, hemorrhoids, varicose veins, varicocele, deep venous thrombosis and possibly other systemic diseases in later life. The dietary hypothesis that restricting dietary refined carbohydrates effectively prevents both dental and the systemic diseases noted above has been tested in clinical trials. The nutritional counseling that would prevent dental decay would also minimize all dietary lifestyle conditions. Needless suffering and high health care costs would be cut significantly. Regrettably, effective nutritional counseling is time consuming. Dental offices are set up to treat the ravages of dental decay among other conditions and not to counsel patients how to prevent it by nutritional considerations. Regardless of the importance of nutritional counseling, it is simply not practical in the typical dental office environment.  

Fortunately, most hospitals provide credible, evidence-based nutritional counseling overseen by trained dietitians. Except for oral and maxillofacial surgeons, most dentists in Canada don’t seek hospital privileges because of the bureaucratic complexities involved, so many readers might find the fax forms on previous page, one that we use in our office, useful. Modifying it for use in any office is simple. When we identify a patient who would benefit, we simply have the front desk fax the completed form to the patient’s physician.  

When an overweight mother and a diabetic father with heart disease bring in a young child with rampant decay we know that the cause of all these problems is that they eat at the same table. We know that we North Americans are among the most overfed, malnourished societies in history and many people are suffering from the resulting chronic diseases. The societal cost in terms of diminished quality of life is significant. The economic cost is also considerable, as the vast resources required to treat people with chronic diseases are placing a strain on health care systems worldwide.  

In dentistry see patients much more often than others in health care. We can resolve the ethical dilemma we discuss here with minor effort and major results.  

**Bottom Line:** Avoided the prestigious EDITOR’S CHOICE designation and 5 stars by CLARIN reviews, Milan’s book YOUR MOUTH, YOUR HEALTH, STOP AND REVERSE AGING, is now available from all major on-line bookstores in Canada and the USA.

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**New Lakehead, Thunder Bay and Woodstock, Ontario**  
During these years he married, raised a family but remained secretive and silent about the war years and his role as a pilot. This behavior was typical for many of his generation who served in the war. The book chronicles a father/son relationship that gradually uncovered Sydney’s remarkable story and his subsequent return to France for a reunion with two of his ‘angels’ of the French Resistance instrumental in saving his life.
David Scott Smith answered the following:

Doesn’t it seem remarkable that 13 young men would serve in the RAF who all came from the relatively small town of Copper Cliff and tragically only four would return home?

Remarable but not uncommon. Remember that a few were from Sudbury, but yes, a small town nonetheless. Such sacrifice from a “relatively small town” was indicative of the universality of the cause. My second chapter is themed and titled, “Because … it was the right thing to do” and sheds light on the why and whereof of their call to duty. This was happening in most all communities, large and small, across Canada.

The survival statistics and those who would not return were, of course, uniformly unforeseen and simply a matter of scale.

Growing up, what do you remember about your father as a dentist?

As young child I have very vivid memories of playing after hours in three rooms each fitted with curiously pastel colored metal equipment that towered over me with cabled arms and glints of chrome. It was a little forbidding but more fun than frightening. I’d pretend they were robots … and I was “Magnus, Robot Fighter”. With time, I grew to understand that it was a respectable profession and my father was at an important capacity that carried a great amount of esteem and social importance. I knew it was a position in society that required a little extra effort to achieve, a furthering of one’s own education. Everyone addressed him as “Doctor Smith” and as a kid I was proud of that. To this day I tell every new dental assistant or hygienist my father was a Dentist — back in the day when they didn’t even stand up.

When did your father ‘open up’ to you about his war-time experiences?

I believe that when a father tells his son or family of extremely significant and even traumatic events of his life, events that have been kept guarded for years and that are immensely significant and even traumatic events of his life, I believe that when a father tells his son or family of extreme significance and even traumatic events of his life, events that have been kept guarded for years and that are immensely significant and even traumatic events of his life, I believe that when a father tells his son or family of extreme significance and even traumatic events of his life, events that have been kept guarded for years and that are immensely significant and even traumatic events of his life, I believe that when he chooses to tell are at a level of awareness and receptivity to assure an understanding. In my case, that wasn’t going to happen during my teen years and definitely not any earlier. My father first shared the beginnings of his story while I had been living and working in Paris, France. I was in my late twenties and working for a film company there. Through hand written letters — the perfect conduit for attentiveness and thought — we shared a dialogue where he wrote about his time there in 1942. Consequently I had just attended a photography exhibition of Paris during the occupation depicting Parisian life in somewhat strained normalcy set amongst an overpowering German military presence. One photo in particular was dominated by swastikas banded evenly along the length of the Champs Elysees. It was then that I decided my father’s time there was something I needed to know more about.

What was your father’s reaction to meeting two of the women who sheltered him after he was shot down in France?

There was a detectable level of nervousness, which of course was to be expected. So much time had passed, he was in a foreign country, in his mid 80’s, well out of his comfort zone so to speak and I’m sure he was struggling with just how fast these incredible events were unfolding. But, he was prepared. He was always very organized. He wore his R.C.A.F. patterned tie and had brought with him as many letters and certificates of commendation and formal thank you’s from as many Canadian government officials as he could solicit prior to our journey. He had also brought the most perfect gifts for each of them — “Sweethart Winges” as they’re called, the R.C.A.F. wing and crown insignia in the form of a decorative, jeweled brooch. Syd was always the charmer.

In all, your father and mother had six children. Were any of you encouraged to follow in your father’s footsteps and become a dentist?

Although I can’t speak for my siblings, I really don’t think so. My sisters had all followed nursing at an early point in their introduction to the work force and I believe that’s as close as any of us got to a profession as health care. My father was of the type who would not impose ideas or his will but rather nurture what was already developing in our formative years. Myself, I had an interest in the arts from a very early age, in fact, I was eleven years old. Encouragement and support in the form of classes and genuine interest from my father and mother was, quite memorably, unlimited. I was fortunate that they encouraged my following a creative path at a time and in an environment where it really wasn’t conventional or at all a really accepted career choice. Curiously, with this in mind, I don’t think we would have this book if I, or they, hadn’t.

The writing of this book was very much a cathartic journey for your father. What was it for you?

Having never written a novel before and forging my way through that unknown to achieve it gives me a great sense of accomplishment to be encouraged with a source of confidence that I can now draw from. Moreover, that it was hard to be a lover of — the financial gain is negligible, the general notoriety not a plus — but the tingle of a pursuit. The emails and letters from those who have been enlightened by this story is payment beyond expectation. I feel a markedness of spirit with the subject matter; it was an age of responsibility without entitlement and I feel a reciprocal gratitude that I have been of service in bringing their service to our journey. He had also brought the most perfect gifts for each of them — “Sweethart Winges” as they’re called, the R.C.A.F. wing and crown insignia in the form of a decorative, jeweled brooch. Syd was always the charmer.

Common Misconceptions About Dental Embezzlement

by David Harris and Myles Bilodeau

Embezzlement against dentists is a big problem. Published statistics suggest that the lifetime probability of dentists being defrauded exceeds 60%, and fraud costs dentists in North America $1.5 billion annually.

There has been a lot written about dental fraud in the last few years. The authors are accountants, practice management consultants, and dentists describing their own fraud experiences. As the experience these authors have with investigating dental fraud is limited, some of their (well-intentioned) writings perpetuate what we consider to be misconceptions. The purpose of this article is to set the record straight on some of these myths.

Myth #1

Failure to perform proper background checking when hiring contributes to fraud.

We think checking backgrounds carefully is an excellent idea. However, the majority of substantial frauds we see are perpetrated by long-service employees of the practice with no previous “baggage”. We are sure that, in the majority of these cases, the employee had no thought of stealing when hired. There are a few “serial embezzlers”, but they cause less than 3% of dental theft.

Myth #2

Fraud that bypasses the daysheet.

This is a recurring theme in fraud articles. Controls of any sort (whether in a dental office or the burglar alarm in your house) prevent fraud in one of two situations.

○ The crime is a “crime of opportunity”, or
○ The criminal has possible alternative victims.

The burglar alarm works because it convinces a thief that it is a painless way to prevent fraud.

We certainly do recommend using security features in dental software like hierarchical passwords properly — while this will not prevent fraud, it will make investigation far easier.

Myth #3

Checking your day-end sheet every day is a good way to prevent fraud.

We think that checking the daysheet should be part of every dentist’s routine because the number of clerical errors revealed clearly justifies the effort. However, only the stupidest thieves will effect a fraud leaving the daysheet unbalanced. Despite the sophistication of most dental software, it is childishly easy to construct a fraud that bypasses the daysheet.

Myth #4

The best way to spot fraud is randomly checking transactions, reviewing bank statements and cancelled checks or a thorough analysis of practice financial information.

Solo dental practices typically have thousands of “transactions” monthly. Spot checking truly is seeking a needle in a haystack — it is theoretically possible to find a fraud but statistically unlikely. When we are investigating a fraud, we make use of fairly sophisticated software to isolate the transactions that are possibly fraudulent.

Over 90% of the fraud we see in dental offices is “rev- enue-side fraud” (involving the diversion of practice revenue to the thief). Checking bank statements and cancelled checks will not reveal this type of fraud.
We have had frequent discussions with consultants and accountants who are convinced that some form of statistical analysis is likely to reveal fraud. While we agree that some frauds will be revealed by analysis, they are in the minority of frauds we investigate. For example, if someone is paying non-existent suppliers, this may affect an expense ratio sufficiently to be noticed. However, as discussed, this type of fraud is infrequent. While the amount stolen in revenue-side frauds can be significant, thefts normally aren’t sufficient to distort ratios.

Even less detectable is when fraudsters use “upcoding” to overbill insurance companies. This theft involves creating extra revenue and then pocketing it, and accordingly defies any type of statistical or ratio analysis.

While the many possible fraud pathways in an office are difficult for a dentist or accountant to find by analysis or audit, fortunately the behavioral manifestations of fraud are fairly constant, and easy to observe by the dentist. Being sensitive to staff behavior consistent with fraud is the most reliable (and affordable) means for dentists to monitor fraud. On request from a dentist, we can supply a self-assessment questionnaire to facilitate this analysis.

**Myth #5**

If I suspect fraud, I should call (pick one of) my accountant, the police, my dental software company, my attorney.

The single most important factor when fraud is suspected is their decision to engage investigators who can unobtrusively access and analyze your practice software records remotely. It is unlikely that any of the parties referred to above can do this properly without alerting the suspect. Fraud strikes the majority of dentists in their careers. However, by being aware of the behavioral symptoms of fraud, a dentist can often detect it early enough to avoid significant financial loss. A proper investigation can maximize recovery for the dentist.

**Bottom Line:** Private investigators reveal some of the myths about dental fraud.

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**Are you LISTENING?**

This often-dismissed skill is one of your biggest “must-haves” to be successful by Dr. Don Deems

I couldn’t wait to start practice! I mean, I was almost giddy with the thought that I was finally going to make some real money. I just knew people were going to line up to see the best dentist in the world (me, of course) and all I had to do was drill, fill, and collect that money. Sweet. Uh, how wrong can one be? I was wrong, for sure.

I soon began to understand that the most successful dentists were the best communicators. And to be precise, they were the best LISTENERS. When I discovered that, I immediately announced to my team that our focus was on communication—period. We were going to become expert communicators! Naturally, I was a terrible communicator and an even poorer listener. I recorded some of my conversations during my new patient exams and consultations so that I could listen to myself, and I was more embarrassed than when I heaved the ball over the backboard from half court in the sixth grade because I thought there was only 3 seconds left (there wasn’t—there was 23), and I wanted to impress my “girlfriend” who was watching in the stands. (The coach jerked me right out of the game.) I could barely stand to listen to the tapes. It was humiliating. It was no wonder that people only chose a small amount of the treatment I had heard a word they said!

So, I set out to study under the best gurus in dentistry. In fact, I was going to emulate them, and soon I would become an oral surgeon or a name to fame and fortune. Wrong again. I DID become an excellent clinician and diagnostician, but there was an element still missing. Could it be LISTENING? Again I thought not.

I again sought out to be a better listener, but I was confused by the word. I thought it meant LISTENING to ME. My treatment presentations were so awesome that I just knew they would be blown away. (And blown away they were.)

Something had to change, and it was ME that needed to change. For one, I quit trying some new selling technique to get people to agree to my treatment recommendations. I decided I might try something different: listen to THEM talk to ME. It worked. All of a sudden people were telling me I was “the best dentist they’d ever been to” — even if I hadn’t performed a single procedure on them!

You hopefully know there’s a huge difference between hearing and listening. I am going to be your coach (being the professional coach I am) on how to communicate in a profound way with your patients that will change the way you practice. Are you READY?

Tomorrow, I want you to pick out one patient on your schedule, and instead of playing “treatment lottery”, I want you to ask that patient one question: “How can I help you?” Now, be quiet. Let them talk. Let them talk some more. And, pay attention like your career depended on it (it does, in a way). Use active listening skills like reflecting back what you heard they said After they have said everything they want to tell you, and WITHOUT you starting in on the sales pitches. During this time, forget about the hygienists tapping their feet on the floor, whether your assistant has gotten those models poured, or the three million other things that go through your head all day long. Your ONLY JOB RIGHT NOW is to listen with your whole being.

There’s an old saying which is profoundly true: it’s more important to understand than to be understood.

When you truly understand the person, where they’re coming from, what they want, where they’ve been, and a whole host of other things they’ll tell you, NOW you can proceed with an exam and the treatment they need, except this time they’ll want it, and as a bonus, they’ll likely do more than if you would have guessed.

My experience in coaching dentists in all facets of their practice and life for the past decade repeatedly proves to me that enjoyment is yours when you learn to listen. Remember, it’s a skill to cultivate, one that you weren’t taught, and one that a professional coach can teach with amazing efficiency and effectiveness. This world is waiting for the next “world’s best dentist”, will it be you?

**Bottom Line:** A dentist can’t advise on why and how to become a better listener.

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**It’s more important to understand than to be understood.**

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Sleepless Rights
by Timothy A. Brown

Let me take you back 11 years to the year 2000. I am on an airplane flying home from the Canadian Dental Association Convention, next to me is Peter Greenhough of Keith Communications, the agent for the Journal of the CDA (JCDA). Peter turns to me and asks, “Tim, what keeps you awake at night?” My answer, without hesitation, is “employees”. Then he asks me “Why?” Two excellent questions that I will never forget!

First, let’s examine my immediate reply of employees. For me, employees are the most critical contributor to any company’s success. They provide invaluable service to our clients and they do most of the day to day routine tasks that permit a company to function effectively and profitably. We would be unable to operate without these wonderful people. Owners often get all the credit but the truth is the employees do most of the hard work!

When Peter asked “why”, I deliberated for a long time and then participated in a discussion that would last the duration of the 4 hour flight. In brief, I reasoned that employers are a tremendous contributor to work satisfaction and profitability; yet, at the same time, they are a source of worry and frustration. Usually a company’s entire business team functions at high levels of effectiveness, cooperation and harmony. On occasion, that same team dynamic can be tense, disruptive and downright maddening for both employee and employer!

In most dental practices, there are times when one or two teams members are in conflict due to personality differences, personal life challenges or simply, they just don’t agree. When this occurs, the owner has difficult decisions to make: terminate, re-train or re-position the employee – or alternatively, live with the toxicity and ignore the reality of a dysfunctional work environment.

Most experts in human resources advise owners to ignore the reality of a dysfunctional work environment. Their decisions to make: terminate, re-train or re-position the employee rights and reduce potential costs and damages. Owners must notify their staff of the sale, determine the timing of such notice and deal with the possible costs of severance. While the Employment Standards Act (Code) of the provinces have very specific requirements for an employer’s obligations, the common laws have no precise rules other than to suggest that a disgruntled employee has considerable rights and they may claim up to 2 years salary if they feel they were treated unfairly in the past.

Imagine a practice with numerous long-term employees where the costs could be in the hundreds of thousands of dollars in the event of an outright mutiny – allowing them opportunity to grow. On the other hand, it’s simply difficult to let someone go, even if they may begin anew and flourish elsewhere.

In the normal course of selling dental practices, there are two issues that cause the seller and buyer the most concern: landlords and staff. I will discuss landlords in a future column so let’s examine the emotions and fears of sellers and buyers in a practice transition with regard to staff.

Owners:
What keeps my clients awake at night? They dread the staff meeting when they announce the sale of their practice. I have written scripts to assist our clients on this pivotal moment and my clients admit they lost sleep preparing for this day. There is no perfect script or advice we offer our sellers other than to say “...it was a difficult decision to sell the practice and that they appreciate the contributions and successes of the staff during their tenure”.

Owners must notify their staff of the sale, determine the timing of such notice and deal with the possible costs of severance. While the Employment Standards Act (Code) of the provinces have very specific requirements for an employer’s obligations, the common laws have no precise rules other than to suggest that a disgruntled employee has considerable rights and they may claim up to 2 years salary if they feel they were treated unfairly in the past.

Imagine a practice with numerous long-term employees where the costs could be in the hundreds of thousands of dollars in the event of an outright mutiny of the staff. How can an owner/seller mitigate these potential costs?

The answer is simple – proper, written employment contracts. While contracts do not eliminate an employer’s obligations they can certainly quantify employee rights and reduce potential costs and damages by restricting employment rights to the minimum of the employment laws.

Buyers:
Most buyers ask the broker, without reservation, “What happens if I do not get along with the inherited staff? Will I be liable for termination or severance costs if a long-term employee must be let go?”

The short answer is yes – long-term staff has accumulated seniority, benefits and their time of service cannot be eliminated due to the sale of the business. Thus a 20-year employee of the previous owner becomes a 20-year employee of the new owner on the first day of stewardship under that new owner.

My advice:
For owners: Hire a professional to prepare proper, written employment contracts. One firm specializing in this area is www.ndclegs.ca. It is wise to do so at any time of your ownership cycle and at least 2 years pre-sale of your practice.

For buyers: Seek to purchase a practice where the owner has made the investment in properly documenting the employee rights, obligations and privileges. It lessens your potential costs in the event of a termination post-sale of your practice.

Conclusion:
What keeps you awake at night? Eleven years later, my answer remains the same - employees!

Bottom Line: A personalized account of the concerns of employers and why they sometimes lose sleep over their employees.

When is the right time to hang up the drill? (Part 2)
by Warren Mackenzie

You wouldn’t pay for a weight loss program where weight loss and progress is not measured. You wouldn’t continue with an advertising program if you can’t determine if the ad is working. And yet many investors pay thousands in investment management fees year after year without knowing whether or not the portfolio is being well managed. Sadly many are not.

It’s not just the investment management fees. A greater cost is likely to be underperformance caused by being in the wrong asset class, poor stock selection, or bad market timing. Over your lifetime, if your investments are poorly managed, underperformance will cost you millions. Fortunately, there is a simple way to see if your portfolio is meeting the bare minimum acceptable standard.

The correct strategy is to compare your actual results with an appropriate benchmark – one which reflects the same asset mix and the same level of risk as in your portfolio. However, since many investors don’t know what benchmark they should use for comparison, we suggest a simple and mini-
This shows that over the last three years investors who followed this inefficient strategy would be up by about 15% (5% per year). Balanced mutual funds have high MERs – so you should expect to do better.

When you are monitoring the rate of return keep in mind:

1. Short term returns (less than 3 years) can be misleading. It's a waste of time looking at monthly or quarterly performance. But you need to do an annual check and if you underperform over a three year period you should change managers, or manage your own investments by investing in an ETF ‘couch potato’ portfolio.

2. It's the performance of the total portfolio that is important. In a well designed portfolio some asset classes or sectors will be performing better than others. That's the benefit of diversification. By spreading the portfolio over different sectors and asset classes it is almost certain that, at any given time, at least some parts of the portfolio are doing well.

3. The long term cost of underperformance is staggering. If you’ve 50, have an investment portfolio worth $2.5 million, and consistently underperform by 1% per annum – the value of your estate will probably be lower by about $5 million dollars.

4. If you're exposed to market risk you want to earn the rate of return of the market. But it can also be argued that the most important rate of return is your absolute return requirement. This is the average return you need to earn to achieve your financial goals. You determine your absolute return requirement (say 5% per annum) by having a financial plan prepared. Very wealthy investors say they don't care what happens in the market as long as they earn the absolute return needed to achieve their financial goals. (In some cases the goal may simply be to manage their wealth prudently).

Action plan:

1. Review your statements and determine your average annual rate of return for the past 5 years. If your statements don’t show this information ask your advisor or calculate it yourself at www.showmethereturns.ca.

2. Assuming your asset mix is approximately 50% stocks and 50% bonds compare your average annual rate of return with the average return of balanced mutual funds shown above.

3. If you’ve underperformed by 1% or more over a three year period, you should start looking for a new investment counselor or start managing your own investments using an ETF ‘couch potato’ portfolio http://www.moneysense.ca/tag/couch-potato-portfolio/

In these highly volatile times it makes sense to be well diversified, to keep things simple, and to focus on the investment process rather than searching for the best investment product. To help you focus on the investment process and to ensure you have the correct response to market swings, the most important tool will be a properly prepared investment policy statement.

Part three (next issue) – how to create your own Investment Policy Statement.

Bottom Line: Part 2 of smart retirement considerations

Investment Policy Statement.

Part three (next issue) – how to create your own policy statement.

To help you focus on the investment process and to ensure you determine your average annual rate of return for the past 5 years. If your statements don’t show this information ask your advisor or calculate it yourself at www.showmethereturns.ca.

S.O.S.™ for Dentists

Use the Shared Ownership Strategy (S.O.S.™) to purchase Critical Illness Insurance with corporate group insurance (CIG), Long Term Disability Insurance (LTD) and Long Term Care Insurance (LTC) to protect you in case your health goes awry. These products need to be considered as part of an overall financial planning strategy with a professional insurance advisor, ideally a Certified Financial Planner.

Unfortunately, most dentists don’t have the proper protection in place. They are kept busy taking care of their patients, staff, associates etc. and haven’t invested the time to take care of their own financial “house-keeping”. They also don’t have the right amount of protection in place because insurance premiums appear very high and unaffordable. If only the insurance costs could be reduced to zero, then everyone would have what they truly need.

Using the S.O.S.™ Critical Illness insurance strategy, as an incorporated professional you can now enjoy the best of both worlds – proper protection for yourself, your family and practice and you can get back all the insurance premiums paid.

What is Critical Illness Insurance (CIG)?

CIG is probably the best kept insurance secret in Canada, despite being around for almost 15 years. Most people have never heard of it or confuse it with LTD.

- Covers more than 2 dozen conditions like heart attack, cancer, stroke, bypass surgery
- Pays up to $2 million in a tax free, lump sum 30 days after diagnosis of a covered condition (see chart)
- The money has no strings attached and can be used as you wish
- Returns all of your premiums if you don’t make a claim and just stay healthy (optional Return of Premium (ROP) rider)

Like most dentists, you recognize the importance of having life insurance and other living benefits such as Critical Illness Insurance (CIG), Long Term Disability Insurance (LTD) and Long Term Care Insurance (LTC)
What is the CI Shared Ownership (S.O.S.)™ Strategy?

Shared ownership arrangements have been used for many years to acquire permanent life insurance while providing attractive tax benefits to shareholder/owner managers and key persons. This strategy is still a very attractive way to acquire life insurance at the lowest possible cost.

This strategy involves sharing the ownership rights to a CI policy and carries exactly three prerequisites: a cash flow within the company, an insurable individual (company owner, shareholder, executive or key person) and a professional insurance advisor. This strategy is most appropriate for companies with a single shareholder, age 25 to 55, who is also a key employee (e.g. professional corporations and owner managed businesses). Both the company and the employee/shareholder stand to benefit.

What S.O.S.™ Accomplishes

If you have a professional corporation (company owner, shareholder, executive or key person) this strategy will:
- Protect against financial consequences of a critical illness
- Ensure continuity of your practice/business in the event of a critical illness
- Provide a tax free benefit if you remain in good health
- Provide a tax effective way to withdraw money from the corporation

LIST OF COVERED CI CONDITIONS*

Heart Attack  Heart Valve Replacement
Cancer  Loss of limits
Stroke  Loss of speech
Bypass Surgery  Major Organ Transplantation
Alzheimer’s Disease  Major Organ Transplantation
Wasting List
Parkinson’s Disease  Motor Neuron Disease
Multiple Sclerosis  Occupational HIV injury
Kidney Failure  Paralysis
Acute Surgery  Severe burn
Benign Brain Tumor  Coronary Angioplasty
Blindness  Ductal Carcinoma in Situ of the Breast
Coma  Early Stage Prostate Cancer
Deafness

How S.O.S.™ Works

Purchase Critical Illness Insurance (CI) coverage on participating company owner(s), shareholder(s), key people and executives with premiums paid by the company.
- Choose the optional Return of Premium (ROP) rider with the CI – it provides for full reimbursement of all the premiums any time after 15 years if there’s no claim for a critical illness.
- Designate the company, not the insured owner(s), shareholder(s), key people and executives, as the beneficiary of the CI policy critical illness benefit. The company pays the insurance premium for the CI benefit only, using tax-effective corporate dollars.
- Name the insured individual, not the company, as the beneficiary of the ROP premium reimbursement. The insured individual pays the premium personally for the ROP portion only.
- At any time after 15 years, the insured individuals can receive a cheque from the insurance company for all premiums paid by both the company and the individual.

The S.O.S.™ Investment Opportunity

Some people decide to ‘self-insure’ – they don’t buy CI insurance because they have access to their own money if they ever experience a critical illness and/or they think they can invest the CI premiums in a traditional investment portfolio and ‘do better’.

The investment opportunity in the CI Shared Ownership strategy is very attractive, allowing shareholders to withdraw funds from their corporation tax – effectively. This strategy should not be ignored by even the savviest investor.

When set up properly, the ROP (which includes all the premiums paid by the corporation) is received by the shareholder/employee.

The rates of return are very high, often in the pre-tax range of more than 30%. This return assumes the shareholder or employee does not get critically ill and elects to take the ROP after 15 years.

A recent client example:

Male, age 45, non-smoker, $500,000 of level to 100 critical illness coverage.

Note – up to $2 million of CI coverage is available, this illustrates only $500,000

<table>
<thead>
<tr>
<th>Premiums paid by company over 15 years</th>
<th>$140,775</th>
<th>($9,385 x 15)</th>
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<tbody>
<tr>
<td>Premiums paid by individual over 15 years</td>
<td>$51,528</td>
<td>($3,435 x 15)</td>
</tr>
</tbody>
</table>

Total Premiums Paid $192,300

Is S.O.S.™ CI right for you?

It’s prudent to consider the practical issues as well as the tax and legal issues in determining if this strategy is appropriate and if there are any downside risks given your own personal situation. This strategy involves tax and legal issues that should be considered with the assistance of your own professional advisors to determine which ownership structure is most suitable for your needs – whether owning the policy individually or corporately in its entirety or a shared ownership arrangement.

Aside from evaluating the tax and legal issues associated with this strategy, you should take a step back to review your overall insurance, retirement and estate planning programs with your professional insurance advisor to ensure that you are properly protected, no matter what happens.

KEY DIFFERENCES BETWEEN CI AND LTD

<table>
<thead>
<tr>
<th>CRITICAL ILLNESS INSURANCE</th>
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<tbody>
<tr>
<td>Top 3 Claims: Cancer, Heart Attack, Stroke</td>
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<tr>
<td>Pays lump sum to be used as you choose</td>
</tr>
<tr>
<td>No ongoing proof is required</td>
</tr>
<tr>
<td>Benefit is not affected by other income</td>
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<tr>
<td>Benefit is the full amount of the policy</td>
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Please refer to my article in the Winter 2011 issue “What Every Dentist Needs to Know” for a better understanding of the key differences between Critical Illness and Long Term Disability insurance. You can obtain a copy at my website or by contacting me.

Bottom Line: This article explains a unique way to get important insurance protection combined with exceptional guaranteed returns.

S.O.S.™ CI shared ownership

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Certified Financial Planner, is the President and Founder of illnessPROTECTION.com

Mark Halpern

Certified Financial Planner, is the President and Founder of illnessPROTECTION.com

Mark is one of Canada’s top life insurance advisors with special expertise in living benefits (Critical Illness insurance), long term disability and long term care.

For a free, no obligation consultation, please contact Mark at mark@illnessPROTECTION.com or call him at (506) 375-1733 and visit www.illnessPROTECTION.com
Who Own U.S. Real Estate

Tax Consequences For Canadians

What is the Exposure to U.S. Estate Tax?

Owners of U.S. real estate are subject to U.S. estate tax even though they are not residents of the U.S. for tax purposes. U.S. estate tax is imposed on the gross value of U.S. situs assets on death. If your share of the property value and all other U.S. assets (this includes U.S. stocks held within and outside your RRSP) is under US$600,000, you do not have to file a U.S. estate tax return or pay U.S. estate taxes. In addition, the Canada-U.S. Treaty provides a partial exemption that is pro-rated based on your worldwide assets. For 2011-2012, if your worldwide estate (including life insurance death benefits) exceeds $5,000,000 you will want to quantify your U.S. estate tax exposure to understand the potential cost. The exemption is scheduled to decrease to $1,000,000 starting in 2013.

If the asset passes to your surviving spouse, an additional exemption amount is also available. You do get a foreign tax credit for U.S. estate taxes paid against any federal Canadian deemed disposition taxes on death. In many cases, however, the U.S. estate taxes are greater than the Canadian taxes that you will owe on your death. States can also impose an estate tax or inheritance tax.

WHAT IS THE BEST WAY TO OWN MY PROPERTY?

There is no one right answer to this question. You need to look at your own facts and circumstances and your short- and long-term intentions for the property. Getting into the right structure at the outset is preferable.

KEY THINGS TO KEEP IN MIND

Since you are operating in a foreign jurisdiction, it is important to be aware of the rules. Here are some key concepts from this article to remember:

- Watch the number of days that you spend in the U.S. and file the appropriate forms on time.
- File U.S. tax returns for your rental property to establish proper tax.
- Consider applying for a withholding tax certificate when you sell the property to reduce the amount of proceeds held back.
- Quantify the amount of your U.S. estate tax exposure.
- Be proactive. Consult with a Canada/U.S. tax advisor prior to purchasing the property to ensure that you are properly structured so as to minimize U.S. estate tax.
- Just because your friends purchased their property a certain way, does not mean you should too. Be sensitive to your own facts and circumstances.

Bottom Line: This article provides information on the taxation issues Canadians face when purchasing a property in the U.S.

Whether you currently own a U.S. property or are looking to invest given the current market conditions, gaining an appreciation of the U.S. tax consequences is important to help minimize your risks and manage your overall tax between Canada and the U.S. This article focuses on the U.S. tax consequences of ownership by a non-resident, non-citizen of the U.S. Different rules must be considered if either you or your spouse is a U.S. citizen or resident.

WHEN IS A U.S. TAX RETURN REQUIRED?

The number of days you spend in the U.S. matters. Needless to say, you will want to spend time in the U.S. in order to enjoy the use of your U.S. vacation property. You will need to monitor your days or presence in the U.S. closely in order to avoid any unpleasant surprises since the U.S. imposes income taxes based on residency. There are specific rules to determine residency based on the number of days you spend in the U.S. Essentially, the test is the sum of the following:

1. 100% of the days spent in the U.S. in the current year (eg: 2011)
2. 1/3 of the days spent in the U.S. in the previous year (eg: 2010)
3. 1/6 of the days spent in the U.S. from two years ago (eg: 2009)

If the total for this year cycle exceeds 182 days, you will be deemed a resident for U.S. tax purposes. If you are spending time in the U.S. on an annual basis, it only takes 122 days a year (approximately 4 months) to meet the test. Thankfully, you can file Form 8840 to claim that you have a closer connection to Canada, but the form needs to be filed by June 15th each year in order to apply.

U.S. income tax return for personal use property

If you own the property exclusively for your own personal use, there is likely no need to file a U.S. income tax return until the property is sold, assuming you have properly managed the number of days you spend in the U.S.

U.S. tax return for rental property

If you are renting your property, you may not have to file a U.S. tax return, but it may be in your best interest to do so. As a U.S. nonresident, your tenants are required to collect 30% U.S. withholding tax on the gross amount of rents paid. You can file a U.S. tax return to get a portion of that withholding refunded, or make an election to have your rental property taxed on a net basis, eliminating the need for the 30% withholding tax. This special election allows you to claim deductions such as interest expense, property taxes, depreciation and maintenance expenses against your rental income.

There is also a benefit to filing a U.S. tax return to establish tax losses to offset against any ultimate U.S. gain on the disposal. Any taxes paid in the U.S. as a result of net rental income can be used to offset any Canadian income taxes paid on the U.S. rental income via a foreign tax credit.

States

States assess their own level of tax in addition to the federal tax. Some of the southern destination states do not impose an income tax (Nevada, Florida, Texas). Other states may or do impose an income tax and separate tax returns are required.

WHAT HAPPENS WHEN THE PROPERTY IS EVENTUALLY SOLD?

Income tax

When the property is sold, it will be taxed on the net gain in the U.S. It is important to keep good records of the original purchase price as well as receipts for any improvements that you make to the property. You will need to file a U.S. federal tax return to report the gain.

Assuming you owned the property for personal use, the entire gain is eligible for special capital gains tax rates. If you rented the property and claimed depreciation, a portion of the gain will be subject to the ordinary tax rates.

Withholding tax

Because you are a foreign seller, the purchaser of your property (regardless of whether they are U.S. or foreign) is required to withhold and remit to the Internal Revenue Service 10% of the sale price upon close. Alternatively, you can apply for a withholding certificate so that the purchaser holds back tax on a net basis.

Gary Marcus, C.A, CPA
Gary Marcus, CPA is a Partner at MNP who specializes in providing tax, consulting, accounting, and buy/sell advisory solutions to dental professional clients.
Christa Walkden, CPA, MST
Christa Walkden, CPA, MST is a Partner at MNP and a U.S. tax specialist.

You can reach them at 1.877.251.2922 or gary.marcus@mnp.ca or christa.walkden@mnp.ca.
O Brave New World!

by Mariana Bracic

How many goodly creatures are there here!
How beauteous mankind is!
That has such people in’t!
O brave new world
are there here!
William Shakespeare’s Miranda
(upon first seeing men other than her father)
The Tempest, Act V, Scene 1.

If you were a Canadian dentist who had been cryogenically frozen twenty years ago and just “thawed” today, you would be shocked at the different employment-law world to which you awoke. Decades ago, you arranged matters with employees on a handshake. You were exposed to a minimal risk of lawsuits at the hands of your staff. As an employer, you encountered little regulatory burden. You could virtually ignore employment law with impunity and you were statistically unlikely to suffer as a result. Moreover, you could continue in such blissful inattention to employment law until you sold your practice, when you would be likely to secure a buyer who would happily agree to hire all of your staff “on the same terms”, thereby taking over all of your contingent liabilities and relieving you of same. Today, you emerge and, like Shakespeare’s Miranda, marvel at this brave new world. Today, proper management of employment law issues is absolutely essential to your profitable practice and is ignored at your peril.

So what changed?
Increased Litigiousness

Historically, Canadian society had a relatively low level of litigation. No more! A recent study commissioned by Fasken Martineau, for example, “2008 Litigation Trends in Canada” shows that over 40% of respondent companies had been sued the prior year alone. Also of significance in the study is that employment laws suits were the single, biggest concern for their companies. Similarly, a recent human resources association poll found that fully 69.6 per cent of respondents felt that employers were more likely to institute a legal claim than five years before. Moreover, 78.8 per cent of respondents predicted this would only get worse in the next five years.

How did we get here?

There is a host of reasons that contribute to increased Canadian litigiousness. First, there is the now-universal permissibility across the provinces of contingency fees. A contingency-fee arrangement is one in which a client arranges to pay no fees to her lawyer unless and until she recovers from the defendant. If she wins the lawsuit, then the agreement provides that her lawyer will be paid a percentage (often between 20% and 45%) of the proceeds. It was only as recently as 2004 that Ontario lifted its prohibition against contingency fees and the result has been, as many predicted, a movement in Canadian society toward American-type litigiousness. Our firm (which specializes in protecting dentists) has clearly seen a rise in claims being made by employees against our clients that simply would not have been financially viable for employees to pursue historically. Contingency fees allow employees to proceed with a claim despite not being able to afford to pay a lawyer a retainer. And the very fact that this fee arrangement is an economically viable business model for employee-side lawyers attests to the fact that Canadian employment law is very pro-employee: that is, there is a lot of money there to be recovered.

To the same effect, class action lawsuits have further increased the level of litigation in Canadian society. Class actions allow claimants with relatively small claims (remember the recent class action for overtime claims by bank workers?) to pursue what would otherwise likely be abandoned. The result: more litigation.

Thirdly, the proliferation of information on the internet has made employees much more “system savvy”. How did we get here?

Sophisticated Buyers

Employment issues are now also dramatically different at the time of the sale of your practice. Our firm is regularly contacted by young dentists who wish to purchase a practice. You will be greatly surprised, my dear Miranda, at how savvy these young dentists are today! Not uncommonly, they call us even before they have identified a practice to purchase—they simply want to be well-informed. Our most important advice to a buyer is this: the total price of a practice is not fixed at closing, but must also include the amounts the buyer will spend in the 18-36 months post-closing to clean up the vendor’s employment-law problems, which sometimes adds six figures to the purchase price.

With expert, timely employment-law advice, a buyer can reduce that additional cost to a negligible amount. A savvy seller will get specialized employment-law advice at least five years before closing, as you stand to benefit greatly from cleaning up your employment issues before you list your practice for sale. A savvy buyer will not sign anything without it. Proper handling of the employment-law issues can make the pie significantly bigger for the seller and purchaser to share.

For all of these reasons, gone is the world in which a profitable practice can afford to ignore employment law issues. But with good advice, and proper employment contracts and policies, you can, like Miranda, embrace optimism this brave new world…


Bottom Line: This article illuminates the relatively new employment issues faced today and the law.

Mariana Bracic

Mariana Bracic, B(law) (M) (in) is the founder of MBC Legal.ca and can be reached at 905-825-2268 or at mbracic@mbclegal.ca. She is proud of the dramatic benefits of her unique, niche specialization (employment law + dentistry) to her clients’ wealth and happiness.

O wonder!
How many goodly creatures are there here!
How beauteous mankind is!
That has such people in’t!

William Shakespeare’s Miranda

The Tempest, Act V, Scene 1.
Your brand is an asset. Manage it well.

by Dan Pisek

It’s 10 a.m. and you are craving a cup of coffee. Right across the street all lined up in a row are Tim Hortons, Starbucks and McDonald’s. Which do you choose and for what reason?

I have presented many seminars and workshops where I start with this coffee choice scenario. The Tim Hortons devotees choose to go there because they associate the brand with convenience and serving a good cup of coffee at a fair price. For the Starbucks crowd, they are fine with paying a little more for a premium cup of coffee and an experience which helps them boost their own image by carrying the white and green cup around town. McDonald’s is really the loser in my audience opinion poll. People comment on how it is a very good cup of coffee, convenient to get, and how you can’t beat the price—especially when it’s free. But even with the McCafe experience, people still associate McDonald’s with “would you like fries with that?” It’s a prime example of the power of branding and how it can really support your practice.

1. Your name. Just using your name to identify your practice does very little to tell people anything about what you are as a practice, where you are located, the type of dentistry you provide or anything about the patient experience that they can expect. Cobblestone Family Dentistry immediately speaks to the young families living in the Cobblestone Plaza neighborhood. Today communities comprise a mixed cultural diversity and keeping last names out of the practice name also keep the practice culturally neutral.

2. Your logo. It’s important to have the right look for how your practice name is presented. Just like the Apple or the Nike swoosh, you want a logo that your customers will associate immediately with your practice and be part of the emotional reaction to the brand.

3. Your website. Nowadays, so many buying decisions are made on the Internet, including healthcare choices. Your brand must translate well to your website. Image is everything here. Even if you start off with a very simple splash-page, be sure that it is in tune with your brand. You can always add to the website as the practice grows.

Your brand is an important asset. When you buy a new dental chair, the day after this hard asset is installed into your office it begins to depreciate. When you invest in a professional approach to branding and nurture the brand with good marketing, you have an asset that will appreciate and play a very significant part in the overall success of your practice during its lifetime. Getting your practice started. With many doctors that I meet, there are infinite ideas for how they want to launch their new practice. While it’s great to have ideas, investing time and money on ideas that establish your brand must translate well to your website. Image is everything here. Even if you start off with a very simple splash-page, be sure that it is in tune with your brand. You can always add to the website as the practice grows.

Your brand is the blood that pumps through it, keeping it strong. Your brand is your lifeblood. Your practice is a business with a life and your practice must have ideas, investing time and money on ideas that establish your brand must translate well to your website. Image is everything here. Even if you start off with a very simple splash-page, be sure that it is in tune with your brand. You can always add to the website as the practice grows.

Don’t reinvent yourself all the time. Starbucks recently freshened up their logo, but it was just a tweak. The logo is still instantly recognizable. Over time you can choose to update your logo or refresh the office interior while still keeping your brand association intact. Realizing your optimal practice sale price. When the time comes to sell Cobblestone Family Dentistry, having that brand is like staging a house for sale. It makes it easier for a potential buyers to see themselves owning the practice because they see the practice’s personality, not yours. It’s not only an easier transition for the new dentist, but for the patients and staff as well. It will still be the familiar Cobblestone Family Dentistry.

Branding doesn’t happen overnight though. It’s best to be planning the sale of your practice in advance. An investment of $10,000.00 for a complete professional branding package, as well as some good marketing to build this brand in your office and out in the community, at least three years before listing the practice will deliver a stronger return. I’ve discussed this thinking with some of Canada’s leading practice brokers and they agree that well branded practices are better positioned to sell more easily and for more money than a poorly branded or unbranded practice. Your brand is your livelihood. Your practice is a business with a life and your brand is the blood that pumps through it, keeping it strong. In order to keep that business healthy, you have to manage your marketing well — and that starts with your brand.

Bottom Line: The article outlines the importance of marketing and your brand name to the health of your practice.

Daniel Pisek
Owner of Full Contact Marketing

Daniel Pisek is the owner of Full Contact Marketing, which specializes in dental practice marketing.

To reach Daniel Pisek call 1-506-728-6451 ext 24 or email him at dan@fullcontactmarketing.ca