

## In Review

The June and August issues explored aspects of associateships—when to hire, who to hire, details that can help assure a successful associateship and questions both the senior doctor/owner and the interviewee/associate should ask. If you are thinking of hiring an associate, or becoming an associate, please retrieve and save those two issues. The information may greatly facilitate your decision making process.

The two past issues also included a summary of the report from *Oral Health America*, a nonprofit advocacy group working to inform the American public about the necessity of good oral health to overall physical health. This is helpful information for your staff and patients to read.

## HIPAA is Coming – Are You Ready?

What is HIPAA? “Health Insurance Portability and Accountability Act of 1996,” and quoting from Public Law 104-191, it is defined as “An Act to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.”

The portion of this broad definition that will most affect dentistry would seem to be the establishment of national standards for electronic health care transactions and treatment code sets. The Act includes regulations that govern privacy, security and electronic transaction standards for health care information. Compliance with the regulations will require changes in the way offices handle all facets of information processing including reimbursement, coding, security and patient records.

October 16, 2002 is the original deadline for covered entities (providers, insurers, agencies, etc.) to comply with the new national standards. However, by filing an extension, which includes a compliance plan, providers and others can wait for absolute compliance until April 14, 2003. A compliance plan and request for extension can be found and filed electronically at [www.cms.hhs.gov/hipaa/hipaa2](http://www.cms.hhs.gov/hipaa/hipaa2). Do not delay! File your plan or extension request today.

ADA-sponsored HIPAA seminars are touring state and local dental societies. These half-day programs are designed to provide concise and accurate information to make compliance less confusing. The ADA has also compiled a HIPAA Privacy Kit that is now available. To order a kit and get additional information, call the ADA at (800) 947-4746.

## Associate – Employee or Independent Contractor?

Continuing our discussion of associateships, let us distinguish between the two terms *employee* and *independent contractor*. Briefly, most practice attorneys and accountants now advise that a new associate be hired as an *employee*. In this case, the practice will pay salary, payroll taxes and benefits either outright or through a salary reduction from the associate’s salary. It is possible to classify the associate as an *independent contractor* who pays his/her own taxes (an obvious savings for your practice) if: 1) the associate splits his/her time between two or more offices; 2) owns his/her own practice and works part-time with yours; 3) joins your office in a “solo-group” situation in which two entirely independent practitioners run separate practices under one roof, sharing a few expenses. Keep in mind that should you hire an associate as an independent contractor, and the IRS refutes the claim, you might owe back taxes, benefits and penalties. The only sure way to decide this issue is to **go with the advice from your own attorney and accountant.**

According to the IRS, the following criteria distinguishes an employee from an independent contractor:

### Criteria for Employee

- Hiring party furnishes materials.
- Hiring party furnishes tools and equipment.
- Hiring party repairs tools and equipment.
- Hiring party imposes safety precautions.
- Hiring party formulates plans and specifications for work performed.
- Hiring party determines time of performance.
- Hiring party determines working methods.
- Hiring party observes working methods and conditions.
- Hiring party alters plans and specifications.
- Hiring party assumes liability stemming from worker’s performance.

### Criteria for Independent Contractor

- Hiring party lacks control over manner of performance of contractor's work.
- Hiring party lacks authority to supervise performance of contractor's work.
- Worker controls premises (or authority could be shared with the hiring party).
- Worker is compensated without reference to time engaged in work.
- Non-deduction of taxes from worker's compensation.
- Absence of insurance carried by hiring party for worker (unemployment and workers compensation, liability insurance).
- Worker has authority to delegate work to another.
- Hiring party lacks authority to terminate contract unilaterally.
- Worker has ownership of the practice.
- Worker possesses special professional skills.
- Worker furnishes own tools and equipment (or leases them from hiring party).
- Worker controls employees.
- Worker covers or shares expenses of employees' compensation.
- Worker is obligated to reimburse hiring party for losses or damages.

These and numerous other details should be spelled out in the contract for the associate. In my opinion, a contract signed by both the senior doctor and the incoming associate is mandatory.

### Compensation Formulas

There is a wide variety of ways to calculate an associate's compensation. The two most typical are:

1. A set annual salary, plus a bonus with computation based on production over a certain level, plus benefit allowance which is either in addition to salary or deducted from salary prior to income tax being paid by the associate (if your accountant approves this method).
2. A percent of collections on the associate's production. Again, all or some benefits can be paid by the practice or deducted from the associate's compensation and paid with before-tax dollars.

In order to track the associate's production, assign him/her a different provider code. Another question to settle as part of the initial negotiation is, "How will recare appointments be allotted to each doctor?" On recare patients the associate sees, typically he/she gets "credit" for the examination. The prophylaxis and fluoride go to senior doctor, if auxiliaries do these. X-rays, however, are negotiated. In about half the associateships, the associate gets "credit" for the X-rays because he/she reads them. In the other

practices, the senior doctor gets "credit" because auxiliaries take and develop them. Obviously, if the associate does it all, X-rays, prophylaxis, fluoride and examination, he/she receives full-fee production. This point should be settled *before* the associate begins work.

Most associates joining a busy practice would earn more using the second method described above, if scheduled fully from day one in the office. However, my experience during the last 10 years of teaching in a GPR program and working with scores of pediatric dentistry residents is that most new practitioners prefer the first method. Again, the majority of young doctors finish training with a heavy debt load, typically \$100,000 or more. Since loan repayment is usually scheduled to begin within six months of training completion, these young practitioners seem to prefer the security of a "known" salary. By the second year of associateship, most prefer to move to the percent of collections mode.

A rough rule of thumb if the associate is to receive a set salary plus bonus: he/she should (if fully scheduled and working with proper chairs and auxiliaries) be able to produce three or more times his/her base salary. Once that threshold is met, if there is to be a bonus, it might be a percentage of the production over and above expectations. Example:

Associate salary	\$125,000
Expected production	\$375,000 plus
Estimated monthly prod.	\$31,250
One month's actual prod.	\$35,000
Bonus % of overage	10%
Overage: \$3,750 x .10	\$375 bonus

Note: the percent of bonus varies—typically 10% to 20%.

Paying the bonus on a monthly basis, rather than waiting until the end of the year to bonus him/her, gives the young doctor additional monthly income and is usually greatly appreciated. There are numerous other details to consider in fairly compensating an associate. One of the most important aspects of a successful associateship is for each doctor to truly have the welfare of the other in mind. The senior/owner must want the associateship to succeed and be willing to "share the practice income pie" equitably with the new doctor. The senior doctor must realize that feelings of sacred turf (the practice) being invaded may be rampant at first, but any feelings of indignation and negative emotions will quickly abate if this is the right associate. The associate, on the other hand, must understand he/she is walking into a going practice and can hit the ground running productively. Patients, a facility, trained staff—all are in place to make practice easier from the first day. From this ready-made situation, the senior doctor/owner, as well as the associate, should reap some benefit from the associate's work.

## Length of Associateship

The shortest associateship I have seen outside of a purchase in which the owner leaves immediately is one year before a buy-in began. The longest before a buy-in began was eight years. I have also noticed successful associateships last indefinitely when the associate simply prefers to continue as an employee rather than buy-in to become a partner/owner.

If a buy-in is to be offered to the associate, I strongly recommend a minimum of two year's associateship with the practice appraised for buy-in price at the end of the first year. Here is the reasoning:

- Experience has taught me that if an associateship fails, it will usually happen in the second year or later. The first year is a "honeymoon" period and, therefore, seldom a true test.
- With the practice appraised at the end of the first year, the senior doctor benefits from a year of appreciated value made greater by the associate's work.
- The buy-in begins at the end of the second year at the last year's appraisal figure, thereby also giving the associate the benefit of a year's appreciated value.
- If appraisal of the practice is conducted as the associateship begins, the senior doctor may spend several thousands of dollars for an appraisal only to have the associateship fail and the money wasted.

Although an official appraisal is to be done 12 months hence, an incoming associate may want to know a ballpark financial commitment when he/she does begin to buy-in. Usually the practice accountant can "guesstimate" the value as the associate begins so that the new doctor has a feeling of approximate cost of buy-in in one or two years.

## Percent of Ownership in a Partnership

As the buy-in begins, the senior doctor/owner must be well advised about the percent of the practice to be purchased by the associate. Your accountant, attorney and financial consultant can best advise you. I have seen equal splits of practice ownership. Some associates buy 10% only, get that paid off, buy another 10%, etc., until the desired share is owned. Or the senior retains 51% ownership, selling the associate 49%. Then when the senior retires, he/she sells the partner 2% of the practice so that the partner becomes the majority owner and sells the new associate 49%.

## Announcing a New Associate

After selecting and hiring a new associate, it will be necessary to notify parents and patients of this addition. This sample letter may help with that process.

Dear \_\_\_\_\_:

*With pleasure, my staff and I welcome Dr. \_\_\_\_\_ who is joining our pediatric dental practice. Dr. \_\_\_\_\_ will begin seeing patients in our office on \_\_\_\_\_.*

*This letter serves as an introduction until Dr. \_\_\_\_\_ has an opportunity to meet you in person.*

*Dr. \_\_\_\_\_ is a pediatric dentist specializing in care for infants, children, adolescents and special needs patients. The two of us, along with our well-trained staff, offer a full scope of preventive and restorative care. (Add orthodontics if service is provided.)*

*Pediatric dentists spend many years acquiring the knowledge and training necessary to assure your children receive the finest dental care available. While you and your child are familiar with my training and background, I would like to familiarize you with Dr. \_\_\_\_\_'s dental training as well. After receiving a B.S. degree in \_\_\_\_\_ from \_\_\_\_\_ University, her four-year dental degree was awarded from \_\_\_\_\_ University School of Dentistry. She then took a two-year residency in pediatric dentistry at \_\_\_\_\_ where specialized training emphasized dentistry from infancy through the growth and development stage into adulthood. Dr. \_\_\_\_\_, as I do, will continue her education by attending many courses each year on the latest methods, materials and research in dentistry for young people.*

*Please feel free to stop by the office or give us a call. We would be happy to answer any questions you may have about your child's dental health. Incidentally, the American Academy of Pediatric Dentistry recommends that a first dental examination occur no later than 12 months of age. Many problems can be avoided, and we can help you start your child on a lifetime free of dental disease.*

*Please call for more information about our Infant Oral Health Program or other aspects of our complete care. Dr. \_\_\_\_\_ and I look forward to seeing you and your family at your child's next appointment.*

*Sincerely,*

*Dr. and Staff*

## Care for More Practice Transition Information

I have just reviewed an excellent new book by Martin L. (Bud) Schulman, "Change Your Practice Successfully! A Comprehensive Guide to Partnership and/or Sale of Your Medical/Dental Practice." John McGill, C.P.A., M.B.A., J.D. and David Gage, Ph.D also contributed sections to the book, a comprehensive text about partnerships and practice evaluation. You may order a copy from Blair McGill Company in Charlotte, N.C. or from the publisher, Canterbury Press, Rome, N.Y., (315) 337-5900, (800) 836-2268, fax (315) 337-0470, e-mail [sales@canterburypress.com](mailto:sales@canterburypress.com).

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### An Aside – Two Days

There are two days in every week about which we should not worry, two days, which should be kept from fear and apprehension.

One of these days is yesterday, with its mistakes and cares, its faults and blunders, its aches and pains. Yesterday has passed forever beyond our control. All the money in the world cannot bring back yesterday. We cannot erase a single word that we said. Yesterday is beyond recall.

The other day we should not worry about is tomorrow, with its possible adversities, its burdens, its large promises and perhaps its poor performance. Tomorrow is also beyond our immediate control. Tomorrow's sun will rise, either in splendor or behind a mask of clouds, but it will

rise. Until it does, we have no stake in tomorrow, for it is yet unborn.

This leaves only one day—today. Anyone can fight the battles of just one day. It is only when you and I add the burden of those two awful eternities, yesterday and tomorrow, that we break down. It is not the experience of today that drives us mad. It is the remorse or bitterness for something which happened yesterday or the dread of what tomorrow may bring. Let us, therefore, do our best to live but one day at a time.

### Preview

In the next issue, we will discuss effective staff meetings, including practice-planning retreats.

## PMMNews

### PRACTICE MANAGEMENT AND MARKETING NEWS IN PEDIATRIC DENTISTRY

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