

# Selling to a corporate buyer: Risks and benefits

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**IN A SALE AND PURCHASE TO A CORPORATE BUYER**, the most important asset is goodwill, which represents 75% to 85% of the value. Dental practices, including dental specialty practices, have substantially more salable goodwill than other professional practices due to the retention of patients and referral sources. As a result, dental practices are very valuable to corporate practices attempting to enter the market.

## **BENEFITS**

The selling price to a corporate buyer is almost always higher than what a private purchaser would be willing to pay. Depending upon the strategic position of the corporate buyer, very profitable dental practices are now sold for cash at closing without any holdbacks. Provided that the selling dentist receives the purchase price in cash at closing equal to or greater than a private purchaser would pay, the decision to sell to a corporate buyer is economically sound. Also, some practices, particularly specialty practices, are so large that the only financially capable purchaser is a corporate buyer.

Some corporate buyers are willing to allow the selling dentist to retain a reasonable degree of autonomy while continuing to work without corporate standardization of existing, yet effective systems.

Notwithstanding the substantial risks, corporate buyers often offer stock in lieu of some holdback amounts as an incentive for the selling dentist to earn a return on investment on the future stock value.

## **RISKS**

There are also risks to a dentist selling to a corporate buyer. The first is that there are usually holdbacks based upon future performance of the practice, which the selling dentist may not have the ability to control.

Staff pay and benefits are sometimes substantially reduced by the corporate buyer, causing the loss of valuable staff members. Such a loss can have the effect of decreasing practice revenue and hinder

performance to meet the holdback requirements.

There is almost always the requirement of the continued employment of the selling dentist, often at a compensation rate below what a private purchaser would pay postclosing.

If the corporate buyer does not permit the selling dentist to retain a reasonable degree of autonomy and/or requires systems standardization, practice performance could be adversely affected.

A corporate buyer may fail to timely pay compensation and bonuses, any holdback amounts, sums for the repurchase or cashing out of stock, or rent if the selling dentist owns the real estate.

A change of ownership or management control of the corporate buyer, the filing for bankruptcy or creditor protection, or ceasing operations are all situations that can impact unpaid sums due.

A corporate buyer may fail to hire or locate an associate/successor for the selling dentist at the agreed-upon time.

A corporate buyer may terminate the employment of a former owner who desires to continue to work on a part-time basis after completing the required term of employment.

An investigation or finding of unauthorized practice of dentistry by a corporate buyer, or an insurance billing or Medicaid issue, can affect the selling dentist's license to practice dentistry.

The selling dentist is often unable to leave the corporate buyer's practice without a substantial penalty under defined

life-changing circumstances, including an overly broad definition of disability or ineffective management by the corporate buyer.

## **MANAGING THE RISKS**

The risks of selling to a corporate buyer can be managed through three areas of risk prevention: due diligence or seller homework; a letter of intent; and the ability to disengage from the corporate buyer and be fully/partially paid under specified circumstances.

## **DUE DILIGENCE**

As part of due diligence or seller homework, the selling dentist should obtain authorization to speak with other dentists or specialists who have sold their practices to the corporate buyer that is being considered. The selling dentist should request a list of all practices purchased, the dates of purchase, and the ability to speak or communicate with any former practice owner who has sold to the corporate practice.

The selling dentist should not find it acceptable to be limited to communicate with only those former owners that the corporate buyer thinks will give it a favorable recommendation. The selling dentist should ask any or all of the risk questions to former owners with whom the selling dentist communicates; for example, questions related to permitted autonomy or lack thereof, standardization of practice systems, and all obligations for timely payment by the corporate buyer.

The selling dentist and advisors should also investigate the current and any past ownership of the corporate buyer and its financial stability. The selling dentist and advisors should investigate any state or federal complaints also, investigations or findings for the unauthorized practice of

dentistry, or any insurance or Medicaid billing issues.

Finally, the selling dentist should engage an experienced dental appraiser to review/analyze the valuation prepared by the potential corporate buyer and possibly prepare a separate appraisal on behalf of the selling dentist. Corporate buyers typically use EBITDA or earnings before interest, taxes, depreciation, and amortization as their valuation method. While multiples of 10-12 times EBITDA are not uncommon, there is more than one way to make the calculation.

#### **THE LETTER OF INTENT**

Because it is difficult to negotiate the terms of a letter of intent in light of the potential risks of a sale to a corporate buyer, the attorney for the selling dentist should negotiate all terms and details of the sale and purchase through a letter of intent before any agreements are signed. A well-prepared letter of intent with terms that the parties agree on will save the selling dentist significant time and advisory

fees. The letter of intent must be signed, and the selling dentist should not sign it until it has been reviewed by their attorney.

#### **ABILITY TO DISENGAGE THE RELATIONSHIP AND BE PAID**

It is vital for the selling dentist, with the assistance of their advisors, to understand what they think is important before agreeing to the terms of and signing a letter of intent. Any of the risks can be negotiated to terminate the relationship with the corporate buyer and be fully or partially paid, provided that the corporate buyer will agree to those terms important to the selling dentist. If the terms are not agreeable, the selling dentist should consider a different buyer.

On the other hand, should the selling dentist want to disengage from the corporate buyer early under predetermined circumstances, and should the corporate buyer agree, there should be liquidated damages or offset provisions for a reduced payment(s) that should be specifically defined in the letter of intent and sale and purchase agreements.

Like it or not, it looks like corporate practices are probably here to stay. Hopefully, and as time goes on, corporate buyers will become attuned to the risks to practice owners and attempt to minimize, if not eliminate, them. But, until then, do the risks outweigh the benefits? They can, but the selling dentist should do the homework up front. **DE**



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