

RISK MANAGEMENT ARTICLE

Attorneys as a dental practice resource

Dentistry is a team business. Dentists understand that outside experts can help ensure their practice runs smoothly and is protected from legal action. For example, most dentists use the expertise of accountants to prepare their taxes and manage other financial aspects of the business. However, dentists frequently fail to consider the value an attorney can bring to a practice. While their professional liability carrier will connect dentists with qualified and experienced defense counsel to represent them when necessary in the event of legal action, working with an attorney can help dentists avoid situations that could result in legal action.

Attorney contributions

An attorney is particularly helpful when the dentist is setting up a practice. In this case, dentists will need to develop tools, such as employment contracts, and ensure that the practice meets state, local, and national legal and regulatory requirements for doing business. The dentist also will need to sign contracts with suppliers and other vendors (for example, a billing company) and may be purchasing an existing practice or office space. An attorney can review contracts to ensure they meet legal requirements and discuss legal and regulatory requirements to help dentists navigate the business terrain.

Attorneys make ongoing contributions to the practice as well. They can review new contracts or those up for renewal to ensure they are in the best interest of the dentist.

Attorneys also can assist dentists with practice issues. Although risk managers at the dentist's professional liability insurer may be able to answer general questions, they cannot provide advice specific to state and local laws and regulations. An attorney can provide the needed answers. Finally, dentists may need an attorney for personal matters such as estate planning or family matters (for example, divorce).

Finding an attorney

Dentists should work with an attorney who is familiar with state and local laws and regulations. To find such an attorney, begin by asking dental colleagues for recommendations. Friends and family may also have suggestions, although these names would need to be well vetted to ensure the attorneys have the necessary expertise.

Organizations, including local or state bar associations, are another option. The American Bar Association has a search engine where the user can enter their city/state to find a list of [local associations](#). The state dental association may also provide recommendations. At www.lawyers.com, users can search for an attorney by practice area.

Most attorneys have websites where dentists can obtain general information about the practice, such as members of the firm and their experience, which can help to narrow the list of potential candidates. It also can provide insights into the attorney's practice. For example, a website with multiple spelling errors may reflect a lack of attention to detail.

Dentists may wish to check for reviews of attorneys in the [Martindale database](#) of legal professionals. For attorneys participating in the review process, the site says it assesses them "through a secure online peer review survey where a lawyer's ethical standards and legal ability in a specific area of practice is assessed by their peers."

Dentists also should check online to confirm that the attorney is a member of the state bar and for any disciplinary action. In some cases, the state bar association or a state agency may have this information. For

example, the [Colorado Supreme Court Office of Attorney/Regulation Counsel](#) allows users to search for an attorney's status and disciplinary action. There is also a US Department of Justice list of disbarred and suspended attorneys at www.justice.gov/eoir/list-of-currently-disciplined-practitioners.

Before making a final decision, dentists should arrange a meeting to determine if there is a good fit. Usually there is no fee for this meeting but verify that is the case. Be prepared with a list of items you wish to cover (see Choosing an attorney) and consider asking for references from past clients. If the meeting is in the attorney's office, consider whether the staff are friendly and if the area is neat and clean. Size of the firm also factor into a dentist's decision; there are advantages and disadvantages for each. For example, a small firm may provide more personalized attention, while a large firm may have more resources to research a case.

Although one attorney is unlikely to be able to fulfill every legal need a dentist may have, it is beneficial to establish an informal ongoing relationship with an attorney who can address the most common needs, such a contract reviews and human resources issues.

Preparing for a visit

Because most attorneys charge by the hour, it is wise to prepare before a meeting related to a specific legal matter. Dentists should write a short summary of the issue that can be left with the attorney and bring any related documentation, such as the contract that needs review and any documents received related to a lawsuit. Some attorneys may ask that documents be submitted ahead of time so they can prepare for the meeting. At this stage, send copies, not originals. It is also helpful to develop a list of questions and take notes during the meeting for future reference.

At the visit dentists should verify that the attorney has experience with the matter at hand and ask for an estimate as to how long it may take to resolve the issue, as well as estimated fees. In addition, dentists should inform their professional liability insurer if the matter involves malpractice or action against the dentist's license.

Collaborating effectively

Dentists and attorneys need to take steps to ensure an effective collaboration. On the attorney's part, this includes detailing the strengths and weaknesses of a case, providing an itemized invoice for services, and respecting their clients' decisions on how to manage a situation (as long as those decisions are legal and reasonable), even though they may disagree. Attorneys also should be clear about who will be doing the work: themselves or a paralegal or legal assistant.

Choosing an attorney

The dentist should consider several factors during the initial meeting with an attorney they are considering hiring:

- **EXPERIENCE.** Ask about how long the attorney has been in practice and their experience in the specific area the dentist needs assistance with. For example, the dentist facing an active lawsuit has different needs than one seeking review of an employment agreement; the first may require litigation skills, while the second requires a sound knowledge of labor law. It is important to understand the types of legal problems that the attorney handles most often. It may also be helpful to know the attorney's education background and any certifications they hold.
- **FEES.** Attorneys will charge either a flat fee for a particular service (for example, reviewing a contract) or an hourly rate (more common). In some cases, attorneys will have additional fees for items such as phone calls, photocopying, services provided by assistants, and transcriptions. Obtain a written fee agreement for the service; it may be helpful to ask for the agreement to include a requirement that the attorney notify the dentist if the work is taking longer than expected. Ask how often an itemized bill will be sent and when payment will be due.
- **COMMUNICATION.** Discuss expectations for communication, including calls, emails, and face-to-face visits, either in the attorney's office or by a video platform. (If a video platform is to be used, ask about security features to ensure someone does not hack into a session.) Dentists can convey their preferences (for example, email vs. phone), but know that sometimes written communication is necessary. Dentists should leave the meeting understanding communication methods and expected response time; for example, how soon the attorney responds to emails.

Dentists also should consider their comfort level with the attorney since they will potentially be sharing confidential information.

The dentist's responsibilities for an effective collaboration include following the attorney's instructions carefully, keeping the attorney informed of any changes that may affect the matter under consideration, and responding promptly to requests for more information. The dentist also must also be willing to explain procedure details in plain language.

For both dentists and attorneys, honesty is key. Dentists may be uncomfortable speaking about possible (or actual) errors, but attorneys can only be helpful if they have the full picture.

A broken relationship

If an attorney fails to meet expectations, the dentist should discuss their concerns and listen closely to the response. It may be a simple misunderstanding that can be easily resolved. If the dentist feels a matter is not being handled properly, they may want to seek a second opinion from another attorney. This typically is not costly, but as with dentistry, there may be different options for managing a situation without either being "wrong."

In some cases, the dentist may decide to end the relationship and seek a new attorney. Most dentists will pay for services as each need arises, but if an ongoing agreement (for example, a retainer) is in place, a certified or registered letter should be sent to notify the attorney of its termination. Dentists will want to request their files be sent to their or their new attorney's office.

If the dentist feels an attorney engaged in malpractice, they can file a complaint with a state agency such as the bar association or a judicial grievance committee. Search on the state's court website using a phrase such as "file a grievance" find the correct to option.

A valuable partnership

An attorney can be instrumental in the success of a dental practice. To ensure the best results, dentists should carefully vet potential candidates, evaluate the candidate in person to understand expectations, and work collaboratively as issues arise.

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RESOURCES

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