

What You Need to Know Before Signing That Contract

Why You Must Have a Contract

So much fine print, so many archaic legal terms. Contracts can seem like a real drag when you're excited about a new opportunity.

But contracts are essential to protecting you and your interests and avoiding misunderstandings down the road. Invest the time to draft a smarter contract. You'll lay the foundation for a positive working relationship – and escape awkward conversations.

Every state has different laws about contracts, and some dictate very precise language. Find a local attorney who knows your state's laws. You will likely only need their services for a few hours, which can be time (and money) well spent – particularly if you can negotiate better terms. Plus, you can build a professional relationship that will be handy as your career progresses.

Don't Skimp on the Details!

Your individual contract will vary but might include some of these key items.

Salary – includes commission and how it will be calculated
(see sidebar, next page)

Insurance coverage – healthcare, disability, life, worker's compensation, unemployment

Paid leave – holidays, vacation, sick time, family leave, bereavement, jury duty, etc; how time accrues and whether it will roll over

Pension or retirement plan – contributions, matching, vesting

Performance and salary reviews – frequency, metrics to be tracked

Find a Lawyer

Not sure where to start? Ask:

- State or local dental society
 - Colleagues
 - Dental school's career center
 - Other professionals familiar with dentistry (your CPA, banker, etc.)
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Continuing education – tuition reimbursement, time off to attend education courses, journal and book expenses, whether professional association dues will be covered

Schedule and call requirements – required notice, process to request time off

Signing bonus repayment agreements – a portion of the bonus may need to be paid back if production goals are not met or the dentist leaves prior to fulfillment of the term of the contract

Term and termination – whether employment is for a set time period or indefinite; how the contract may be renewed; under which circumstances an employee may be terminated (with or without cause)

Malpractice – who pays for it, required types and minimum coverage levels

Restrictive covenant or “non-compete” – duration and geographic limits in which a former employee cannot directly compete with the practice

Non-solicitation of employees and patients – whether a departing dentist can “take” staff or patients to a new practice

Dispute resolution – whether disputes can be handled through arbitration, mediation, or another process

Liquidated damages – penalties for breaching the contract

Buyout terms – specifics on how an associate-to-owner or partnership will change over time, including how and when value will be determined

Check out [Dentist Employment Agreements: Key Legal Provisions Guide](#) for detailed explanations and sample language of each provision. The guide is free to ADA members.

Salary May Be More than a Single Number

Compensation is more than just salary. Be sure to discuss:

Salary – the amount to be paid and whether it’s annual, monthly, weekly, or per diem

Commission – how much compensation will be based on production

Commission base – whether commission will be based on production (gross billings), collection (the amount actually collected), or net profit (collected amount less expenses)

Deductions – whether the total compensation will be reduced by lab/supply expenses, overhead expense, staff salary, etc.

Method of calculation – straight commission (a flat percentage of revenue generated, patients treated, or procedures performed) or salary plus (a flat salary plus a percentage of production or collection)

Be Aware of Restrictive Covenants

Restrictive covenants, also known as “non-compete clauses,” can greatly limit your career growth. A restrictive covenant may dictate the geographic radius and time period in which you may not work after leaving a practice.

If you think you may eventually purchase a practice or switch jobs in a few years, carefully review the restrictive covenant clause to ensure you keep the flexibility you need. That may mean negotiating a more “reasonable” radius with the owner.

For example, if you are in an urban area where most patients live within a couple miles of the practice, a 3-mile non-compete radius may be more realistic than a 10-mile clause. Discuss this with the owner.

It's All Negotiable

What does your ideal situation include?

Paid family leave?

An annual budget for continuing education expenses?

Support for community service projects?

Decide what's most important to you and discuss it with the owner dentist. It never hurts to ask, and you may find they are open to finding a resolution. You can also make requests contingent on performance, which reduces the risk for the owner.

What If the Owner Doesn't Use a Formal Contract?

There may be some practices out there that would prefer to operate on handshake agreements. But you should still request a formal contract to protect your interests.

If the owner insists on just a handshake and you are confident this is the right practice for you, take steps to document what you agreed to. Write everything down – particularly the salary, bonus structure, benefits, and non-compete clauses – and have a lawyer review it. Then send it to the owner via email with a “read receipt.” In the unlikely event that an issue crops up, you will have documented your agreement.



Employee vs. Independent Contractor

An employee and independent contractor may appear the same to a patient, but the implications are tremendous. Consult your legal counsel to make sure you are classified appropriately, as the IRS has very strict rules and is a stickler for enforcement.

	Employee	Independent Contractor
Employed by	The practice or practice owner	Yourself
Responsibility and Logistics	Responsible for working scheduled hours and practicing under the owner's supervision	Responsible for setting schedule, fees, appointments, treatment planning, staffing, maintenance fees
Final Decisions about Supplies, Treatment	Made by the owner dentist. Supplies are provided	All decisions made by you. May need to provide own supplies
Pay and Benefits	Typically paid a salary and eligible for benefits, including bonuses, insurance, paid time off, unemployment, worker's compensation	Often paid a flat fee and not reimbursed for expenses; not eligible for benefits
Tax Implications	The practice/owner handles withholding (income tax, Social Security, Medicare, etc); only responsible for filing personal year-end return	Will be required to pay all taxes associated with the operation of a business and comply with all regulations.
Long-term Relationship	Typically have more long-term stability, often work under an indefinite contract	The term is dependent upon the duration of treatment that is contracted to be performed.



About ADA Practice Transitions

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