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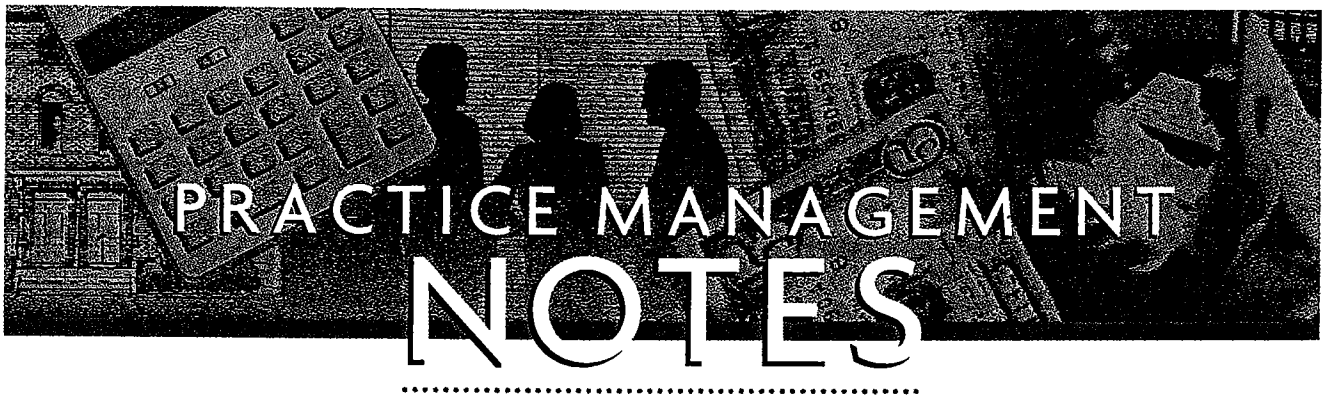

Associateships –Myths and Facts

When we were children, we were exposed to myths, those wonderful stories that formed certain beliefs but were not founded on fact. Many of us still believe in fables, especially when it comes to associateships. Let's take a close look at some of the current and more common associateship myths.

Myth: Associateships are only for a few oral and maxillofacial surgeons (OMSs).

Fact: Today, most OMSs practice in some form of associateship. Surveys show that over 65% of OMSs practice as associates—employees, independent contractors, or equity owners in professional partnerships and corporations.

Myth: The most conventional form of associateship is employer-employee.

Fact: Although the majority of associateships start out in an employer-employee relationship, they develop into what is the most conventional form of associateship at this time, one leading to equity ownership in the practice entity.

THE SUCCESS RATE OF ASSOCIATESHIPS THAT ARE WELL THOUGHT OUT, WELL PLANNED AND WELL EXECUTED IS EXTREMELY HIGH.

Myth: OMSs considering an associateship are primarily concerned with compensation.

Fact: Although compensation is a major factor, most OMSs are concerned with a) the type and quality of services that they can perform, b) the community's potential need, appreciation and acceptance of the OMS and her/his services and c) a favorable location where they can demonstrate and perform their special skills and services.

Myth: OMSs considering associateship can do most of the work themselves.

Fact: Nothing could be further from the truth. Each OMS, whether in practice for many years or a neophyte, should obtain competent professional advice. There are myriad and complicated legal, accounting and financial matters, discussions, negotiations and agreements which the parties to an associateship must enter into and understand. Although the parties can and should do most of the "leg work," avoiding professional advice could be treacherous to the well-being of the parties and their relationship. An associateship is not a do-it-yourself affair.

Myth: The associateship process can be completed in a few weeks.

Fact: A well-planned associateship generally takes between six to twelve months to complete. Not infrequently, the process takes more time, but seldom a few weeks.

Myth: Negotiation is not necessary or a factor in organizing an associateship.

Fact: Each OMS, employer/employee, senior/junior alike, should prepare a list of associate terms (Sidebar #1) as soon as she/he decides to go the associate route. They should review the list with their advisers. They should be prepared to negotiate certain terms. So long as they are reasonable for the area of practice, the doctors should be able to reach suitable agreement to the terms. However, discussions, understandings and negotiations will occur and be beneficial.

Sidebar #1

ASSOCIATESHIP TERMS FACT PACT - DREAM SHEET

1. Status - employee of practice (sole proprietorship, corporation, partnership)
2. Term - 12 months with automatic renewal—60-day termination clause for either party without cause and/or liability
3. Restrictive covenants including non-competitive clause of two years and five air miles from either office facility
4. Compensation - $ _____ per year with an allowance for consideration. Incentive compensation or bonus
5. Benefits provided:

   A. Liability insurance (malpractice) - should it be required, employee will obtain and pay for "tail" coverage

   B. Hospitalization - medical surgical - major medical insurance

   C. Professional dues and licenses - up to $ _____ for the year

   D. Vacation - One working week for each six months during first year

   E. Continuing education - One working week/year - with an allowance of up to $_____ ,which includes preparation for board examinations

   F. Practice to provide present facilities, pager, cellular telephone, personnel, equipment, supplies

   G. Social security, Medicare, unemployment, state and federal workers' compensation

6. At end of 12 months, if mutually agreeable and production/collection levels are adequate, the doctors shall commence associate's becoming an equity owner of the corporation/practice. Employer has had the corporation realistically appraised at this time and shall "hold" the valuation price until the end of the first one year term. Employer shall also prepare and present to Employee a plan for his purchase of up to 50% of the equity of the corporation/practice. Additionally, when Employer and Employee agree upon the terms of this fact pact, Employer shall prepare and present an expanded and comprehensive employment agreement.

Myth: Oral discussions and agreements are necessary.

Fact: The OMSs must communicate a great deal and discuss professional and personal philosophies, goals and objectives. There must be a "meeting of the minds" and agreement upon myriad terms. But the terms must be committed to writing to avoid misunderstanding and confusion. Handshakes are fine, but memories are not and have a way of failing over time.

Myth: A good way to embark upon an associateship is for the OMSs to work together in an employer-employee relationship for a while, to see if the associateship works and then work it out together to proceed with the buy-in and equity ownership.

Fact: Occasionally, but seldom, this method works. There are too many essential "unknowns" which surface. How long is "working together" (many times it will drag on for years)? What is the value of the practice entity? How was value determined? Who determined the value? What is the date of the valuation (current or associate's entry date)? How is the value divided between tangibles and intangibles? how is the associate to pay for the buy-in? How long will it take before parity? Has the associate contributed to the current value? And others?

Myth: Once parties commence an associateship, they cannot dissolve it.

Fact: There should always be "bailouts" at all phases of the relationship, which ensure a smooth departure. Termination and departure can occur and, sometimes, precipitously. Causes of dissolution can include retirement, premature death, permanent and partial disability, incompatibility, disenchantment, legal incapacity, habitual neglect of employment duties, fraud, embezzlement, bankruptcy, sexual harassment, and drug, alcohol and substance abuse. The parties' agreement must address all bailouts.

Myth: Covenants not to compete or solicit its patients, staff and referral sources are not necessary.

Fact: Covenants are not intended to prevent a departing OMS from pursuing a career or earning a living. They are intended to preclude the withdrawing OMS from being able to compete professionally with the employer/OMS within a particular geographic area for a specific time. But, the specifications must be reasonable and not unduly harsh or oppressive, or state courts, which generally decide such matters, will overrule them.

Myth: It is unnecessary for the doctors to discuss and the employment agreement to list all fringe benefits.

Fact: Fringe benefits are expensive and are an important part of an associateship. Since the cost of fringe benefits normally runs about 20 percent of an employee's base salary, the doctors should discuss the majority of fringe benefits that the employee will receive and that the employer will provide and include them in the employment agreement. Fringe benefits are numerous (Sidebar #2) and may include, but are not limited to, professional liability (malpractice) insurance; healthcare insurance; professional dues and licenses; continuing education, including Board preparation; practice promotion; paid vacation; moving or relocation expenses; retirement plan contributions; and vehicle allowance. The doctors must also be aware and consider the costs of social security, Medicare, and unemployment and workers' compensation.

Myth: The extended reporting endorsement (the so-called "tail" rider) is not a factor.

Fact: It is a factor and one that costs more each year. The doctors should address this necessary coverage to the associate's malpractice insurance in case of departure. Normally, the associate pays for the tail coverage, which converts a claims made policy to an occurrence one, while she/he is an associate non-owner. Once she/he becomes an owner of sort, the practice entity pays for it. Many companies will provide a free tail if the OMS has been with the insurance company for five years.

Myth: Associateship is a short-term process and the OMSs should take a short-term view of the process.

Fact: Certain associateships are short-term and the parties should structure and enter the relationship accordingly. However, most OMSs contemplating an associateship, particularly those considering future equity ownership and partnership, should approach the relationship on a long-term basis.

Sidebar #2
BENEFITS

1. Malpractice insurance
2. Healthcare insurance
3. Life insurance
4. Disability income insurance
5. Dental insurance/care
6. Vehicle - lease, ownership
7. Vehicle - expenses, maintenance
8. Dues
9. Licenses
10. Subscriptions - publications
11. Moving/relocation expenses
12. Telephone, cellular phone, pager
13. Child/parent/family care
14. Pension plan contributions
15. Profit sharing contributions
16. Travel
17. Promotion - entertainment
18. Vacation with pay
19. Continuing education with pay - board preparation
20. Personal days with pay
21. Legal and accounting
22. Financial planning
23. Uniforms - uniform allowance
24. Club membership and expenses - country, health, city
25. Textbooks - library
26. Vision care
27. Pharmaceuticals

Although each associateship is unique, an associateship can be classified into three phases— 1) trial or break-in phase, 2) associate's buy-in phase and 3) associate/owner's buy-out phase. Today, phase one runs around one year, although it can run from six months to three years. Phases two and three run around five years although they can run from three to seven years.

Myth: Most associateships fail.

Fact: The success rate of associateships that are well thought out, well planned and well executed is extremely high. Associateships which are not, are doomed to fail.

This article has reviewed and addressed many myths of a modern associateship. Like most fables, they are interesting yet short-sighted. Although they are absorbing to OMSs considering an associate, they are not helpful, practical or realistic. The explanations should be.

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Sidebar #3
PROFILE OF ASSOCIATESHIP

1. Self searching
   - A. Genuinely ready to share
   - B. Understand there will be changes
2. General discussion with advisors
   - A. Accountant
   - B. Attorney
   - C. Practice management consultant
   - D. Spouse
3. Considerations
   - A. Patient load
   - B. Financial factors
   - C. Office space - equipment
   - D. Personnel
   - E. Additional
4. Obtain realistic practice valuation ("the feasibility study")
5. Associateship terms - the Fact Pact - dream sheet
6. Selection process
   - A. Advertise
   - B. Interview
   - C. Employment agreement - letter of intent - both
7. Legal agreements - documents
   - A. Employment agreement
   - B. Options & details regarding buy-in
   - C. Plan for associateship buy-in
8. Proceed with associateship

This is number 62 in a series of articles on practice management and marketing for oral and maxillofacial surgeons developed under the auspices of the Committee on Practice Management (Drs.R. Lynn White, chairman; Alan Exler; George Oatis, Jr.; Richard Geisler; Thomas Weil, consultant; and John Moenning, consultant) and AAOMS staff. Complete sets of previously published Practice Management Notes are available for $15/set through AAOMS Publications, CS 1616, Alpharetta, GA 30009-1616; telephone: 800/366-6725, or online at www.aaoms.org.