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## Preventing Embezzlement in Dental Practices

By Justin Rigsby, First Defense Alarms

Embezzlement is a serious issue for any small business. Dental practices are particularly susceptible to embezzlement because the direct job of the owner is to work with the patients—not necessarily the front office. As dental practices grow, more employees are introduced into the success equation. The problem with a growing success equation is that one wrong variable can drastically change your practice, your liability, and your future.

In my years of providing security services to small businesses, including dental practices, it has become apparent that the security measures put into place are often more reactive than proactive. When a business owner takes the time to understand the nature of his or her business processes and institute the necessary policies and security measures, security breaches and embezzlement can be prevented all together.

### How do you reduce the risk of embezzlement?

1. **Install a monitored security system with smartphone control capabilities.**

A security system should be installed to protect your office from burglary – and it should also protect your office from authorized users entering during unauthorized times. Embezzlement can occur after hours when no one else is around. Installing a monitored security system with a smartphone app allows you, as the business owner, to be notified immediately when the security system is disarmed. Further, you should request monthly open/close reports from your security company. This allows you to see when the security system was armed/disarmed and by whom. Finally, each employee should have his or her own user code, which provides an audit trail to track each and every employee’s arming/disarming activities.

2. **Install a high quality camera system with smartphone viewing capabilities.**

Only a high quality camera system should be installed. Many camera systems installed over the years have become outdated or blurry to the point that police can no longer use the footage as evidence to capture and prosecute a criminal. True HD (1080P picture quality) camera systems can now be installed at a very reasonable rate. It can also be viewed online, at home, or on a smartphone.

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3. **Consider installing an access control system.**

Access control systems only allow individuals with a badge or keyfob to enter an office only during specified times and further provides an audit trail of when an employee entered the building and what doors were opened. This can also be used for specific rooms (such as payment or bill collecting areas) in the office and will limit access to certain employees.

There are many things that can be done to prevent security breaches and embezzlement in your dental practice – working with the right security company, one that can install and integrate your security devices together, is an important step in protecting your business.



FIRSTDEFENSEALARMS  
Working hard to protect your small business

**For more information on installing security systems in your practice, please contact Justin Rigsby at [Justin.Rigsby@FirstDefenseAlarms.com](mailto:Justin.Rigsby@FirstDefenseAlarms.com), or at 614-40-SIREN.**

## Arbitration Agreements with Employees

By Tanya Nardone, Esq.

Mandatory arbitration agreements with employees can protect dental practices from costly litigation. Nardone Law Group recommends that our dental practice clients consider requiring their employees to sign an agreement requiring arbitration, instead of litigation, as a means to resolving any employment issue. This article explains the benefits of arbitration agreements, how to ensure the agreement will be enforced, and how to implement arbitration agreements in your dental practice.

### Why should I consider an arbitration agreement with my dental practice's employees?

An arbitration agreement with your employees can protect your dental practice from costly employment-based litigation. An arbitration agreement will require your employees or former employees, who have a dispute with your dental practice, to resolve the dispute through arbitration, rather than bringing a lawsuit, against your dental practice, in court. Arbitration makes more sense for all parties involved, because: (i) it is less expensive than defending a lawsuit; (ii) the arbitration process is less formal and less time-consuming than litigation; and (iii) arbitration usually resolves disputes much quicker than going to court.

### How do I ensure my arbitration agreement is enforceable?

An arbitration agreement is only beneficial to your dental practice if a court will enforce it. Arbitration agreements are most commonly challenged for: (i) lacking adequate consideration; (ii) being an unconscionable agreement; (iii) failing to obtain a knowing and voluntary waiver of the employee's right to pursue a claim in court; and (iv) containing a cost-splitting provisions that deter employees from arbitrating claims. Therefore, your arbitration

agreement must take these items into consideration and properly address these items for the agreement to be enforceable.

### How do I implement an arbitration agreement?

To implement arbitration agreements with your employees, you should first meet with an employment attorney to draft the agreement. Your attorney will consider the issues for which arbitration agreements are most commonly challenged, as discussed above, and other issues or circumstances related to the drafting of a sound arbitration agreement that fits the individual needs of your dental practice. After the arbitration agreement is drafted and finalized, it should be included in your employment offers, employment agreements, and your practice's employee handbook. You should have new employees sign an arbitration agreement when they begin working for your practice. You may give existing employees the agreement to review and sign as well, at any point during their existing employment. However, although continued employment for an at-will employee can be adequate consideration when an existing employee signs the agreement, it would be more prudent to have your existing employee sign the agreement when they are receiving a raise, bonus, or promotion. Also, be sure to give employees adequate time to review the agreement and raise any questions they may have before they sign the agreement. If necessary, it may also be a good idea to have the attorney who drafted the arbitration agreement present and explain the agreement to your employees. This would ensure all employee questions are properly addressed and answered accurately.

In sum, arbitration agreements represent one strategy to minimize potential liability as it relates to your employees. Before implementing an arbitration agreement, there are other strategies you might consider using to resolve controversial employment-related issues, such as mediation. If you have questions regarding the arbitration agreements, mediation or other strategies, please let us know.



## The True Cost of Retirement

By Vincent Nardone, Esq., LL.M and Erin Myers, JD/MHA student

As a dentist, your particular retirement plan varies depending upon your career path and spending habits. Recent research, conducted by David Blanchett, CFA, CFP, Head of Retirement Research at Morningstar Investment Management, was published in his Working Paper dated November 5, 2013. It suggests that the true cost of retirement may be less for some, and vary more widely from household to household than once thought. Assumptions have long held that the percentage of household earnings needed to maintain a similar standard of living in retirement, also known as the replacement rate, hovers around 70-80% of annual pre-retirement income. But, recent research suggests that the amount truly needed for retirement, although varying significantly household to household, may actually range from 54% to over 87%. Therefore, in planning for your retirement, it is important to consider your specific circumstances and spending habits. Further, your specific employment situation, as an owner or associate dentist, will affect the amount you should save for retirement.

### Actual Consumption and Expenditures Vary

Collectively, the spending curve of households varies depending upon the level of consumption and the level of funding within the household. Households with lower levels of consumption and higher funding ratios tend to increase spending at retirement, while households with higher consumption levels and lower funding ratios tend to decrease spending at retirement. Of course, the actual change in consumption at retirement varies widely for each individual household. Blanchett's analysis defined the replacement rate, the percentage of household earnings needed to maintain the pre-retirement standard of living during retirement, as:

$$\frac{\text{The total household income during retirement}}{\text{divided by}} \\ \frac{\text{The household income earned pre-retirement.}}$$

Assumptions taken into consideration in the analysis included: (i) households ceasing to save for retirement, (ii) households ceasing to pay Medicare and Social Security taxes; (iii) a state tax rate of 4%; as well as (iv) the ability of retirees to claim two deductions.

Two trends that seem to hold true despite varying replacement rates include: (i) the relative amount spent on insurance and pensions decreases with age; and (ii) the amount spent on healthcare increases significantly with age. Still, although healthcare expenditures increase with age, medical costs affect retirees differently depending upon Medicare coverage or out-of-pocket expenses, like long-term care financing.

### Retirement Planning for Dentists

Some general steps that should be taken when planning for retirement include:

1. Meeting with a financial advisor to help plan your portfolio;
2. Saving early (consider the effect of compounding on the value of an annuity/your savings);
3. Opening a 401(k) or IRA;
4. Ensuring that you have a well-diversified portfolio to spread risk out over a number of investments;
5. Putting off retiring and continuing to work, which will give your portfolio more time to increase in value;
6. Creating a budget and sticking to it, both before and especially after retirement; and
7. Purchasing long-term care insurance or investing in a Health Savings Account.

### Conclusion and Recommendations

All factors considered, the amount needed for retirement varies significantly and may actually be 20% less than predicted by traditional models. But, this does not mean that one should put off saving for retirement. The earlier you begin saving, the safer you will be when retirement rolls around. You should also consider your particular career path with respect to planning for retirement, as your worth will be influenced by whether you are an associate dentist or practice owner. By following the above suggestions and by investing the time and resources into meeting with a financial planner with experience in helping dentists plan for retirement, you can gain a more accurate perspective on the true cost of your retirement. Having a more accurate perspective on the true cost of retirement will help prepare you for the retirement that you deserve.

**NLG Comment:** To the extent that you need a referral for a good financial advisor, please contact us.



## How to Avoid Probate

By Pilar Puerto, Esq., LL.M

Last month we addressed several reasons why you would want to avoid probate. This month we explore the methods in which you may avoid probate.

Only probate property is administered in the probate proceeding. Probate property is all property that is titled in the decedent's name alone and which does not have a beneficiary designated on a legal document other than the Will. Thus, with the help of your estate planning attorney, you may ensure that your property is properly titled or designated to ensure your assets do not have to go through probate.

There are different ways to avoid probate depending on the type of property. A Trust is a popular device to avoid probate. What many individuals do not realize, however, is that after you sign the Trust, your assets are not automatically in your Trust and avoid probate. With the help of your estate planning attorney, you must then retitle your assets in the name of your Trust.

Aside from the Trust, there are several other mechanisms that allow your assets to avoid probate. The following are some examples of property you may own and how it could avoid probate.



### Dental Practice

If you own your dental practice with another doctor, you and your partner(s) may want to enter into a Buy-Sell Agreement, which would cause your dental practice interest to avoid probate. If you are the sole owner of your dental practice, you can have a Transfer on Death designation, which is a legally binding document that designates the individual that would inherit your dental practice upon your death. The beneficiary may be an individual or your Trust.

### Real Estate

If you own your real estate with your spouse, jointly with rights of survivorship, then the real estate passes to the survivor without going through probate. In addition, you may have a Transfer on Death Affidavit filed with the County recorder's office, which would designate the individual that would be the beneficiary of your real estate after both you and your spouse pass away.

### Life insurance

By having an individual or your Trust designated as the beneficiary of your life insurance, the proceeds of your life insurance skip probate.

### Bank Accounts

A payable on death bank account allows funds in that bank account to pass directly to beneficiaries named on the account.

There are various other types of assets that you may own that may skip probate depending on how it is titled or designated. At the end of the day, your estate plan does not end with just signing your Will and Trust. To ensure your loved ones are taken care of and unnecessary delays, confusion, and costs are avoided, you should plan appropriately to avoid probate.

## IRS Tax Tip - Beware of Fake IRS Emails

Tax scams using email and phone calls that appear to come from the IRS are common. Many times, these scams use the IRS name and logo or use fake websites that look real.

By emailing or calling potential victims, scammers convince victims to give up their personal and financial information. By giving the crooks this information, you open yourself up to the risks of identity or monetary theft. An example is receiving a phone call demanding payment by wire transfer or on a pre-paid debit card. The IRS will never initiate contact with you asking for this information by phone or email.

In the event of receiving this kind of 'phishing' email, the IRS advises that you:

- Do not reply to the message.
- Do not open any attachments or click on any links. They may have malicious code that will infect your computer.
- Do not give out your personal or financial information.
- Immediately forward the email to [phishing@irs.gov](mailto:phishing@irs.gov). Then delete it.

Be wary of scams using the IRS as a lure. Remember that the IRS will never initiate contact with you through social media or text asking for your personal or financial information.



## Upcoming Events and Deadlines

March 17, 2014	IRS deadline for corporations and S corporations to file a 2013 calendar year income tax return. To obtain an automatic 6-month extension, file Form 7004 and deposit any estimated income tax owed.
March 31, 2014	IRS deadline to electronically file Forms 1097, 1098, 1099, 3921, 3922, and W-2G.

## Quote of the Month

Rich people focus on opportunities; Poor people focus on obstacles.

- T. Harv Eker

**Nardone Dental Practice Advisor**



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