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Ohio Senate Bill 25 and the Potential Minimum Wage Increase **By Tanya Nardone, Esq.**

The attorneys at Nardone Law Group regularly assist our clients with labor, employment, and human resource issues, including guidance on (i) federal and state regulatory compliance; (ii) discipline, discharge, and documentation; (iii) discrimination and harassment complaints and charges; and (iv) policies, procedures, and the development of employment handbooks. Please review our prior articles regarding: (i) Issues to Address in Your Employee Handbook; (ii) How the Fair Labor Standards Act and Ohio’s Minimum Wage Laws Affect Your Dental Practice; (iii) EEOC Releases 2014 Charge Statistics; and (iv) Unemployment Compensation and Other Concerns After Terminating an Employee (These can be accessed from our website). As an employer, it is important to keep up-to-date on the ever-changing federal and state laws, rules, and regulations that affect you as an employer, your employees, and their terms and conditions of employment with you.

Ohio Senate Bill 25 Overview

Ohio Senate Bill 25 (“**SB 25**”) was introduced on February 2, 2015 and was assigned to the Ohio Senate Committee of Transportation, Commerce, and Labor for review on February 4, 2015. Although SB 25 is still in the review process, it is still important for employers to be aware of the changes SB 25 could bring to you and your employees. If SB 25 passes, the following changes to Ohio’s labor and economic system would take place: (i) an increase in Ohio’s minimum wage; (ii) an increase in the current salary threshold in which one is eligible for overtime; and (iii) the standardization of the term “employee.” Within this article, we will discuss how the increase in minimum wage might affect Ohio employers.

Minimum Wage Increase

SB 25 proposes to increase Ohio’s minimum wage from \$8.10 per hour to \$10.10 per hour. As of 2015, the federal minimum wage is \$7.25. With a \$2.00 increase to the current state minimum wage and a \$2.85 increase from the current federal minimum wage, employers will need to take steps to prepare if SB 25 is passed into law.

The largest change an employer may face is the rise in the cost of production. Of course, most employers will want to maintain levels of employment without the need to cut employees. Unfortunately, maintaining employment levels

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might be unrealistic with such a substantial increase to minimum wage. With a rise in cost of production, employers will need to come up with solutions to deal with the rise in their cost of production. Some solutions might include: (i) turning to new technology; (ii) reducing full-time positions to part-time; (iii) reorganizing; and (iv) contracting out certain duties and responsibilities.

Federal Minimum Wage Rates Under the Fair Labor Standards Act, 1978-2009
\$9 shown for 2015 is proposed, not actual, rate



GALLUP

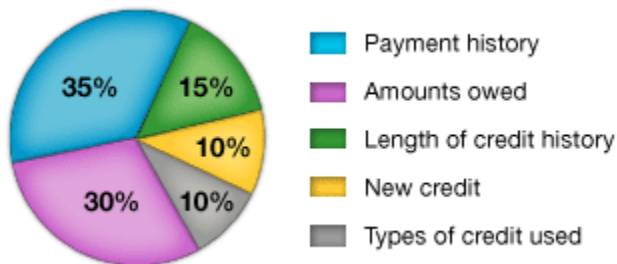
The Bottom Line for Employers and Employees

The bottom line is that employers need to consider possible solutions to reduce costs if SB 25 passes and becomes law. Additionally, SB 25 might also negatively impact your employees’ job security.

Nardone Law Group has advised many employers on changes in federal and state employment laws, such as the ones that will occur if Ohio Senate Bill 25 passes. We will keep you updated on the progress of SB 25. In the weeks to come, please also keep an eye for two more articles discussing SB 25’s other proposed changes.

The Importance of a Dentist's FICO Score in Obtaining a Loan to Purchase, Build, or Expand a Dental Practice By Nick Reeves, Esq.

There are many financial factors that a lender will consider in determining whether a dentist qualifies for a loan to purchase a dental practice, build a new practice, or expand an existing practice. One factor that a lender will use to determine your creditworthiness is your credit score.



Your credit score, which is usually referred to as a FICO score (named for Fair, Isaac and Company), is a numeric representation of your credit history compiled by the three major credit bureaus – Equifax, Experian, and TransUnion. The FICO score ranges from 300 to 850, and is calculated by each of the credit bureaus a little differently. For that reason, your score will vary slightly from company to company. The following categories of information, along with their approximate weightings, are evaluated to determine your FICO score.

Payment History (35%): Late payments on credit accounts will have the greatest negative effect on your credit score. The credit bureaus will look at the number of late payments you have made, when you last made a late payment, the frequency of late payments, and the number of days that the payment was late. Given the weight of this factor in determining your FICO score, it is imperative that you make timely payments on all of your credit accounts.

Outstanding Balances (30%): The second most important consideration is your total balances in relation to your total available credit on revolving accounts. “Maxing out” multiple credit cards, for example, would result in a lower score because it indicates a higher risk of making payments late, or not at all. Accordingly, to increase your score, you should keep the ratio of outstanding balances to total available credit as low as possible. Additionally, when you are close to a limit on a card, from a credit management standpoint it would be a good idea to pay down that account before reducing a higher balance on an account where you are nowhere near the limit.

Length of Credit History (15%): The credit bureaus take into account the length of time that your credit accounts have been in existence. In general, the longer you have an account open, the better it is for your credit score. For that reason, you should keep your oldest credit cards open, even if they are unused.

New Credit (10%): Opening several credit accounts in a short period of time will negatively impact your score because the credit bureaus will deem you to be a greater credit risk. Accordingly, you should only apply for a new credit card when you need it.

Types of Credit (10%): Your score will take into account the types of credit accounts you have (*i.e.*, mortgage loans, car loans, credit cards, retail accounts, installment loans, etc.), and the number of each type of account.

Your FICO score can have a major impact not only on whether you can obtain a loan, but also the interest rate that you are charged once you have obtained a loan. The higher your score, the lower the interest rate you will qualify for. A lower interest rate can save you thousands, if not tens of thousands of dollars over the life of the loan. Therefore, before applying for a line of credit for a dental practice, or applying for a loan to purchase, build, or expand a dental practice, it is advisable to order your FICO score from www.myfico.com (note: be sure to cancel your subscription after obtaining your score because it automatically renews on a monthly basis). If your score is too low to obtain beneficial interest rates, it may be a good idea to delay the process and take steps to increase your score. In addition to checking your FICO score, you should also pull your credit report before beginning the lending process. If possible, it is important to correct any errors before the lender reviews your report.



In addition to the typical documentation that a lender will look at in order to prequalify a dentist for a loan to purchase, build, or expand a dental practice (*i.e.*, personal financial statements, current P&L statement, personal and business tax returns, curriculum vitae, business debt schedule, etc.), a lender will also look at the dentist's FICO score. It is important to have a good understanding of the factors that are used to calculate your FICO score so that you can take the necessary steps to improve your score and ensure your ability to obtain a commercial loan at favorable terms.

Legal Obligations of a Doctor Terminating a Patient Relationship

By Emily Zapp

The dental attorneys at Nardone Law Group, LLC in Columbus, Ohio are responsible for assisting dentists with a variety of matters, including labor and employment issues, human resource issues, and a wide scope of legal issues. Occasionally, we are asked to assist dentists as they terminate patient relationships. As a dentist, it is very important that you are aware of your legal obligations when you are considering the termination of a patient.

Reasons for Terminating a Patient Relationship

Doctors have the right to terminate a patient relationship for virtually any non-discriminatory reason. More specifically, doctors may terminate the relationship when the patient: (i) does not or will not follow the treatment plan; (ii) frequently cancels or does not show up for follow-up appointments; (iii) consistently fails to follow office policies; (iv) is rude, uses inappropriate language, exhibits violent behavior, or threatens violent actions; or (v) has accumulated debt but has made no effort to arrange a payment plan.



How to Terminate a Patient Relationship

Regardless of the reason for terminating the patient relationship, you must avoid patient abandonment. Patient abandonment refers to the termination of a patient relationship without providing enough time for the patient to find a qualified replacement and without providing a reasonable excuse for the termination.

To avoid patient abandonment, you may terminate the patient relationship by providing the patient a written notice that they must find another dentist. You should mail the written notice to the patient via regular and certified mail, with return receipt requested. It is important to keep a copy of the letter, a copy of the certified mail receipt, and the original certified mail return receipt in the patient's medical record. Your written notice should include the following:

- (vi) Reason for Termination – The specific reason is not required. It is acceptable to use the phrase “inability to achieve or maintain rapport,” or something similar;

- (i) Effective Date – Provide the patient with enough time to establish a relationship with another dental practice. Thirty days from the date of the letter is considered adequate. But, you should follow your state's regulations. You may terminate the relationship immediately if the patient has requested the termination or if the patient has exhibited violent behavior;
- (ii) Interim Care Provisions – Offer interim care. In case of emergencies, you may refer the patient to an emergency department or offer emergency care for a limited period of time, such as two weeks;
- (iii) Request for Dental Record Copies – Offer to send a copy of the patient's dental records to the new dental practice. Enclose an authorization document for the patient to sign and return to your office;
- (iv) Patient Responsibility – Inform the patient that it is their responsibility to follow up and pursue continued dental care;
- (v) Medication Refills – Note in the letter that you will provide any necessary medications only up to the effective date of termination.

In sum, doctors may terminate patient relationships for any lawful reason, as long as they provide the patient with adequate time to find a qualified replacement. It is in the dentist's best interest to send the patient a written notice to avoid patient abandonment and to ensure that the transition process is as smooth as possible for all parties involved.

Upcoming Events

November 26 – 27, 2015

NLG offices will be closed in observance of Thanksgiving.

December 3 – 4, 2015

Paragon's Year End Event
Hyatt Regency Clearwater Beach
Clearwater, FL

December 24 – 25, 2015

NLG offices will be closed in observance of Christmas.

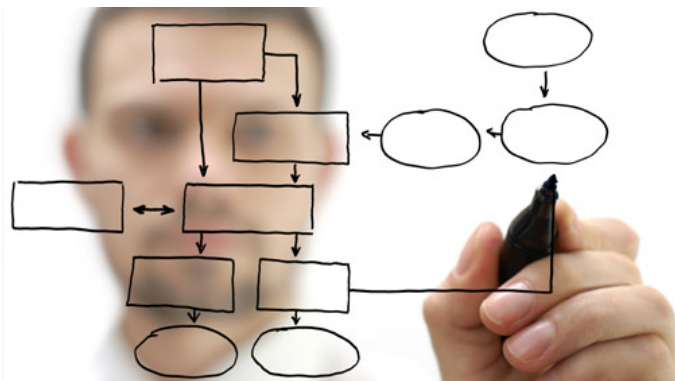
January 1, 2015

NLG offices will be closed in observance of the New Year.

Multiple Dental Practices, Are You Ready?

By Karen Marshall, Vero3 Consulting

Owning multiple practices and locations is a current trend in the dental industry. It's a great concept that can be exciting, rewarding, profitable, and an avenue to provide long term security and regenerating income well into retirement. Unfortunately, not all who take this leap are successful. Many look at a second facility as double income, only to experience double stress, increased overhead and less profit than with a single location. Without proper planning and a redesigned business structure, many will fail or sell off second or third facilities at a loss.



Let's take a step back and look at the true dental practice reality. The 2013 ADA Survey of Dental Practices says dental practice overheads for both general and specialty practice range between 74-78%. If the practice grosses \$1million per year, the owner can anticipate taking home around \$250K. However, adding a second \$1million location doesn't double the take home pay. Why? When additional locations are added into the mix, overheads increase and tip the scale to over 80% or more, reducing the doctor's bottom line revenue. If the doctor works in the same design as in a single facility, as many do, he is putting himself and his future at risk.

These are my top six areas to address before you leap.

1. Business Structure- LLC vs. C-Corp. Perhaps it's time to change your business structure to secure personal and professional assets.
2. Location- Lease or purchase. Owning real estate can be advantageous- but not always. In today's economy, towns, neighborhoods, and demographics can change in a snap. Leasing may be a better option and provide flexibility to adjust with the economic climate.
3. Tax Burden- You can't keep it all! Additional businesses change your tax structure, liability, and tax burden. Guidance and proactive planning are key.
4. HR and Employment Law Compliance- Now you're in the big league! State and federal compliance laws take a big shift with 20 employees. Looking to work employees in multiple locations to keep the number of employees down? New changes to overtime exemptions may force you to hire more employees to maintain multiple offices and business hours, along with mandated healthcare insurance and paid time off.
5. Risk and Prevention- Personal and Professional. Business structure, insurance coverages, and training are necessary to ensure your businesses and personal assets are protected.
6. Liability and Compliance- internal and external systems must be consistent to ensure compliance, reduce risk and ensure employees are not a liability to you or the practice. Insurance, Medicaid fraud, records, personal and PHI security compliance, and consistent patient care must be well designed and implemented to ensure consistency.

How can multiple locations work for you? They can, if you understand you shouldn't go it alone. Most likely, neither you nor your staff has the expertise to address the next level of corporate structure. You must shift from a solopreneur to a corporate mindset. The stakes are higher and risks are too great for mistakes. That's where a strong team of outside advisors including an: Attorney, CPA, Practice Management Consultant, Financial Advisor, and Banker come in. They are experts, and will develop a consistent structure, ensure compliance, efficiency, and provide sound guidance to support you and your businesses from the inside out.



With over 35 years of experience in the dental industry, Vero3 founder, Karen Marshall, gives dental practices the customized, tangible solutions they need to realize their full potential.

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Limitations for a General Dental Practice: Is Your Advertising Misleading?

By Vincent Nardone, Esq., LL. M.

As many dentists know, marketing your dental practice is vital to its success; you must get your name out there to reach and recruit new patients and maintain a thriving practice. But, it is always important for dentists to ensure that they are advertising within their limitations.

Generally, dentists may advertise their services as long as they are not misleading or their advertisements cannot be misinterpreted related to that dentist's qualifications. For example, many general dentists advertise that they perform specialty services. This is certainly acceptable, as long as those general dentists do not limit their dental practice to any specific areas of practice. Thus, general dentists who perform specialty services should be especially cautious in their advertising, to ensure that they never refer to themselves as "specialists."

As a general rule, general dentists should refrain from advertising that they "specialize" in any service, unless they list the phrase "general dentist" as prominently as they advertise the specialty service in question. In some instances, potential patients may misinterpret a dentist's advertisement and be mistaken as to that dentist's actual certifications. If that patient files a complaint with their respective state dental board, that dentist could be placed under investigation based upon a potential violation of the Dental Practice Act. Similarly, specialists who employ general dentists should also refrain from any advertising that may imply that those general dentists are also specialists. General masters degrees unrelated to a dentist's specialization may also be advertised, as long as the dentist makes it clear that he or she is a general dentist.

There are also cases in which dentists may receive licensing from a foreign residency programs not recognized by the American Dental Association ("ADA"). Although these dentists may be considered specialists in the countries in which they completed their programs, they are not considered specialists in the United States and thus should not market themselves as specialists.

Quote of the Month

"Success is not the key to happiness. Happiness is the key to success. If you love what you are doing, you will be successful."

Albert Schweitzer



Another successful year for the KiDDS Foundation Charity Golf Outing at Little Turtle Golf Club. Thank you to everyone who came out to support a worthy cause.

A special thanks to the entire team at Paragon Management and Zimmerman Boltz & Co.

We were able to donate \$15,000 to KidSMILES and another \$15,000 to the Free to Smile Foundation.

To be considered a specialist in the United States and to be able to market themselves as such, specialists must first meet all of the following requirements:

1. The indicated specialty is one for which there are certifying boards recognized by the American Dental Association;
2. The practice of the licensed dentist must be limited exclusively to the indicated specialty areas;
3. The licensed dentist has successfully completed a post-doctoral education program for each specialty;
4. The completed post-doctoral education program must be accredited by the American Dental Association or being held for either preliminary provisional approval or accreditation eligible status; and
5. The licensed dentist must be a diplomat of the national certifying board of an ADA recognized specialty.

To avoid potential problems associated with misleading advertisements, dentists should consult with their legal advisor or a member of their state dental board to ensure that they are properly advertising their dental services.

Nardone Dental Practice Advisor



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