What Your Optometry Lawyer Wants You to Do Now to Protect Yourself in the Next 10 Years

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If you own your own optometry practice, you know that the ingredients for success are many. You need to come up with startup cash, develop a realistic business plan, find the right location, hire the right team members and keep them happy, attract patients and keep them happy, and keep up with ever-changing tax rules and government regulations. Then, once everything is operating smoothly, you need to find a way to keep your practice going and pass it on successfully.

Fortunately, there are ways to avoid the many obstacles that can threaten the future of any entrepreneurial endeavor and ensure your practice's continuity. Here are several steps you can take now to protect yourself and your optometry practice over the next 10 years and beyond:

Your Team Members

Update New Hire Forms

When hiring a new team member, you need to ensure that you do not miss any important paperwork relating to their employment. This is to ensure that both you and the team members receive all of the information that you are legally required to receive from each other.

Most importantly, whenever you hire a new team member, you need to collect from them all of the forms required by the state and federal governments. These forms, which need to be kept up-to-date, primarily pertain to withholding the proper amount of taxes from the employee's paycheck, including IRS Form W-4 and state income tax forms, if applicable.

Filling out these forms is the first step in the process of calculating an employee's tax withholdings, reporting that information to the IRS, and paying FICA and unemployment insurance taxes. Completion of an Employment Eligibility Verification, also known as an I-9 form, is also required by the Department of Homeland Security.

In addition to this, you should also include the reading and signing of any forms or documents that are specific to employment at your optometry practice, such as an ***employee***

acknowledgement of receipt form, whereby the employee acknowledges that he or she has read and understands everything in your employee handbook and will thereafter be held accountable to your practice's policies.

Draft a New Employment Manual

Regardless of how large or small your optometry practice may be, running it without policies and guidelines would be challenging. Having a well-written and up-to-date employee handbook is extremely beneficial, as it communicates to your employees their rights and obligations as your employee.

As an optometry practice owner, you are also required to inform your team members of certain rights and obligations as mandated by federal and state law. Your employee handbook can be used to communicate these regulations to your employees, help you avoid civil fines and fees, and protect you as an employer from lawsuits.

Your employee handbook should contain:

- An ***employment-at-will policy*** that states that the relationship between you (the employer) and the employee can be terminated at any time by either you or the employee without cause or notice.

- A ***right to revise statement*** that makes your employee handbook a binding legal document but gives you the flexibility to make changes to it when necessary.

- An ***equal employment opportunity policy*** that communicates your commitment to equal opportunity for everyone and ensures that all applicants

- and employees of your optometry practice will receive equal treatment without regard to their race, color, religion, sex, age, disability, marital status, etc.

- A ***harassment policy*** that states how your employees should identify and report harassment and what your practice's complaint process entails. Some states, like California, require employers to give employees a separate handbook covering their harassment policy.

- An ***employee conduct policy*** informs your employees of what behavior is appropriate in the workplace and the potential consequences of breaking company policies.

- An ***employee benefits policy*** that communicates and specifies employee benefits that are mandated by federal and state law, such as worker's compensation, Social Security, state disability, unemployment insurance, COBRA, time off for voting, and jury duty, as well as, company-sponsored benefits such as vacation and sick pay, bereavement leave, holidays, health insurance, retirement plans, 401ks, etc.

Ensure Employee Benefits Are Accurately Setup

The term, *employee benefits,* refers to all forms of compensation other than a base salary or hourly wage, including the programs that an employer uses to support the cash compensation an employee receives. Employee benefits can be classified as either:

1. Mandatory; or

2. Voluntary

Mandatory employee benefits in the United States include:

- Social security;

- Workers' compensation;

- Unemployment compensation;

- Family and medical leave; and

- The employers shared responsibility under the Affordable Care Act (Obama Care).

Voluntary employee benefits also referred to as *discretionary benefits*, are those that an employer voluntarily chooses to offer to an employee and may include:

- Health and dental insurance;
- Life insurance;
- Long-term care and disability insurance;
- Paid time off;
- Educational benefits;
- Retirement savings;
- Employee assistance;
- Leave benefits; and
- Wellness programs.

A robust benefits package can increase your ability to attract, retain, and motivate talented employees. However, it must be carefully weighed against the cost of providing the chosen benefits, both from a financial and administrative perspective. The key to setting up a good employee benefits plan is to choose those benefits that best fit your organizational culture, and your employees' needs and that are the most affordable.

Flexible benefits plans, also referred to as cafeteria plans, allow your employees to select from a pool of voluntary benefits, some or all of which may provide certain tax advantages. Traditional benefits plans, on the other hand, represent a one-size-fits-all approach and provide the same set of benefits for each employee, while keeping the administrative burden at a minimum.

Lease

Renegociate Your Optometry Lease Agreement

Time to renew your optometry office lease? Consider this: Statistics show that renewing the lease for your optometry office space without renegotiating the terms can cost your practice as much as 20% of your overall facility-related expenses.

In most cases, your landlord wants to keep you happy and for you to stay in their building so that they can avoid the time, cost, and months of vacancy involved with finding a new tenant. You should, therefore, take advantage of this leverage to renegotiate better terms and options and to save yourself money.

When renegotiating the terms of your lease, you may want to consider updating the space as part of the renewal. Perhaps a new carpet, fresh paint, or more substantial changes are needed to be made. Be creative, as this can have a huge impact when it comes to your practice's image, employee job satisfaction, and attracting new patients.

Finally, you should always engage an optometry lawyer to assist you when renegotiating the terms of your lease. Landlords conduct lease negotiations every day, whereas, you (the tenant) are only in the market every 3 to 5 years. Working with an optometry lawyer who specializes in representing optometry practitioners will level the playing field.

Ask for an Option to Purchase and the Right of First Refusal

If you are interested in someday acquiring ownership of the building where your optometry practice is located, request an *option to purchase* and *right of first refusal* from the landlord when renegotiating your lease.

An option to purchase is an agreement between you and the landlord, whereby the landlord grants you the right to purchase the property on or after a specified date in the future. A right of first refusal stipulates that the landlord cannot sell the property to anyone else without first offering it to you.

While difficult to obtain, primarily because they grant you the right to demand that the landlord sell to you, an option to purchase along with a right of first refusal will just about guarantee that you will have the chance to purchase the property at some point.

Getting a landlord to agree to an option to purchase and/or a right of first refusal can be very tricky. However, if you are a long-term tenant in good standing and who operates a thriving practice, you will have a good deal of leverage upon which to base your negotiations.

Negotiate Multiple Options

Finally, when renegotiating your lease, you should aim for a new term of 5 to 15 years with an option to renew. First, negotiate your base term, then the options to renew. Your goal is to negotiate as many options as possible so that you are at least able to remain in that space until you decide to retire. In the best-case scenario, you will negotiate options that extend the lease well beyond your retirement, so that whoever purchases the optometry practice from you can continue to operate from that location.

The bottom line when renegotiating your lease is that you should think long-term and negotiate as many renewal options as you think you may need or can justify from a business perspective. That being said, the best time to negotiate these terms is early in your relationship with the landlord, when a potential sale that may happen in 10 years is less important to him or her than the continuous stream of income that he or she will enjoy between the time you sign the lease and when the option to purchase date arrives.

Banks

Refinance

Refinancing is the process of acquiring a new loan to replace an existing loan. The new loan pays off the current debt and replaces it with a new loan with better terms or features that improve your finances.

Refinancing your loan can provide you with a number of different benefits. To start with, refinancing can increase your working capital. For instance, you might need an infusion of fresh working capital to invest in your optometry practice or to take advantage of a profitable one-time-only business opportunity.

Refinancing your loan can also enable you to lengthen the loan term and lower your monthly payments. The loan term that made sense for your optometry practice 3 years ago might not work as well for you today.

Finally, refinancing your existing debt can allow you to adapt to changing business circumstances. By refinancing your debt, you can free up the cash you need to implement important changes to your optometry practice's facility or operations.

Open a Line of Credit, But Don’t Use it

If you believe that more flexible financing will fit your practice's needs, consider applying for a line of credit through a bank or an alternative lender.

A line of credit is an arrangement where a bank offers you a maximum loan amount that you can draw upon at any time up to the maximum amount.

A line of credit will offer you a few important advantages:

1. You are only charged interest on the funds you draw. This is what differentiates a line of credit from a traditional loan; and

2. The interest rate is often lower than that of a one-time loan.

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3. You have access to funds that you can use whenever your practice needs a boost in financing and for just about any reason.

Moreover, obtaining a line of credit can be a great way to improve your credit score. This is because if you never use your available credit, or only use a small percentage of the total amount available, your credit utilization rate, which represents how much of your available credit you're using at a given time, will be positively affected. This, in turn, will increase your credit score.

Always Pre-qualify for a Loan

When looking for financing, whether it be to purchase an optometry office space, refinance existing debt, or give your practice a much-needed cash injection, it pays to pre-qualify for a loan. To be pre-qualified for a loan means that the potential lender has taken a look at your finances prior to you officially submitting a loan application and believes that you are likely to be approved for the loan.

Getting pre-qualified for a loan will provide you with a couple of useful benefits. First of all, though pre-qualification won't guarantee that you will be approved for the loan once you submit the actual loan application, it will let you know how likely you are to be approved. Then, if you find that your chances of being approved for the loan are weak, you can take steps to improve your chances in the future.

Secondly, getting pre-qualified can make it easier for you to identify the best loan for your situation and to save money by finding the best loan terms. If you get pre-qualified by multiple lenders, you will then be able to compare things such as interest rates, loan amounts, fees, and repayment periods to select the best loan available.

Estate Planning

Estate planning can be tricky for anyone, but especially for optometry practice owners. This is because optometry practice owners have two major interests to plan for:

1. Their loved ones; and
2. Their optometry practice

Proper estate planning will allow you to maintain control of your assets, dictate how your assets will be distributed to your heirs after you die, and protect your interests if you become incapacitated. An estate plan will also allow you to plan for your optometry practice to be passed on after you die in a way that reduces post-death administration costs, avoids disputes, and ensures the continuity of your practice's operations.

Use Wills and Living Trusts to Protect Your Family and Your Business

Every estate plan should have as its foundational document either a Will or trust, and in many cases, a comprehensive estate plan will involve both a Will and a trust that work in concert with each other.

A Will is a legal document that can be used to communicate your final wishes. If your estate plan does not include a living trust, then your Last Will and Testament will contain a detailed list of instructions for the distribution of your estate after you die.

If you have a living trust in your estate plan, then your Last Will and Testament will normally only be used as a safety net to catch assets that you did not transfer into your trust before your death and place them in your trust after your death. A Will that is used in this way is called a *pour-over Will*.

A trust is a legal agreement whereby a trustee holds and manages assets for the benefit of a certain beneficiary or beneficiaries. A trust can be set up in a variety of different ways and can specify how and when the assets in the trust pass to your beneficiaries.
A living trust is a trust that is effective during and after the life of the creator, who is also known as the settlor or the grantor. One of the main benefits of using a living trust as the foundational document in your estate plan is that it allows you to answer three important questions:

1. What happens to your estate while you are alive and well?

2. What happens to your estate if you become mentally or physically incapacitated?

3. What happens to your estate after you pass away?

But, perhaps the biggest benefit that a living trust provides is that any assets held in the name of your living trust at the time of your death will avoid probate and pass directly to your heirs and beneficiaries, which can save your estate and your loved ones a significant amount of time and money.

All of your business interests should be assigned to a living trust. However, before transferring any business interests into your trust, you should have your optometry lawyer review your governing documents (i.e. your operating agreement, shareholder agreement, articles of incorporation, or corporate bylaws) for any transfer restrictions and to ensure that all required transfer formalities are followed.

Trademarks

Most optometry practices rely on having a great brand name, or a creative and eye-catching logo. This is why your brand is your practice's passport to success, but how do you protect your trademarks from being exploited by others? This is where intellectual property rights come in.

A trademark can be used to protect your brand. You can register a trademark to apply to your practice's brand name, logo, or both. A trademark can be a valuable long-term asset for your practice, as it helps to prevent others from using the same or similar brand name or logo to piggyback from the goodwill and reputation of your practice. Keep in mind, even if you do not register your intellectual property, you may have unregistered intellectual property rights that are free and automatic. The experts at optometry & Medical Counsel can help you identify valuable intellectual property that you might have and not even know about, then guide you towards help with protecting it.

Conclusion

Starting an optometry practice is a huge investment in time and money. So, after securing a loan, investing your own funds, and working diligently to start and grow your optometry practice, you want to ensure that its future is protected.

With that in mind, we believe that the steps suggested above, which are all based on solid professional advice, can provide you with peace of mind today and continued success in your optometry practice tomorrow.

For assistance with taking all of the steps that you need to take to secure the future of your optometry practice, contact Ali Oromchian at **Dental & Medical Counsel** by calling **925-999-8200**, or by visiting our contact page to arrange a consultation. Let us help you put your practice in a position to prosper in the future.

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Do you have any questions regarding anything we covered in this whitepaper?

Dental & Medical Counsel was built with doctors in mind. We understand that you already have a busy professional life full of stress, a heavy workload, and constant liability. Let us help you reduce your stress levels, improve your work/life balance, and reduce your worries and concerns with legal matters.

Additionally, our comprehensive and unique approach enables the most entrepreneurial optometrists, to achieve their personal and business goals as they create massive wealth through smart strategies with the peace of mind of knowing that their practices are compliant with all federal and state laws.

Regards,

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