# DSOs: An Option Dentists and Dental Practices Should Consider

**May 3, 2023 | Benjamin P. Malerba | Douglas E. Menikheim | Sean N. Simensky |**

As a dental professional, you are likely aware of the surge of consolidation that has been affecting the industry for the last several years, which has mostly been driven by Dental Services Organizations (DSOs).  This consolidation has not only created significant financial opportunities for investors, but it has also created additional financial and exit opportunities for dental professionals.

You likely have friends or colleagues who have elected to sell their practice to a DSO in recent years and, perhaps, you are now contemplating whether this is the path you should take with respect to your own practice.  There are many compelling reasons for doing so, but it may not be for every practice or practitioner.  And unless you have sold a practice in the past, much of the process may be foreign to you.

With that in mind, over the next several months we will publish a series of articles explaining the process of selling a dental practice to a DSO along with some of the high-level legal issues or concerns to be mindful of during that process.  We will provide you with the basic information that will assist you should you decide that a sale to a DSO is the correct path for you and your practice.  Some of the topics that will be covered include preparing a practice for a sale, finding a potential suitor, entering into a letter of intent, the due diligence process, the typical structures of an acquisition, purchase price, rollover equity and post-closing employment/employment agreements.

## What Is a DSO?

The consolidation of the dental industry is similar to the consolidation that occurred in the medical services industry.  Medical Services Organizations, or MSOs, started as third-party businesses engaged by medical practices to provide certain non-clinical administrative services that either the medical practice could not handle on its own or handle in a cost-efficient manner.  Services related to billing, marketing and human resources are all examples of these non-clinical administrative services.  In exchange for these services the MSO earned a fee – like any other third-party vendor.

Over time, non-licensed individuals and organizations seeking to invest in the healthcare industry (e.g., private equity) formed MSOs to make these investments while complying with state regulations prohibiting the corporate practice of medicine (CPOM) and other healthcare related laws.  Generally, CPOM and corporate practice of dentistry (CPOD) regulations make it unlawful for any person to practice medicine or dentistry in the applicable state unless the person is licensed in the medical or dental profession.  Likewise, these regulations prohibit a non-licensed person (e.g., a private equity investor) from owning equity in the professional entity that healthcare professionals typical form for purposes of operating their practices (e.g., a professional corporation).

Through an MSO/DSO, the non-licensed individuals/organizations could find an established practice to serve as a “platform” for its investment, bring it under management (i.e., provide all of the back-office non-clinical administrative services pursuant to a management agreement) and grow that practice through the acquisition of smaller “add-on” practices.  In exchange for providing the administrative services, the MSO/DSO would earn a management fee equal to the fair market value for such services.  The ongoing management fee and eventual sale of the DSO is how the investors realize a return from their investment.

DSOs initially focused on consolidating general dentistry practices.  Now, however, they are expanding into other specialty areas (e.g., orthodontics) to help supplement the professional dental services provided by their affiliated general dentistry practices.  They also are creating specialized

DSOs (e.g., Orthodontic Service Organizations) that focus solely on a particular specialty. So, if your practice is solely focused on orthodontics or another specialty, partnering with a DSO is still an option.

Also, although you typically hear about DSOs that are backed by a private financial investor, we are also seeing many entrepreneurial dentists (whether on their own or as part of a larger group of dentists) who are seeking to grow through the acquisition of other local practices with the intent of eventually selling to a private financial investor. In these scenarios it is common for these dentists to set up a DSO of their own to facilitate the sale to an investor.

**Should You Sell to a DSO?**

Although this seems like a simple question, it is hard to answer. The decision to sell your dental practice will depend on several factors, some of which will be personal and some business oriented. If you are a practitioner nearing retirement, a sale to a DSO can be a succession plan of sorts and can address patients' continuity of care after your retirement. This is a good option if you do not have other partners or associate dentists who can purchase the practice. In such a scenario, a DSO will often give you the ability to work for a few years until your retirement to transition the practice and patients, while also offering you a more lucrative buyout price than you could get from another dentist.

If you are a younger practitioner, perhaps you only want to focus on the clinical aspects of dentistry while leaving the non-clinical aspects of your practice to more business-minded individuals. In this scenario, a sale to a DSO could help you alleviate the administrative burden and allow you to provide clinical services as an employee with a negotiated employment agreement, while also potentially providing you with the opportunity to receive "rollover equity" in the DSO. This rollover equity, over time, could appreciate substantially in value.

Whatever your reasons may be, selling to a DSO can be a smooth and financially lucrative process with the assistance of experienced legal and financial professionals to help guide you.

Lance R. Plunkett, Esq.
General Counsel
New York State Dental Association
20 Corporate Woods Boulevard, #602
Albany, New York 12211
518-465-0044 (phone)