



MATT DICKSTEIN

Business Attorney

Making legal matters easy and economical for your business

39488 Stevenson Place, Suite 100, Fremont, CA 94539
510-796-9144. matt dickstein@hotmail.com matt dickstein.com

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How a Non-Licensed Person Can Work with a Professional Practice

In this article I discuss how a non-licensed person can work with a professional practice, including the use of an administrative / management service company. Here is my conclusion up-front: A non-licensed person can work with a professional practice so long as there is no ownership in the practice, where ownership includes not only stock in a professional corporation but also a share in revenues.

Scenario. Over the years I've received more than a few phone calls from non-professionals who want to financially participate in a professional practice, whether by investment or the sharing of profits. Usually the question concerns a dental practice, and to a lesser extent medical and other practices. Sometimes it's the accountants for a medical or dental practice who want to know the answer. The fit seems natural and beneficial for all concerned because the professionals only want to focus on patient care (not admin or marketing) while the non-professionals only want to work on the business side of the practice.

Law. For almost all professions, only persons licensed in California in the profession may own shares in the professional corporation or be a partner in the practice (with certain minor exceptions).

The policy behind the law is to prevent unlicensed persons from interfering with the professional's judgment. The professional must have sole control over professional decisions (health care decisions, for example). This includes obvious decisions such as the need for referrals outside the practice, and it also includes less obvious decisions such as: (1) how many patients or clients the professional must see in an hour; (2) how many hours a day the professional must work; (3) hiring and firing of associates, technicians and assistants (at least as concerns their clinical competency); (4) setting the parameters for insurance contracts; (5) coding and billing procedures for patients; (6) selecting medical equipment and supplies; and (7) the content of advertising for the practice.

The professional may not delegate any of these decisions to an unlicensed person, including to a management service company. The professional may consult with unlicensed persons in making these business decisions, but he or she must have ultimate responsibility for the decisions.

Many people question whether this law still makes sense in today's world, but irrespective of all that, it's the law and you must comply. If you violate the law, you put your license at risk.

Working with the Professional Practice without Breaking the Law. With these concepts in mind, let's turn to how a non-licensed person (usually a management service company) can participate in a professional practice. The key is to provide goods and services to the professional practice without tripping any of the prohibitions above. For example, the non-licensed person can lease office space and certain equipment to the professional practice, or provide back-office administrative services including accounts payable and billing services, or help with traditional marketing, or provide staffing of non-licensed personnel. None of these functions, in themselves, involve ownership or profit-sharing in the professional practice.

No Profit Shares. It is extremely important that the non-licensed person receive compensation that is directly related to the goods and services provided, for example, flat lease rentals or hourly billing amounts. The professional practice may not pay any percentage or portion of its gross or net profits to a non-licensed person, as this would constitute a form of ownership in the professional practice. A share in revenues constitutes a partnership share, and that's ownership.

Corporate Structures. The management service company is a common structure that non-licensed persons use to participate in a professional practice. Here non-licensed persons perform the administrative and back-office functions permitted by law (see above), thereby freeing the professionals to spend more time on patient or client care. Usually the professionals operate the practice through a professional corporation that they wholly own, while the non-licensed persons provide their services through an ordinary corporation or an LLC that anyone can own. The two sides use contracts to link the management service company with the professional corporation and to provide the terms of service and compensation.

I hope this article is useful to you. As always, I only glossed over the outlines of the subject. Call me if you need to talk more.

Ideas:

If we could read the secret history of our enemies, we should find in each man's life sorrow and suffering enough to disarm all hostility. – *Henry Wadsworth Longfellow*

Social causes, environment, education—do you think they really make a difference between one human soul and another? – *Lionel Trilling*

We must be aware of the dangers which lie in our most generous wishes. Some paradox of our nature leads us, when once we have made our fellow men the objects of our enlightened interest, to go on to make them objects of our pity, then of our wisdom, ultimately of our coercion. – *Paraphrase of Lionel Trilling*



If an interesting monster can't have an interesting hairdo, I don't know what this world is coming to. – *Bugs Bunny*