

PRACTICELIFE

When the worst thing happens

Lis Hughes explains how to avoid future problems during difficult situations

Sometimes, we (Frank Taylor Associates) deal with a situation when a principal has died or has a terminal illness and the practice is either in the process of being sold or having to be sold.

Over the past four months we have had an unprecedented number of these cases and there have been some common themes that we feel should be shared. We do not want to scare monger, but having worked with bereaved family and staff members who have found themselves in this unfortunate situation, we feel certain areas should be highlighted. The most important thing to note, everything in the article applies to everyone, sadly, none of us are exempt from bad things happening.

NHS contract

If you have an NHS contract in your sole name, you must

find an eligible partner (a dentist) and add this person to your contract by way of a partnership. Sounds radical but it is straightforward, while it is probably slightly irritating to do, you need to protect your interest. You will need to use a dental specialist solicitor to draw up the partnership agreement and protect your asset fully.

If you don't action this and die unexpectedly, the NHS contract may be taken away by NHS England and whatever the percentage of NHS income is in your practice, this will have an impact on your estate, which could be sizeable. Very recently we experienced two cases, in one case the local area team (LAT) used its discretion and terminated the contract leaving the family with a much-reduced asset to sell. In another case, a different LAT used its discretion and allowed the contract to continue for six months while the practice was sold and agreed to a variation of the existing contract,



enabling the purchaser to buy the practice and take over the contract. This highlights the problem of each LAT being allowed to use their discretion, and while a specialist dental lawyer will argue the case, there are no guarantees unless the contract is already in a partnership.

To put a partnership in place should cost in the region of £1,000, this is a small price to pay for peace of mind for you and your family. Do you want to take the risk?

A will and a lasting power of attorney

In another transaction, the dentist died unexpectedly, and his wife went to look for the will she thought they had completed many years ago, after much searching she found a copy, which was only in draft form and not signed. Her solicitor confirmed they did not hold a signed copy and now she is going through the slow and painful process of obtaining probate. This highlights the fact that not only should a will be in place, but it should also be reviewed on a regular basis, circumstances frequently change.

We talk to many dentists who cannot see the need for a will as they are only at the start of their career, but having also dealt with a practice sale where the young principal died in a car accident, it is a stark reminder of the need for advance planning.

A lasting power of attorney (LPA) is a legal document that allows you to appoint people to make decisions on your behalf and ensures a responsible person, appointed by you, can act on your health, welfare, property and financial affairs.

LPAs are often thought about as a person reaches a mature age or is taken ill, however, we have first hand experience where a dentist was injured in an accident and left with brain damage. In this case his family were unable to take control of his affairs for some time because an LPA was not in place. It is hard to imagine the impact of a major breadwinner, with a young family, taken ill like this.

Dealing with bereavement and illness is incredibly sad and stressful, and to add some of the above scenarios into the mix, only makes the situation worse.

Once again, we would only advise you use specialist dental lawyers or independent financial advisers to carry out this work. The cost to write a straightforward will and to register a lasting power of attorney should be in the region of £850, increasing dependent on individual needs. Do you want to take the risk?

Dealing with bereavement and illness is incredibly sad and stressful. This article is not intended to cause offence, but as trusted advisers it is our duty to highlight the effect of not preparing in advance for the difficult issues we may all have to face in the future and, in particular, what can be done in advance to ease the burden on the family and the business left behind. **D**



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