

Hold the Mayo: Knowing What to Keep Out of Your Associate Agreement When Negotiating Your Contract

For the last three or four years, you have been inundated with learning the clinical nature of becoming a veterinarian. Now you have been thrust out into the real world with a pat on your back and a diploma that cost you what most people's homes are worth. Bewildered, you set out to acquire your first job, unbeknownst to you is how important this first job will be for the rest of your career. Choose the right one and it can fast track you into practice ownership and allow you to quickly satisfy your debt obligations from veterinary school. Choose poorly, and it can cause you to enter a world of subsistence, where you are making enough money to satisfy obligations but are not able to "get ahead," always living paycheck to paycheck. It is definitely not a road you want to go down. With so many new veterinarians competing for the same jobs though, how can you negotiate an associate agreement that is going to benefit me? How do you have negotiating power as a new grad? It's rather simple. Knowing the practice that you are negotiating with and what to keep out of your contract will allow you to fine tune your approach to secure your first job.

TYPE OF PRACTICE THAT NEEDS AN ASSOCIATE

First and foremost, we need to look at veterinary practices that actually NEED an associate. There are far too many owners who are looking for an associate to help "during the busy time" or to "help alleviate stress," however, they really do not have enough work to keep you busy. One of the most important questions you **need** to ask any potential employer is: what are your yearly revenues? For a solo practitioner office, you are looking for veterinary practices that are above \$1,200,000 - \$1,400,000 and have year-over-year growth with a healthy new patient flow coming into the office. You also want to make sure other pet care services, such as grooming and boarding, are healthy as that will show a good recare system in place and the potential for additional work for you in the future.

Far too many young doctors end up in practices that cannot adequately support their production level/goals, which in turn hampers their ability to purchase their own practice in 1-2 years. We need to make sure that your first year of employment is testing your boundaries and pushing you to be faster and more efficient because this will be the bedrock for which your future clinical skills will be based on. Do not compromise on this as the repercussions are far reaching and long lasting. If you must go into corporate veterinary medicine (but remember to get out quickly) in order to guarantee that you will be pushed to your limits, do it. The benefits will be immediate and will help to set you up for the next stage of your career.

Which leads us to figuring out the issues which you should be focused on when evaluating an associate agreement.

COMPENSATION

Figuring out a way to incentivize both parties is key to creating a contract that will be mutually beneficial for the owner and the associate. Too many contracts will only pay you on (i) a per diem (per day) rate or (ii) a percentage of production/collections. The problem with this is the former doesn't reward you for selling treatment plans, being efficient, focusing on goodwill development for the practice, etc., and the latter doesn't protect you from the owner "cherry picking" all of the cases and leaving you to do exam checks all day long. Combining these two elements not only protects you, but it incentivizes the owner

to provide you with patients. I strongly encourage associates to push for a compensation structure that is the greater of (i) a daily rate, or (ii) a percentage of production/collections. It encourages the doctor to provide you with patients and pushes you to work harder.

EMPLOYEE/INDEPENDENT CONTRACTOR

Do you need the job? Then does it really matter how the owner wants to classify you? No. Many owners will push for you to be an independent contractor (“IC”) because it saves them on taxes, protects them from liability and they don’t have to pay you benefits. Are you an IC? No, but the risk is on the owner, not you. If we can “give” on the IC issue and get a higher compensation, or a better compensation model (see above), then allow yourself to be an IC. The question you need to ask yourself is: “what does my career look like?” If this is a short-term job for you and you desire practice ownership (which you really should desire) then the IC/employee issue is not a big deal. If you want to be a long-term associate, working for someone else for your career, then the IC/employee issue is a major issue for you. Being treated as an employee will eventually allow you to receive benefits.

In my opinion, this is the big issue that you give on to get the issues that you really need. Go ahead and posture like it is a big concern for you and eventually give on it when you get the issues that you need, but not taking a job over this issue is, in my opinion, foolish.

RESTRICTIVE COVENANTS

My recommendation to young doctors is to take a job away from any area that you desire to start your career in as a practice owner. This negates the restrictive covenants from being a major issue in contract negotiations and again allows you to “negotiate” as if it is an important issue for you when in reality you could care less. This will usually lead to a better compensation formula, possible guaranteed salary/number of days, continuing education credits, etc.

However, if you need to take a job within the area that you want to work then you need to know how to negotiate. Most covenants not to compete in associate agreements are for five (5) miles and for two (2) years in metropolitan areas (remember there are a handful of states that do not allow restrictive covenants against associates) so anything greater than this may be unenforceable against you. If you desire to be in the area, then I would be up front with your desire to limit the covenant not to compete but be prepared to offer something that is not in the contract to satisfy the owner. If the owner is willing to consider modifying this provision, a good offering is the addition of a covenant not to treat clients of record of the veterinary practice. This is typically not in associate agreements and gives the owner what they are truly seeking, the inability of you to steal their patients. It is a great way of sidestepping the issue and providing both parties what they truly desire.

POTENTIAL BUY-IN

This must be negotiated in connection with the associate agreement, not after you have been there for a year! Your right to acquire needs to be addressed in the document, otherwise it is merely an idea. The formula for the buy-in should be clearly spelled out in the document so there is no confusion later, and, if possible, the purchase agreement and partnership agreement should be agreed upon as well.

There are many issues which are truly unimportant when it comes to negotiating your first job. By focusing on the top two or three provisions of your contract you will be much more successful at getting

what you want, while at the same time giving up things that are meaningless to you. At the heart of this though is choosing the right practice for you to start your career. Truly, you should be searching for practices that are going to guarantee your ability to be producing at a feverish pace (for you) which in turn will allow you to show the banks that you can handle larger practices, which will then allow you to qualify for a larger loan, which will allow you to buy a bigger practice, which will allow you to have higher cash flow, which will allow you to satisfy debt obligations much, much more quickly than working as an associate in a practice that does not provide you with a steady flow of patients. Your career is a bunch of stepping stones. Make sure your first step is the right one.

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