



ONTARIO DENTAL LAW

DISCLAIMER: Please note that the information in this eBook is NOT legal advice and is provided for educational purposes only. Laws are subject to change and without notice. This eBook may be outdated. If you need legal advice or representation, you should contact David Mayzel or Michael Carabash.

Last Updated: May 2011

© 2011, DMC Law. All Rights Reserved.



Table of Contents

Introduction.....	5
Chapter 1: Employment Law	5
A. Independent Contractor Associates.....	5
B. Employee Associates	6
C. Hiring Associates: Avoid Discriminating	6
D. Probation for Associate Employees	7
E. The Associate Agreement	8
F. (Mis)Characterizing the Relationship.....	8
G. Independent Contractor vs. Employee	9
H. Court Cases	10
I. Terminating Associates	19
Chapter 2: Business Law	22
A. Sole Proprietorships	22
B. Partnerships	24
C. Professional Corporations	31
Chapter 3: Restrictive Covenants	42
A. What are Non-Compete and Non-Solicitation Clauses?.....	42
B. Challenges based on Substantive Defects	43
C. Vague and Ambiguous Terms.....	44
D. Lack of Consideration.....	47
E. Challenges based on Procedural Defects.....	48
F. Common Law Challenges: Reasonableness	50
G. Should a dentist ask for a both?	58
H. When should an Employer have an Employee agree to Restrictive Covenants?	58
I. Restrictive Covenant Tips	60
G. What if an Employee never agreed to a Restrictive Covenant?.....	62



Ontario Dental Law

Page 3 of 128

Chapter 4: Commercial Leases	64
A. The Parties	64
B. The Premises	65
C. The Price	65
D. The Term.....	66
E. The Use.....	66
F. Exclusivity.....	66
G. Subletting the Premises / Assigning the Lease	66
H. Terminating the Lease.....	67
Chapter 5: Dental Records.....	69
A. What are dental records?.....	69
B. Why have dental records?	70
C. Who owns dental records?	70
D. Privacy Laws.....	74
Chapter 6: Buying Selling a Dental Practice	76
A. Selling the Shares of a Dentistry Professional Corporation.....	76
B. Selling the Assets of a Dental Practice	78
Chapter 7: Family Law (Marital Breakdown)	90
A. Equalization of Net Family Property	90
B. Prenuptial Agreements Marriage Contracts	95
C. Challenging a Domestic Contract	96
D. Tips to avoid having an invalid and unenforceable Domestic Contract	106
E. What if a Domestic Contract is set aside?.....	107
F. Dealing with the Matrimonial Home.....	108



Ontario Dental Law

Chapter 8: Wills and Estates	110
A. Powers of Attorney	110
B. Last Will and Testament	115
C. Dying without a Will.....	118
D. How do I prepare to have my Will drafted	121
E. Basic Structure of a Will	122
F. Amending a Will	122
G. Revoking a Will	123
H. Reviving a Will.....	123
I. Mistakes.....	123
J. International Wills.....	124
K. Multiple Wills	124
L. Death Benefits: \$10,000 tax free payment	126
About Us	128