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The Buyer's Guide to Acquiring a Veterinary Practice in 8 Simple Steps

The concept of purchasing a veterinary practice can be an intimidating and complicated venture for those unfamiliar with the acquisition process. Whether you are an experienced veterinary practice owner looking to expand your current business, or an associate veterinarian with ambitions of becoming a first-time practice owner, purchasing a veterinary practice allows entrepreneurial veterinary professionals to "hit the ground running" when opening a new practice by acquiring equipment, inventory, established goodwill, and more. Below we have condensed the acquisition processes into 8 simplified steps in order to provide you with an idea of what your practice purchase may look like.

Step 1: Identify the Practice to be Purchased

The obvious, but often intricate first step of purchasing a veterinary practice is identifying the practice that is right for you (the "Target Practice"). In doing so, you will want to generally consider the following, non-exhaustive factors: location, staffing, equipment quality, years of existence, annual growth margins, client base, and, of course, overall financial value. During these early stages of your evaluation, it is common (and advisable) for the buying and selling parties to seek a fair market independent appraisal of the Target Practice to establish a reasonable price range for the purchase. An additional and important consideration when evaluating a Target Practice is to understand the future plans of the current practice owner (the "Seller") following the sale. You may want the Seller to remain with the practice as an employee for a certain period of time following your acquisition, in order to provide clinical and/or transitionary services. If the Seller is intending to retire immediately after the sale, you may feel the need to look elsewhere for a new Target Practice with a Seller willing to fulfill your needs.

Step 2: Understand the Real Estate

The location of the Target Practice is a significant factor in establishing the practice's overall value. Indeed, a tremendous amount of goodwill attaches to the location of the Target Practice. For this reason, among others, you will want to have a clear understanding of who owns the real estate where the Target Practice is located, and how that ownership will affect your acquisition transaction. This will largely depend on how the Seller is situated immediately prior to the acquisition. If the Seller owns the real estate upon which the Target Practice is located, you may want to consider purchasing the real estate in addition to the Target Practice, or if the Seller is not willing to sell the real estate along with the Target Practice, you will need to enter into a lease agreement with the Seller, whereby the Seller will act as landlord following the acquisition. Note that if the real estate is to be purchased in addition to the Target Practice, this could significantly affect the overall cost of your acquisition. In cases where the Seller is not the owner of the property and is already acting as tenant to an existing lease agreement, you will have to consider whether you want to assume the Seller's existing lease agreement at the closing of the transaction (subject to landlord's agreement), or attempt to negotiate and enter into an entirely new lease agreement with the property landlord prior to the closing. If you intend on assuming the Seller's existing lease agreement, you will want to request a complete copy of the lease as soon as possible for your attorney's review so you can identify if the terms of the existing tenancy are right for you and your future practice.

Step 3: Secure Necessary Financing

Once the purchase price has been established, you will want to ensure that adequate funding will be available to you on the closing date so that the Seller can get paid and the transaction can be consummated. Veterinary practice acquisitions are commonly financed by commercial lenders. In the world of business transactions, financing for veterinary acquisitions is unique in the sense that there are a variety of specialty commercial lenders that will often finance 100% of the purchase price, plus, in some cases, additional money to you for working capital. Experienced legal and financial advisors develop relationships with these specialty lenders over the course of many transactions, and may be able to connect you with banks that regularly make loans to veterinary professionals. However, note that a commercial lender will likely require that you (and your co-owners, if any) personally guaranty the payment of the loans, in addition to seeking a priority lien position on the assets of the Target Practice. For these reasons, it is crucial that you fully understand your options and the terms of any loan you receive.

Step 4: Negotiate and Enter into a Letter of Intent

The Letter of Intent ("LOI") serves many important purposes in a veterinary practice acquisition; not only does the LOI set forth a number of the material terms of the transaction, but it also aids attorneys in drafting and negotiating the purchase agreement, which can save you from incurring additional and sometimes unnecessary expenses. An LOI is a document that outlines the preliminary agreements and understandings of the buying and selling parties. The LOI is generally not a legally binding contract; rather, it typically symbolizes a good-faith commitment of the buyer and seller to finalize the transaction in accordance with the fundamental deal terms contained therein. In addition, because the parties have agreed in advance to certain key points, less is left open for negotiation, and the chances of the deal falling through are generally reduced. Deal terms commonly encompassed by an LOI include (but are not limited to): transaction purchase price, the post-transaction real estate arrangements, the buyer's due diligence period, the intended closing date, exclusivity of negotiations, the Seller's restrictive covenant, and more. As previously stated, the LOI is typically non-binding, meaning the parties are not legally obligated to complete the proposed transaction after signing. However, it is often worthwhile to consult with an attorney during the negotiation of the LOI to ensure all key provisions of the transaction are adequately considered.

Step 5: Conduct Due Diligence

During the due diligence period, you, as well as your accountant, attorney and lender, will carefully assess all relevant aspects of the past, present and future of the target practice. This process typically involves detailed investigation into the legal, financial, and economic fitness of the business. During this time, you will have the opportunity to "kick the tires" on the Target Practice and get a true understanding of what it is you intend on buying. Most notably, throughout the due diligence period you will usually have the opportunity to walk away from the transaction for any reason and without consequence. Thus, conducting a thorough and exhaustive due diligence is in your best interest, as it may be your last opportunity to abandon the transaction without incurring liability. Due diligence typically begins after an LOI is signed and may be limited in duration to an agreed-upon period or may continue through the closing date.

Step 6: Negotiate and Enter into a Purchase Agreement

The purchase agreement is the legally binding contract that will affirmatively establish the terms and conditions of your veterinary practice acquisition. Throughout the drafting and negotiation of the purchase agreement, your attorney will utilize the terms previously agreed upon in the LOI to move the deal forward at an efficient pace. However, the purchase agreement will be considerably more comprehensive than the LOI and will contain many material terms not previously contemplated by the parties. During the drafting process, you should expect to be regularly communicating with your attorney about any disputed terms and issues so that your attorney can effectively negotiate and advocate on your behalf. In addition to the fundamental terms contained in the LOI, you can expect purchase agreement negotiations to consider terms relating to representations and warranties being made by you and the Seller, various provisions relating to liabilities, indemnification provisions, purchase price allocations, and more. Once the purchase agreement has been signed by both parties, you, as well as the Seller, will have a contractual obligation to progress the deal toward a scheduled closing date; subject, of course, to the terms agreed to in the purchase agreement.

Step 7: Fulfill Pre-Closing Obligations

The amount of time you will have between signing the purchase agreement and closing the transaction will depend on the terms set forth in the agreement; sometimes the closing will not occur for several weeks after execution of the purchase agreement, and in other cases the closing will occur simultaneously with the signing of the purchase agreement. Regardless of how this is arranged, you (and the Seller) will have several pre-closing obligations which will need to be satisfied to finalize your acquisition of the Target Practice. For example, you (with the assistance of your attorney) will need to ensure that the real estate aspect of the transaction is prepared to reach completion prior to or simultaneously with the transaction closing. You will need to ensure your commercial lender has received all necessary documentation and information to complete its underwriting processes and fund the transaction at the closing. From a business perspective, you may also need to introduce yourself to the staff of the Target Practice prior to closing to avoid future employees from feeling blindsided by the sudden change in ownership. If the Seller is remaining with the Target Practice as an employee following your acquisition, the terms of said employment will have to be agreed upon prior to the closing. All obligations and conditions which must be fulfilled prior to closing should be expressly set forth in the purchase agreement.

Step 8: Close the Transaction

The closing date has arrived – now what? By the closing date, assuming everything has gone smoothly, most, if not all of the transactional legwork will have been completed. You and the Seller will typically be asked to sign final documents consummating the transaction and, once the lender releases funds to the Seller equal to the Purchase Price (minus adjusted costs incurred by Seller), the transaction will officially close. Note, however, that the purchase agreement will often contain an exact time of day that the closing will take effect (e.g., 11:59 PM), at which point you will officially become the owner of the Target Practice. The Seller will provide you with keys, passwords, books and records, machinery and equipment, and all other assets of the Target practice contemplated for sale by the purchase agreement.

Notes

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