

# Early Termination Fees



Fair business practice or a great way to lock customers into high costs and bad service?

BY ALEX SADUSKY

Like many small businesses, dental practices use various third-party service providers to help run their operations. For example, credit card processing and business phone and internet.

And while these services are essential, the long contracts and unfavorable terms sometimes associated with them can be costly. What gets presented as a “partnership” in the initial sales pitch, often turns out to be anything but that.

**One of the most damaging elements of a service contract is the early termination fee (ETF). But ETFs are not inherently bad. When used correctly and ethically, they represent a fair way for these service providers to protect themselves.** If the provider incurred out-of-pocket costs while onboarding you, it's reasonable for them to recoup what would've otherwise been lost because of the early cancellation. For example, maybe they provided equipment and installation upfront at no charge and/or incurred labor costs such as training.

**Unfortunately, many times ETFs are not used as a fair business practice.** Rather, they represent a great way for these companies to lock unsuspecting customers into high prices and poor service. It's a system that turns their clients' confusion, misunderstandings, and mistakes into a profit center.

Imagine you had a patient that wanted to switch to another dentist because they felt your level of service was decreasing while your rates consistently increased. However, you inform them that when they first came to your practice they agreed to be your patient for 3 years and that in order for them to leave your practice, they must first pay a fee to you that represents all the fees you

would have charged them for them for services and goods that were never provided. This fee can sometimes be a stated value that is multiples of what they would have paid under the agreement. Taking that example, one step further, when the patient protests, you respond by saying it's all in the 26-page document packed with convoluted fine print that you signed during your initial visit which I provided the initial consultation and treatment plan.

Outlandish right? But all too often dental practices are forced to forgo significant annual savings because they are stuck with an ETF if they switch service providers.

To help you better examine your current third-party relationships and evaluate new ones, here's a breakdown of some of the costlier aspects of service provider agreements and ETFs.

## CONTRACT CONFUSION

This may seem obvious, but **you need to be clear about the details of the agreement and subsequent fees** – before signing anything as this usually isn't the type of information service providers will proactively disclose when trying to get your business. Even worse, there are instances of customers not even knowing they're under contract in the first

place.

In fact, in the fall of 2017, a class action lawsuit was filed against one of the largest payment processing providers, PNC Merchant Services Company (PNC). And one of the allegations in the pending case claims that customers were not informed they were trapped in a three-year contract and subject to high early termination fees – until they tried to leave PNC.

**Confusion can also be caused by the signup paperwork and documents being referred to as an “application”, rather than a contract.** In this case, the customer may not realize the extent to which they entered into a legally binding agreement with strict terms and cancellation penalties. And even though many of these documents are long and filled with fine print, ask questions and clarify until you're confident that you fully understand the terms and fee structures. Doing so could end up saving you a lot of money, time and aggravation. For me, it's an easy answer, if they tell you there is no early termination fee and/or penalty, make them put it in writing on whatever you sign!

## AUTOMATIC RENEWAL PROVISIONS

OK, so you're fully aware that you're under a three-year contract with your service provider. Check.

How about the renewal process? Sometimes these agreements include automatic renewal provisions that require cancellation notices within a limited window. For instance, you could unknowingly lock into another three-year deal only because you missed the 30-day cancellation window. These agreements are interesting to say the least. They tell you, you can't cancel now but you must let us know not more than 90 days prior to then of your agreement and not less than 60 days. How many practices have calendars with checklist on who they need to notify when to cancel their agreement?

## FEE CHANGE NOTICES

This is one of the more disturbing elements of ETFs because it gives the provider a lot of freedom to play with the fees. If you read the fine print in some contracts, the provider reserves the right to change the fee with only 30 days' written notice. And as you can imagine, this fee "change" is typically an increase. Worse yet, if you don't terminate within 30 days, you become contracted at these new rates or fees. These fee increases often come in the small print on your monthly statement and are very easy to miss.

## NON-DECLINING FEES

Disregarding for a minute whether not there should have been an ETF or not, wouldn't it be fair if the amount of your ETF varied based on how far into the term you were when trying to leave? Well, unfortunately that's usually not the case. For example, for a 36-month contract, a customer who wants to cancel 35 months in often owes the same amount as someone canceling after only 2 months of service.

## THE BOTTOM LINE:

As a dental practice, you need to pay attention to your agreements and relationships with third-party service providers as upon closer look, they may be even more unfair and inequitable then you realize.

This is often the case when ETFs are involved. This often goes beyond a company simply trying to protect themselves but rather a strategy to force customers into a difficult situation. Either continue putting up with high pricing and poor service or pay an opt-out fee that's a ridiculous multiple of the initial investment they made in your practice.



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Dental Card Services Alliance is an organization Alex cofounded in 2009. Dental Card Services Alliance is the exclusive credit card processing services provider of the AGD Exclusive Benefits program and has numerous other endorsements, alliances, and associations.

Prior to resuming the role as the CEO of Dental Card Services, Mr. Sadusky was Vice President Office of the CEO for Dentsply Sirona, the world's largest dental consumable and equipment provider. In his previous roles with Dentsply Sirona, Mr. Sadusky was responsible for corporate strategy and business development, specialty markets including dental support organizations, and strategic projects.

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