



“Prior to hiring an employee, the owner of a dental practice should conduct a due diligence investigation. An owner of a dental practice has an obligation to protect not only his or her employees, but also the patients.”

[Example: The retention of an employee after it is discovered that the employee improperly charged a patients credit card for personal use, or an employee had prior misconduct with a patient].

In today's society, security is a big concern, especially in the area of domestic violence. The owner of a dental practice may have a certain legal obligation to protect his/her office staff and patients from potential danger.

If an employee is being harassed at work, either by a spouse, significant other, friend, etc., then the owner of the practice should make sure the harassment does not interfere with office operations, or place employees or patients at risk. For example, if a very heated verbal altercation occurs during office hours between an office employee and his or her spouse as a result of a pending divorce, the owner of the practice should immediately address any potential security concerns.

With a little due diligence and the implementation of proper office procedures, the owner of a dental practice should be able to avoid a great deal of liability exposure.

## Upcoming Events

Please visit us at the following events:

### November 6, 2009

Ben Massell Golf Classic  
Celebrity Golf Club  
Tucker, Georgia

### January 22-23, 2010

GAGD General Dentistry  
Symposium  
Marriott Century Center  
Atlanta, Georgia

### January 8-10, 2010

Southern Society of  
Pediatric Dentistry  
Meeting  
Ritz Carlton-Buckhead  
Atlanta, Georgia

## Online Presence

**Corporate Web Site:**  
[www.ObermanLaw.com](http://www.ObermanLaw.com)

**Dental Web Site- Georgia:**  
[www.GaDentalAttorney.com](http://www.GaDentalAttorney.com)

## Contact Us

Law Office of Stuart Oberman  
147 Lee Byrd Road  
Loganville, Georgia 30052  
770-554-1400



## In this issue

Employer Liability

Upcoming Events

Online Presence

Contact Us

## Employer Liability: Hiring and Retention of Employees

One of the fastest areas of liability exposure for the dental profession is the negligent hiring and retention of employees.

If an owner of a dental practice fails to conduct a due diligence investigation of a potential employee prior to hiring that particular employee, then the owner of the practice may be held liable for the negligent or intentional acts of that particular employee.

Prior to hiring an employee, the owner of a dental practice should conduct a due diligence investigation, which should include the following:

1. Performing a criminal background check;
2. Reviewing the driving history of a potential employee;
3. Drug testing;
4. Verification of a potential employee's social security number;
5. Credit check;
6. Verification of prior employment; and
7. Licensing credentials.

In general, negligent hiring is based upon the principle that an owner of a dental practice has an obligation to protect not only the employees, but also the patients.

If the owner of a dental practice fails to conduct a criminal background check on a new or existing employee, and that particular employee commits some type of criminal act against a patient [i.e., improper touching, credit card fraud, etc.], then the owner of the practice may be held liable.

A growing area of potential liability for the owner of a dental practice is the negligent retention of an employee.

If the owner of the practice discovers that an employee has committed a negligent or criminal act while employed at the practice, and the owner of the practice fails to take appropriate disciplinary action against that particular employee, the owner of the practice may be liable if the employee commits a subsequent act.

*This article is continued on the next page.*