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Beginning an optometric practice: Partnerships, locations, evaluations, valuations, and contractual agreements

Abstract

Beginning an optometric practice: Partnerships, locations, evaluations, valuations, and contractual agreements

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Nira R. Levine

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BEGINNING AN OPTOMETRIC PRACTICE: PARTNERSHIPS, LOCATIONS, EVALUATIONS, VALUATIONS, AND CONTRACTUAL AGREEMENTS

A Thesis
Presented to
The Faculty of the College of Optometry
Pacific University

In Partial Fulfillment
Of the Requirements of the Degree
Doctor of Optometry

By
Brian B. Dubes

May, 1975

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INTRODUCTION

The major emphasis of optometric education has been, and continues to be, the thorough education of the professional optometrist. Every attempt is made to ensure that the student's knowledge of optometry is comprehensive. With this wealth of knowledge the personable young graduate can be reasonably confident of his professional success. But all too often the practicalities and harsh realities of the interrelated economic factors following graduation are not fully considered or understood. Aside from a brief encounter with a course oriented toward practice management, there is no extensive preparation of the new graduate regarding his own practice establishment, job placement, or practice purchase. Many new graduates spend several fruitless and frustrating years searching aimlessly for some place or situation that fits their needs, abilities, and personality. I suspect that many of our graduates who initially or later end up in a commercial practice have done so out of misdirection, frustration, economic need, and failure of our profession to channel its graduates properly within itself. Placement services are gradually improving, but in addition to them, and until they are more efficient, the new graduate had better prepare to meet the challenges of his future singularly and directly.

The purpose of this thesis is to give direction to the graduate's search for his place in the profession. The content of this thesis is such that it was designed to be read by the new graduate and by the practicing optometrist considering association with a new graduate. This thesis is intended to be a basis for discussion and formulation of ideas toward the formation of a possible partnership. It is hoped that both the new and established optometrist will be able to benefit from information contained herein to write their own contractual agreement. The knowledge gained by the reader will also be of significant assistance to the attorney, the accountant, and to all other members of the planning team.

Traditionally, the optometrist has been the rugged individualist- the solo practitioner who "hung out his shingle" and started on his own. Optometrists are still beginning practices in the same way, and many are successful. The 1969 AOA Economic Survey showed the distribution of its members by mode of practice as: Solo practice-72%; Partnerships-13%; Employed by firm or clinic-6%; Employed by MD or OD-6%; and Group-3%. An additional 2-3% are in the military. In 1972, the AOA Economic Survey reported a decline in solo practice to 65.7% and in 1974 a decline to 64.2%. These are only survey results and not precise, but the trend is clear - fewer optometrists are practicing alone. Milkie (1972) reported that the number of private optometric practitioners involved in partnership or group practice through the years has grown from 7% in the 1930's, to 15% in the 1950's, to approximately 25% in 1972. And approximately 95% of these various partnerships are still comprised of two partners. It would appear that the future of optometry will continue in its trend away from solo practice toward more cooperation, joint ventures, and partnership practices. Consequently, the emphasis of this thesis is toward the location, analysis, valuation, and establishment of the new graduate in an existing or newly-formed partnership. Much of the information included may be used by the new graduate seeking a location for the establishment of a solo practice or the location of a practice to purchase. In the latter case the chapter on practice valuation would also be valuable.

It is fast becoming obvious that there is a powerful trend toward some form of partnership practice. In addition to the personal advantages accruing to the individuals involved, the partnership practice is more efficient, less costly than two separate practices, and is equipped to provide better service to patients on a more convenient time schedule. Also, for the new optometrist with limited resources, the easiest way to start in practice is on an employed status or in an association with no initial investment required. Immediate experience and earnings are available through these routes. Therefore, affiliation with another optometrist should always be considered before attempting to establish a solo practice.(Elmstrom, 1974).

Before considering any implementation of the suggestions and recommendations set forth herein, one should seek consultation with a legal advisor, accountant, management consultant, tax consultant, and insurance agent. With the information presented and the consultation of these advisors, and individual should be able to co-author an agreement with an associate or partner which would alleviate future disagreements and provide for the utmost of harmony and efficiency within the new partnership.

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CHAPTER 1

ADVANTAGES AND DISADVANTAGES OF PARTNERSHIPS

Definition of a Partnership

A partnership is a voluntary contract between two or more doctors to pool their skill, knowledge, labor, and capital in a practice, with the understanding that there shall be some proportional sharing of the profits and losses between them (Milkie, 1972).

Financial Aspects of Partnerships

Optometrists who form partnerships make considerably more money (Topaz, 1969). The greatest net income is derived from associated practices of optometrists. According to the 1974 AOA Economic Survey, optometrists employed in solo practices reported a 1973 mean net income of $28,684, optometrists in partnerships reported $31,832, and optometrists in group practice reported $35,958. Each individual in a partnership practice in optometry earns on the average 12% more income than he can by himself (Gregg, 1974). In other words, the only way to afford an associate is to take one in.

In terms of expenses, the optometric partnership is more efficient, as shown by this table from Advanced Management for Optometrists (Elmstrom, 1974):

Table I
Solo Practice vs. Associate/Partnership Practice Expenses Compared

TYPE OF PRACTICE:	SOLO		ASSOCIATE/PARTNERSHIP	
	Median	% of Med.	Median	% of Med.
Gross Income	$52,500.50	N/A	$100,625.50	N/A
Utilities/Telephone	870.50	1.66	1,400.50	1.39
Custodial Services	311.21	0.59	525.50	0.52
Office Supplies	630.05	1.20	1,150.50	1.14
Continuing Education	385.50	0.74	650.50	0.65
Dues/Subscriptions	488.66	0.93	845.50	0.84
Public Relations	175.50	0.33	250.50	0.25
Tot. Misc. Expenses	$2,861.42	5.45	$4,823.00	4.79

In terms of ability to handle patient volume, one study of nearly 2000 optometrists showed that while 41% of solo practitioners saw more than 9 patients daily, 58% of partnerships and 78% of group optometrists cared for this patient volume, per OD.

Also, there is a correlation between the optometrist's age and the age of his patients. While the young optometrist (less than four years in practice) has about 29% of his patients under 17 years of age, the senior optometrist (over 18 years in practice) has half as many that age. Patients older than 50 years of age constitute 30% of the young man's practice and 45% of his senior colleague's practice (Elmstrom, 1963). From an age standpoint then, it is apparent that both the junior and senior practitioner can complement each other's patient clientele.

Numerous advantages and disadvantages of partnerships exist, for the junior partner, the senior partner, and generally for both parties. A complete listing follows:

Advantages for Both Partners

1) Partners' earnings are more than in solo practice.
2) Patients are attracted to the additional prestige of a partnership.
3) Partners can afford better facilities, equipment, and ancillary personnel.
4) Additional and more convenient hours are offered to patients.
5) The practice operation continues during a partner's illness or disability.
6) The life of a successful practice is perpetuated.
7) The practice can more easily compete with commercialism, unethical practices, etc.
8) Increased efficiency, services, and prestige attract more medical and other health care referrals.
9) Capital position for additional financing and growth is stronger.
10) Qualified joint consultation is readily available for decisions and judgements.
11) Partnerships generate a higher net:gross ratio than solo practices.
12) Each partner may more freely emphasize his own area of special interest and expertise.

13) Broader services can be offered to patients with partners covering more specialty areas.
14) Overhead costs are lower per practitioner than for each man solo.
15) The partnership allows greater flexibility for attendance at professional seminars, continuing education courses, congresses, and workshops.
16) More leisure time is possible for the partners than as soloists.
17) Partners and their personnel are eligible for group insurance and other group benefits.
18) The partnership is an effective means toward helping to solve future manpower shortages.
19) Each partner travels in his own social and age groups, thus broadening community knowledge of the practice and its practitioners.
20) Numerous tax advantages and leverages are opened up.
21) There is increased and more readily available equity for either partner's beneficiaries upon death.
22) Due to increased efficiency of a partnership, earnings per hour increase.
23) Increased income stability is assured.
24) More appropriate optometric fees are possible.

Advantages for the Senior Partner

1) His lifetime's investment is secure with a built-in buyer, relieving much of the financial concern in event of death or disability.
2) His practice is worth much more than in a situation of forced sale.
3) He is free to spend more time away from the office with his family.
4) He can cut his working hours and slow his pace without as great a drop in income.
5) He can benefit from the younger partner's updated knowledge, new ideas, and enthusiasm.
6) The younder man will attract new, younger patients and persons from groups not ordinarily associated with the existing practice.

7) The junior partner brings energy and growth to a practice that may have plateaued in growth or begun to decline.
8) The community considershim more successful, to be needing an associate.
9) His patients will no longer have to wait several weeks for an appointment.
10) Junior partner stabilizes the income of the senior partner during late years of practice when income tends to drop.

Advantages for the Junior Partner

1) His initial capital outlay for entering practice is reduced.
2) With lower professional and financial pressures, he is free to establish a good attitude toward the practice and its patients.
3) He is assured of an adequate initial income.
4) He can benefit from the senior partner's experience and knowledge of professional practice practicalities.
5) He begins practice with experienced office help and established office procedures and bookkeeping.
6) Patients older than his age group and outside his social circle are attracted by the senior partner.
7) He quickly in a position of greater community prestige.
8) His future is safeguarded.

Disadvantages

1) There may be personal and/or professional incompatibilities.
2) Partnerships involve increased overall expenses.
3) Neither partner has complete independence of the other.
4) The senior partner may find it hard to "share" his patients.
5) The junior partner may resent taking an initial "back seat" to the senior partner.
6) Income division may be a source of conflict, as the senior partner may have to endure reduced personal income for a couple of years.
7) Family jealousies and conflicts between partners' wives may arise.
8) The senior partner may not be willing to share his knowledge, experience, and time with the junior partner.
9) It may be hard for the junior partner to "fit in" to a situation with certain patient personalities and pre-set procedures.

10) The senior partner may be unwilling to listen to and/or follow suggestions of the junior partner for changes and updating.
11) Patients may be unwilling to readily accept the services of the junior partner.
12) The junior partner has little or no choice of equipment and instruments.
13) There may be differences in professional ideas and ideals, allowing less flexibility in major policy decisions.
14) Partners are financially liable for each other.
15) Partners run the risk of damage to professional prestige and practice due to acts of the other.
16) There are initial expenses, time, and effort involved in setting up a partnership.
17) Differences in income and living standards may cause jealousies.
18) Patients are "shared," such that there is a reduction somewhat of personal patient-doctor relationships.
19) Disputes may arise over inequality of patient and work loads.
20) Disagreements may arise over fees, charitable contributions, and other related money matters.

CHAPTER 2

PRACTICE LOCATION

General Considerations

The young graduate's first consideration in deciding where to begin his professional career is that of where he and his family would be happy to reside. This may be determined by a number of factors including preferential and factual considerations. Certain regions seem to have significant manpower shortages, as evidenced in Table II and Table III (next two pages). To aid the new graduate in locating, the AOA has a placement bureau as well as a committee on aid to the graduate and undergraduate. In addition, most state associations have similar placement services and state committees to advise and assist the newly-licensed optometrist. The Blue Book of Optometrists, published biannually, is a directory of all registered optometrists by state and local area, and may be supplemented by the Directory of the American Optometric Association as a valuable aid in determining the relative distribution of optometrists in particular areas and towns of interest.

An extremely valuable optometric manpower study has just been completed based on a mail survey of optometrists conducted by the International Association of Boards of Examiners in Optometry in 1973. There are reports published for each state as well as a comprehensive national report. These reports include the number of practicing optometrists by county, the age and sex of the ODs, their school of graduation, the number of hours they work per week, principal categories of employment, years in practice, and primary specialties. Reports are available upon request from: Optometric Manpower Resources Project, Suite 206, 1730 M Street, N.W., Washington, D.C. 20036.

Suppliers of ophthalmic equipment and materials desire to see the new optometrist succeed and can also be of great assistance in suggesting suitable locations as well as present and future openings

Table II

STATE	1952	1956	1960	1966	1968	1970	1972	1974	1952-1974 GAIN	LOSS	O.D.s per 100,000 pop.
Ala	198	204	201	184	193	181	176	180		18	5.3
AK	18	21	14	16	17	17	14	15		3	5.0
Ariz	66	81	93	128	127	136	151	169	103		10.0
Ark	138	157	154	143	159	172	176	175	37		9.2
Calif	1861	2278	2321	2461	2512	2575	2702	2622	761		13.1
Colo	214	225	206	201	190	194	206	222	8		10.0
Conn	266	294	307	279	270	280	286	290	24		9.7
Del	33	34	35	33	33	40	41	42	9		8.4
D.C.	105	110	105	82	84	72	68	64		41	11.8
Fla	302	374	398	514	514	578	591	670	368		10.1
Ga	272	292	286	287	281	287	299	293	21		6.4
HI	38	53	63	65	66	71	76	85	47		11.0
ID	79	83	88	96	94	92	98	90	11		12.8
Ill	2709	2414	2359	1992	1940	1931	1741	1891		818	17.0
Ind	513	507	517	547	548	560	568	540	27		10.4
Ia	414	400	376	359	371	351	350	329		85	11.7
KS	296	293	280	245	252	256	262	269		27	11.9
Ky	268	287	276	246	238	239	253	245		23	7.7
La	262	260	262	248	240	243	241	234		28	6.4
Me	159	157	139	123	126	122	129	139		20	14.0
Md	163	190	198	195	203	209	220	209	46		5.4
Mass	953	1011	956	852	833	841	788	887		66	15.5
Mich	889	884	913	786	788	801	835	844		45	9.5
Minn	473	468	444	425	410	414	408	368		105	9.7
Miss	130	139	128	130	130	136	133	128		2	5.8
Mo	723	637	610	483	487	480	466	447		276	9.6
Mont	83	101	91	91	97	101	102	94	11		13.6
Neb	224	227	201	184	178	167	162	169		55	11.4
Nev	21	24	26	37	40	38	39	48	27		10.0
NH	84	90	87	78	73	79	83	78		6	10.6
NJ	856	844	816	732	718	716	714	726		130	10.1
NM	57	61	71	74	72	75	74	70	13		7.0
NY	1948	1999	1994	1838	1858	1767	1798	1670		278	9.2
NC	275	312	323	338	348	347	354	363	88		7.1
ND	76	74	75	82	78	75	76	80	4		12.9
OH	1141	1185	1157	1056	1032	1026	1056	1079		62	10.2
Okla	285	274	267	262	267	276	272	289	4		11.3
Ore	273	313	319	324	313	306	318	333			15.9
Penn	1600	1631	1595	1373	1348	1321	1287	1228		372	10.4
RI	156	154	154	141	144	130	144	132		24	13.9
SC	160	160	172	166	168	165	178	156		4	6.0
SD	110	114	104	93	95	98	96	90		20	13.5
Tenn	342	336	320	320	325	354	338	383	41		9.8
Tex	848	853	839	844	830	823	850	838		10	7.5
UT	85	81	91	86	88	86	86	72		13	6.8
Vt	54	44	43	35	37	42	48	49		5	11.0
Va	246	272	278	285	299	301	298	259	13		5.6
Wash	348	387	398	400	400	398	429	309		39	9.1
WVa	184	173	181	159	163	163	151	145		39	8.3
Wis	501	526	496	454	458	447	463	462		39	10.4
Wyo	40	40	39	38	40	42	42	39		1	11.8
Totals	21,539							20,638	(-901)		10.2

Licensed optometrists by states and years
(Blue Book of Optometrists 1952-74, 1970 US Census)

Table III

STATE	% of Drs OD	% of Drs MD	Areas Served OD	Areas Served MD	Estim. of Population 1980	% Pop. Increase 1970-80	No. of ODs 1974	Extra ODs Needed by 1980 to Provide 1:7000 Ratio Growth	Attrition	Total
Ala	68	32	78	22	4,223,000	12	180	413	57	470
AK	75	25	6	1	360,000	21	15	36	4	40
Ariz	61	39	28	19	2,469,000	35	169	224	39	263
Calif	72	28	594	209	27,742,000	32	2509	1452	753	2205
Colo	62	38	49	21	2,588,000	20	222	178	57	235
Conn	64	36	81	37	3,744,000	21	290	265	81	346
Del	63	37	11	5	689,000	24	42	66	10	76
Ark.	78	22	68	20	2,319,000	13	175	172	48	220
Fla	74	26	134	59	9,019,000	36	670	765	157	922
Ga	66	34	103	35	5,563,000	17	293	486	84	570
HI	65	35	15	6	862,000	13	85	58	20	78
ID	77	23	36	9	821,000	15	90	23	28	51
Ill	80	20	287	92	12,778,000	15	1891	--	578	578
Ind	74	26	143	48	5,831,000	14	540	291	164	455
Ia	76	24	136	35	2,921,000	6	329	46	111	157
KS	75	25	95	35	2,513,000	9	269	110	77	187
Ky	71	29	91	30	3,559,000	8	245	269	72	341
La	58	42	68	24	4,571,000	20	234	414	72	486
Me	77	23	53	19	1,083,000	9	139	29	38	67
Md	54	46	65	27	4,851,000	24	209	490	61	551
Mass	73	27	200	82	6,236,000	12	887	63	248	311
Mich	71	29	197	75	9,929,000	14	844	629	237	866
Minn	71	29	138	39	4,209,000	14	368	193	122	315
Miss	65	35	60	22	2,735,000	13	128	263	38	301
Mo	73	27	144	35	5,172,000	12	447	259	144	403
Mont	71	29	42	12	817,000	13	94	19	29	48
Neb	75	25	64	18	1,605,000	8	169	53	53	106
Nev	72	28	9	2	701,000	28	48	61	12	73
NH	66	34	26	14	815,000	20	78	43	22	65
NJ	70	30	223	108	8,993,000	20	726	573	214	787
NM	65	35	26	14	1,384,000	27	70	127	21	148
NY	64	36	334	163	21,868,000	14	1670	1287	561	1848
NC	65	35	135	64	5,993,000	15	363	509	104	613
ND	78	22	37	9	704,000	7	80	24	23	47
OH	71	29	257	93	12,416,000	16	1079	747	308	1055
Okla	71	29	90	34	2,793,000	10	289	137	79	216
Ore	73	27	68	24	2,414,000	16	333	35	93	128
Penn	69	31	351	156	12,689,000	8	1228	471	403	874
RI	82	18	28	10	1,006,000	9	132	--	43	43
SC	69	31	66	19	3,063,000	14	156	275	49	324
SD	83	17	40	10	730,000	6	90	5	30	35
Tenn	71	29	93	27	4,638,000	14	383	341	97	438
Tex	65	35	200	91	13,606,000	19	838	1115	249	1364
UT	63	37	26	9	1,346,000	24	72	103	27	130
Vt	70	30	18	8	472,000	13	49	30	11	41
Va	63	37	87	48	5,717,000	19	259	521	89	610
Wash	69	31	98	31	3,587,000	16	309	115	119	234
WVa	69	31	63	26	1,772,000	--	145	91	49	140
Wis	71	29	156	45	4,908,000	14	462	243	137	380
Wyo	72	28	20	7	386,000	15	39	16	12	28
							TOTAL	14,202	6159	20,361

Analysis of optometric need by states through 1980

for associates.

Assisting selection of a desirable location, one survey (Smith, 1967) indicated that: 1) generally, areas with a preponderance of middle income population showed the greatest value for source of income and ease of collection; 2) the most valuable groups for source of income were the blue and white collar groups; 3) professional and business groups ranked highest in value regarding ease of collections; 4) optometrists prefer the professional office building for their practice, then a downtown location, then the shopping center, and <u>not</u> commercial office buildings and heavy auto traffic areas; and 5) it is best to be located near other health care practitioners, including other optometrists and ophthalmologists. There are three major considerations in selection of the proper location: 1) Personal; 2) Professional; and 3) Economic.

Personal Considerations

The most paramount personal considerations are: 1) state or region of birth or upbringing; 2) area of residence of parents, relatives, and/or friends; 3) desired climate of prospective location; 4) size of community; 5) rural, town, or city atmosphere; 6) availability of preferred church denomination; 7) good educational institutions available; 8) recreational possibilities; 9) athletic spectating and participation possibilities; 10) cultural and entertainment facilities; 11) neighborhood conditions; 12) homes; 13) shopping facilities; 14) local pride; and 15) general appearances.

Professional Considerations

Assessment of an area or community from the standpoint of the professional involves consideration of: 1) community status of optometrists; 2) study group activities; 3) fellow optometrists and their ethics; 4) postgraduate opportunities; 5) steps toward licensure; 6) effectiveness of state and/or local associations and societies; 7) proximity of practice to other health care professionals; 8) established and active service clubs and other effective civic organizations; 9) general attitude of cooperation from other health care professionals; 10) willingness of schools to cooperate in screenings, etc.; and 11) recent practitioner departures and reasons.

Economic Considerations

There are many economic considerations, both personal and professional, including: 1) community population; 2) population of outlying areas; 3) rate of local population growth; 4) economic support of residents and socioeconomic levels; 5) rental costs and availability; 6) banking facilities and their willingness to cooperate on professional and community investments; 7) parking availability around office; 8) availability of convenient public transportation; 9) progressive attitude of existing businesses and influx of new businesses; 10) saturation, in terms of number of optometrists and opthalmologists per population; 11) existing fee structure of practices; 12) average age and age trend of the population; 13) stability of income levels in terms of labor union activities, industrial diversification, occupational concentrations and trends; 14) cost of living; 15) average income of local optometrists; and 16) trends in local property values.

Figure I (next page) shows the ten Department of Health, Education, and Welfare regions and their latest 1974 AOA Economic Survey average optometric income figures. This is an indication of income levels in terms of broad geographic groupings and must be further related to various cost of living factors in specific towns. Included also in the 1974 Survey (Aron, 1974) is Table IV, which shows the 1973 average net income by years in practice:

Table IV

1973 Average Net Income of Optometrists by Years in Practice

Years in Practice	Mean Net Income
1	$12,741
2	$15,364
3	$19,134
4	$21,861
5	$23,819
6	$25,473
7	$26,739
8	$28,833
All Years	$28,862

After eight years of practice, optometrists for the next twenty years can be expected to net more than the average income

NET INCOME IN THOUSANDS OF DOLLARS

27.6
28.6
26.2
24.8
25.2
24.4
28.9

1
2
3
4
5
6
7
8
9
10
NATIONAL AVERAGE

1973 MEAN OPTUMETRIC NET INCOME BY H.E.W. REGIONS (Aron, 1974 AOA Economic Survey)

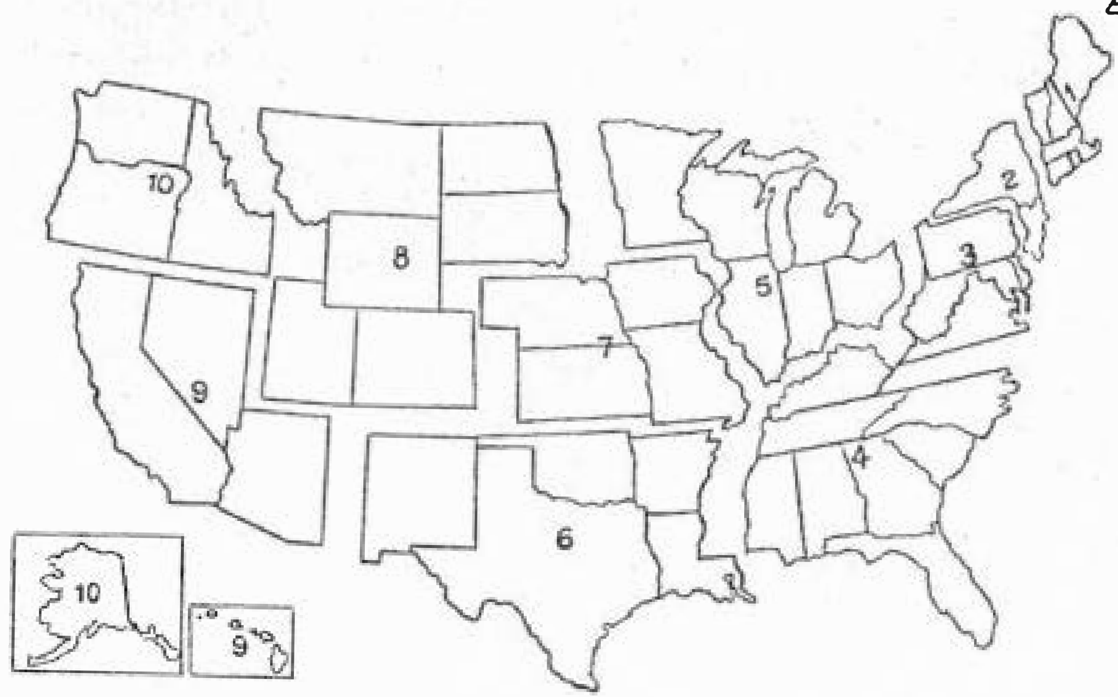

Figure I

for all optometrists.

A helpful guideline (Elmstrom, 1974) for location determination is as follows: Five times the total number of optometrists and opthalmologists should still equal to or less than the total number of physicians and dentists in the community. Due to their higher customary patient volume, the ophthalmologist may be given double or triple weight before factoring. If, e.g., a community supports 12 dentists and 18 physicians (a total of 30), and there are two optometrists and two ophthalmologists (weight double), the resulting quotient is the minimum figure of five.

Table V (next page) lists the states and their distribution of optometrists by counties. This helps to further delineate where optometric practices may be clustered. There are numerous guidelines that can be followed in selecting an area, none of which should be considered in an absolute sense. One systematic approach is as follows: 1) pick a state or geographic area for consideration; 2) obtain the latest copies of The Red Book of Eye, Ear, Nose and Throat Specialists, The Blue Book of Optometrists, The AOA Directory, and a map of the area towns with their populations; 3) beside the name of each town on the map place the number of practicing optometrists in blue and the number of practicing ophthalmologists in red; 4) study the overall population distribution relative to practitioner distribution; 5) consider the ages of practitioners; 6) narrow down your choices; 7) write letters to optometrists; 8) follow up these letters of introduction with casual personal visits; and 9) maintain correspondence with interested optometrists. Each graduate will have his own approach toward finding a practice, but it is important to consider all the possible factors and to avoid basing any decisions on relatively superficial factors. For example, the recommended 7000:1 ratio is a mere guide. An economically depressed town of even 14,000 people may not adequately support a competent optometrist. Also, consider the age of the population. Overall, nearly 50% of our population wears prescription eyewear. For the group 45 years or over, 88% wear prescription eyewear, whereas of those under 17 years, only 15% wear prescription eyewear. Consequently, the optometrist who practices in an environment

Table V
RATIO OF OPTOMETRISTS:POPULATION BY COUNTIES

STATE	Number of Counties	No ODs	1:7000- or less	1:7001- 10,000	1:10,001- 13,000	1:13,001- or more
Ala	67	16	2	5	8	36
AK	29	22	3	1	1	2
Ariz	14	2	1	3	3	5
Ark	75	20	10	15	14	16
Calif	58	4	11	34	6	3
Colo	63	32	15	5	5	6
Conn	8	0	0	4	1	3
Del	3	0	0	0	1	2
D.C.	1	0	0	0	1	0
Fla	67	15	3	10	15	24
Ga	159	74	6	14	19	46
HI	4	0	1	0	2	1
ID	44	15	14	11	3	1
Ill	102	10	43	30	9	10
Ind	92	4	20	32	21	15
Ia	99	8	47	23	6	15
KS	105	33	46	13	7	6
Ky	120	40	13	20	20	27
La	64	16	4	3	13	28
Me	16	0	4	5	5	2
Md	24	3	1	0	1	19
Mass	14	1	6	7	0	0
Mich	83	10	15	20	17	21
Minn	87	7	33	17	19	11
Miss	82	24	2	12	12	32
MO	115	29	26	26	16	18
Mont	57	20	24	8	2	3
Neb	93	36	32	14	7	4
Nev	17	11	3	2	0	1
NH	10	0	4	2	2	2
NJ	21	0	2	6	7	6
NM	32	8	3	3	8	10
NY	62	2	2	22	18	18
NC	100	25	4	11	18	42
ND	53	21	20	7	3	2
OH	88	2	16	29	19	22
Okla	77	10	21	27	9	10
Ore	36	3	17	12	2	2
Penn	67	4	6	21	22	14
RI	5	0	2	2	1	0
SC	46	2	0	4	7	33
SD	67	32	26	6	2	1
Tenn	95	24	2	29	15	25
Tex	254	102	28	43	26	55
UT	29	13	5	4	4	3
Vt	14	2	2	4	1	5
Va	134	59	18	11	8	38
Wash	39	3	12	14	7	3
WVa	55	14	7	12	9	13
Wis	72	6	8	34	13	11
Wyo	23	4	11	2	4	2
TOTAL	3141	788	601	639	439	674

consisting of an older population will have a greater potential for prescribing.

CHAPTER 3

WHAT TO DO AFTER SELECTING A LOCATION

After the new graduate has narrowed his choices down to one area of the country, one region, one state, a few counties, and a few communities, what is his next move?

Look at the Practice

A preferential decision has already been made for or against an area and community. Next, approach the office objectively, considering what observations a new patient might make. Also, try to make mental notes for a personal analysis of the quality status of the following: 1) exterior structure; 2) accessibility of location; 3) transportation; 4) parking facilities; 5) reception area; 6) office plan and appearance; 9) equipment; 10) adaptability to expansion or contraction; 11) maintenance and utilities; 12) efficiency and flexibility of operation; 13) personnel employed or associated; 14) treatment of personnel; 15) personnel benefits; 16) compensation of personnel; 17) control of work load; 18) division of labor; 19) provisions for various time off; 20) record keeping and office forms; 21) practice development and fee structure; 22) services offered and ethics; 23) attitude toward patient examination and control; 24) appointment and recall systems; 25) correspondence and mailings; 26) credit and billing; 27) insurance coverage; 28) general overhead; 29) equipment depreciation and replacement policies; 30) relationship with ophthalmic suppliers; 31) provisions for practice continuation upon death or retirement; and 32) appraised value of practice (Elmstrom, 1963).

Look at the Optometrist

The practice should center around the personality, ability, and attitude of its practitioner. Consider such things as his: 1) age; 2) appearance; 3) health; 4) family; 5) home life; 6) special aptitudes; 7) hobbies; 8) professional demeanor; 9) thoroughness; 10) cooperative attitude; 11) positive or negative outlook; 12) referral

policies and procedures; 13) relations with local professionals; 14) reputation within the community and the profession; 15) membership and activities in professional and civic groups; 16) education and training; 17) attitude toward continuing education; 18) willingness to adopt new techniques and ideas; 19) professional library and journals; 20) services and specialties; 21) professional ethics and outlook; and 22) his personality in relation to your own. Keep in mind that not all optometrists are personality-oriented toward partnerships. How interested is he, and how willing is he to be flexible, compromising, and fair with a new man?

Also consider what qualities the extablished optometrist may be seeking in a prospective associate. In descending order these qualities are: 1) good personality; 2) professional ability; 3) neatness and grooming; 4) ethics and ideals; 5) enthusiasm; 6) love of profession; 7) desire to learn; 8) desire to achieve; 9) social graces; and 10) background (Stealey, 1965).

Qualities Associates Must Share

There are certain areas of opinion and philosophy where potential associates must reach some point of agreement or compromise. These are: 1) Type of practice - high volume, lower fee, versus low volume, higher fee? There are merits to both approaches, but partners must agree on one. 2) Leisure time: Some practitioners enjoy their work as they would a hobby, whereas others spend a minimal time in the office, choosing to pursue outside interests with ample free time. Disagreements will eventually arise, though, if partners do not contribute equally or in an agreeable fashion. As attitudes and desires change over time, partners should periodically re-evaluate their allotted leisure time. 3) Long-term investment goals: Before beginning any association, partners must agree upon how much money is to be set aside for such things as retirement, remodeling, new equipment, and other current improvements. Even though ideas and policies may change, it is important that the associates are in initial agreement, with amendments always possible as the practice matures.

Qualities Associates Should Share

These are: 1) Professional skills: There can be different approaches to the same problem and this is often a great help to the fellow associate. But clinical abilities and the impression each associate gives of the quality of his skills should be nearly equal. 2) Practice management: Partners can act as a "check and balance" system to see that overhead costs are neither excessive nor so economical as to be inferior. 3) Improvements in office equipment: Opinions tend to vary regarding replacement of equipment. Agreements or guidelines need to be initially established to obviate debate on such matters. 4) Taste in office furnishings: Some compromise should be reached, as neither partner should have to endure a setting that upsets him daily. Consider preferences of office assistants, patients, and the associates.

Qualities in Associates Which Should be Different

1) Interest within the practice: Professionals may have different interests and specialty areas. These differences should be capitalized upon, such that each associate will have greater influence in his preferred areas. 2) Different personalities: Having different personalities in the office can satisfy the broadest range of patient preferences. Patient and practitioner personalities can be matched more closely. 3) Different hobbies: Some patients prefer the practitioner who is the burly, sportsman, or athletic type. Others prefer a more sensitive, artistic type of doctor. If the associates can satisfy many types of patients between them, the practice is furthered by such diverse tastes. 4) Different social acquaintences: Although associates should be friends, it is not always in their best interest to have the same social circle. The advantages of socializing separately are: large social circles increase referral sources, a greater variety of friends helps to contribute various helpful attitudes toward evaluating office efficiency and future changes, and petty squabbles between friends are not allowed to enter the office (Farkas, 1971).

Types of Partnerships

When an established practitioner takes in a colleague, the new practitioner is either employed, an associate on a contract

with a planned rise in status, or an equal partner (Elmstrom, 1963). Some common relationships are: 1) equal-status partners, where such status is achieved by purchase, combining two practices, or the maturation of an associate practice; 2) the junior-senior partnership, where any degree of employment, planned rise in interest, or equality may be implemented; 3) the similar-age buddy partnership, where two practices merge to share expenses, afford companionship, enable larger facilities, create more permanence, allow more free time, and to provide more security; 4) the unequal practices, compatible personalities partnership, where two doctors with different proficiencies and deficiencies join to compensate for each other; 5) the third practice formation partnership, where two saturated practices establish a third practice for their overflow; 6) the teacher-practitioner partnership, where the practitioner who enjoys teaching or association duties takes an associate to allow him to devote more time to his outside interests; 7) the outside business partnership, where the established optometrist has extensive outside business ventures requiring an associate to cover for his extensive absence; 8) the specialty partnership, where practitioners with different specialties join for additional security, mutual referrals, and improved facilities; 9) the general practice with a specialist partnership, where the GP who notices his extensive need for referrals takes in the specialist to keep the referrals internal and to assist with other patient overflow; and 10) the expense-sharing partnership, where two partners simply join to share overhead expenses and benefit from all the other inherent advantages of a partnership (Winter, 1971).

Does the Practice Need an Associate?

Both the new graduate and the established practitioner need to be certain that a new associate is not only desired by also very definitely needed by the practice. There are objective as well as subjective considerations necessary by both parties. Some of these are: 1) How hard is the practitioner working now, and is he happy working this much; 2) Is the practitioner aware of how much time he spends in the practice; 3) Is the practitioner able to take vacations and freely spend as long as he wants away from the practice;

4) Is he able to attend seminars and continuing education; 5) Are patients already scheduled for more than three weeks in advance all year; 6) Can better utilization of assistants fulfill the needs of the practice, or is an additional practitioner the only answer; 7) What relationship - part-time associate, full-time associate, or office sharing is indicated; 8) Are patients unhappy with how long they must wait for an appointment; 9) Has the practice volume reached a plateau or a slow decline; 10) Does the practice have enough extra capital for any increased facilities and latency before the associate pays for himself; 11) Do the potential associates' personalities blend well; 12) What is the health status of the practitioner - overweight, over forty, history of health problems - it's hard to get an associate once health fails; 13) Could the practice be sold immediately if necessary, and what would it be worth under such conditions; 14) Does the practice need the new ideas, new approaches, and new patients that an associate would bring; 15) Does the practitioner have time to provide extra services and special consideration for his patients; 16) Is the practitioner unable to practice the complete scope of optometric services because he is just too busy; 17) Is the practitioner willing to relinquish some initial income, control, and share his patients; 18) Is he willing to share some of his time to assist a new associate; 19) Are the community and the practice growing enough to support a new optometrist; 20) Would the practitioner like to be able to slow down a little and have more free time; 21) Do more than 100 patients come through the office weekly for various services; 22) Is the practice grossing at least $60-70,000; and 23) How long is the association intended to last? If the practice will be gradually sold and/or turned over to the new practitioner, if the existing practitioner's health is poor, or if the existing practitioner simply wants more time off, then the earnings picture need not be as good before a new associate is considered. But if both men intend to work full-time, then there will be some initial added cost factors, there will be an adjustment period in their relationship, and the practice earnings and growth potential had better be adequate for the situation. When the appointment book is filled, you are <u>already</u> five years overdue for a new associate and have been

losing many patients already (Guenveur and Wahl, 1973).

What if the Facilities are Too Small?

Often the new graduate finds the practice with the right man and all the right qualifications but the facilities are inadequate for two optometrists serving patients simultaneously. And perhaps finances, the time element, and other factors do not allow expansion of the facility in the present or in the immediate future. There is a solution that saves money, allows easier personality adjustments, increases income, and makes patients happier. Extending office hours so that only one practitioner is present at a time will help solve the problem. Instead of the typical 9 to 5:30 schedule, the office is open from 7 am to 9 pm Monday through Friday and from 7am to 12 on Saturday. One practitioner works from 7 to 2, and the other works from 2 to 9 -- each a 7-hour day. Saturday mornings could be the associate's responsibility or alternated. The additional expenses would consist of an extra assistant and perhaps an additional private office. These hours can be altered to suit individual desires and schedules, and shifts could be traded on alternate weeks or every-other-day, as desired. The patients who must come in the evening or on Saturday will also much more gratefully accept the new man. This helps the practice as well as the new associate, who is seeking to build patient confidence in his abilities. A good example of the appreciated convenience of having some "off work" office hours is the overloaded schedule many optometrists experience on those Saturday mornings or extra evenings that are slipped into the scheduling.

A practitioner's first associate is as hard to get used to as it is for the new associate to feel "at ease" in a new setting. This system often removes much of the financial, personal, and professional trauma from such a new beginning. Even new equipment is easier to afford, as it is now used twice as much and gets paid for nearly twice as fast (Bayshore, 1971).

This method could also be implemented by two new graduates who lack the financing to begin alone or by two established practices combining to build one new facility. In either case, the practitioners will do better as a team working alternate hours than they would do with both men competing for the same hours.

The Trial Period

Begin the partnership with a trial period of incentive-based salary employment. A trial period won't necessarily insure the success of a partnership, but it will certainly improve the likelihood of a successful relationship. If either party decides to back out, this can be done without undue loss of face or capital. Neither party knows exactly how well he will be able to work with the other party and share patients. The trial period is designed as a time for making observations and considering the anticipated future of the relationship. Provisions in the trial contract should allow each party to get out of the partnership pretty much what each has put into it. A good guide for a current beginning associate's salary is 40-60% of the average net earnings for the region, using the current AOA Economic Survey as a reference. In 1973 the mean net income for first-year practitioners was $12,741 (Aron, 1974).

Transfer of Patients

For many established practitioners the hardest adjustment to make in a new partnership is the sharing of patients. Almost every senior practitioner who takes a younger associate inevitably has the feeling, conscious or unconscious, that he is giving up something which he has earned, strived for, and built - into the hands of someone who has not yet done anything to earn it. When such feelings are recognized honestly for what they are by both the older and younger associates, they can be dealt with openly and easily resolved. If the senior practitioner does not gradually and openly establish the equal authority and responsibility of the junior, he will find that the patients and office staff will pay scant attention to the young doctor's orders and abilities.

The new partners must send out a written notification to all patients that the office has taken in a new partner. The new partner's qualifications and background should be briefly described, and patients should be encouraged to feel free to come in to welcome him to the community. The numerous advantages and increased services available now to the patients should be emphasized, and any changes or expansion of the facilities and office hours for patient convenience should be noted. This notification should be followed by fur-

ther reference to the new associate on all recall cards sent out, as well as a quick change of all letterheads and the additional signature on all correspondence.

Other purposeful means of establishing the new partner's identity with patients can prove quite effective. Many new partnerships find that patient volume increases significantly in the very first year due to patients' curiousity to meet the new practitioner and observe changes that have occurred in the office since their last visit. During the first nine months of association, the senior partner should introduce the junior partner to as many of the patients as possible - especially those who make regular visits. At the same time, senior can give junior a series of dinner parties to introduce him to the other optometrists and professionals in the community. Once the junior begins feeling at ease and accepted, the senior should take an extended vacation so that a lot of patients will be seen by the junior partner. In the absence of the senior, the junior can establish his own rapport with the patients. In addition, all new patients will be channeled to the junior, if possible. In essence, the new partner's arrival is to be treated with much publicity and optomism, and his role as one of the established practitioners in the community is to be established as soon as possible.

How to Avoid Failure

Thus far, all of the positive aspects of the new association have been emphasized. To ensure the success of the partnership, a listing of cautions and important considerations is as follows: 1) Can two men practice efficiently in the present facilities; 2) Are both men fully aware of the advantages and disadvantages of a partnership; 3) Is the income division equitable, fair, and related at least partly to productivity; 4) Is there provision for a reasonable trial employment; 5) Is the office structured so that neither man's family can disrupt office harmony; 6) Are meetings between partners regularly scheduled for discussion of professional and personal concerns; 7) Are responsibilities shared equally; 8) Are there provisions designed for the avoidance of personality conflicts; 9) Are there contractual provisions to cover retirement, death, or disability of either partner; 10) Are the contract provisions thor-

ough enough to settle any dispute before it arises; 11) Is there allowance for orderly dissolution, if necessary; 12) Has everything imaginable been put into writing in the contract; 13) Has legal aid been consulted for approval of contractual items; 14) Is each partner fully aware of his responsibilities and limitations; 15) Is each partner sure of the other partner's abilities and soundness of credit; 16) Is there total agreement of how all expenses are to be handled; 17) Is there adequate provision for time off; and 18) Is there provision for contractual amendment?

If everything mentioned on the preceding pages is considered thoroughly and properly implemented, then the prognosis for a successful partnership is a good one. Each partnership has different characteristics and personalities, so additional considerations may be necessary to cover extra and special circumstances.

CHAPTER 4

CHECKING THE VALUE OF A PRACTICE

Whether considering buying a practice "outright", buying a practice over a period of years, or working into an ownership percentage, the initial value of that practice must be determined or agreed upon. In the case of a working relationship with the established optometrist, a good new associate will be adding substantially to the value of any practice. It is therefore not prudent for the new associate to wait until this value has been added by him and then make payment or compensation for what is partially his creation. Consequently, before entering any sort of agreement with the established practitioner, it is imperative that the two parties reach an agreement as to the total value of that practice on a specified date.

Formulas

For those that prefer formulas for valuation, a varied listing is provided in Table VI. A word of caution regarding formulas is that their very nature makes them perhaps too simplified. A thorough itemization of practice worth and assets is the best recommendation. Formulas that value the practice highly will be preferred by the seller, and those that are more conservative will be preferred by the buyer. Studies have shown that a selling professional generally asks 50% more than the buying professional is willing to pay (Elmstrom, 1963). Most formulas involve a factor of gross, net, or materials. But no two practices with $80,000 gross receipts yearly are worth exactly the same amount. Numerous additional factors must also be considered.

Practice Worth Factors

The four basic factors considered by the AOA regarding practice worth are: 1) gross and net incomes based on patient load; 2) inventory of physical assets; 3) accounts receiveable and payable; and 4) goodwill. To these can be added: 5) ratio of net to gross; 6) the hours employed by the practitioner and his calculated income per hour; 7) the professional growth potential of the practice and

Table VI

Practice and Equipment Valuation Formulas

Practice Value

= (last year's net) + (equipment) + (materials) + (supplies)

= (last year's net) + (inventory)

= (last year's net) + (depreciated equipment) + (discounted accounts receivable)

= (2)(last year's net) + (inventory)

= (last year's net) + (½)(last year's gross - last year's net)

= (2)(last year's net)

= average of last 3 years' net

= (2.5)(average 5-year net)

= (2.5)(average 5-year net) + (inventory)

= (½)(average of last 2 years' net)

= (½)(average of last 3 years' net) + (market value of tangibles)

= 50% of last year's gross

= 80% of last year's gross

= 60% of average gross for the past 5 years

= one year's gross

= (¼)(last year's gross) + (inventory)

= (½)(last year's gross) + (inventory)

= (previous 24 months' gross)(0.11) + (inventory)

* For a partnership of 50-50, the new man should be able to buy 50% in less than 5 years, or he is either paying too much or not being paid enough (Waller, 1968).

Equipment Value

Nearly New Equipment: reduce value by 1/3

Fully-depreciated Items = 20% of original cost

One-year-old Equipment = 40-50% of original cost

Old Items = 25% of original cost

New Items = 75% of original cost

Other items at book or current market value

the trend toward ascending or descending patient volume and receipts; 8) the economic stability and growth of the area; 9) population trends; 10) practice location and parking; 11) overall appearance and value of facilities; 12) adaptability of facilities to expansion or contraction; 13) exact professional expenses such as salaries, taxes, rent, depreciation, supplies, and maintenance; 14) personnel employed; 15) records, bookkeeping, and office forms; 16) number of visual exams per year and type of recall system; 17) effective and up-dated fee structure; 18) the age of the practice - an older practice is worth more; 19) the rating of the practice among other practices in the community; 20) the health of the optometrist; 21) the personality, integrity, morals, and reputation of the owner; 22) relationship with ophthalmic suppliers; 23) credit standing and financial reputation of the practitioner; 24) sound payment and collection policies; 25) arrangement for the seller to remain with the practice for preferably a few years to assure patient transfer; and 26) the seller's agreement to send out notices of practice transfer and his pledged support for the new practitioner.

Gross and Net Determination

In determining the important gross and net income figures, tax statements are of considerable assistance. No seller, if he is honest and not deliberately concealing material facts, should have any objection to showing a copy of his income tax return, provided he has satisfied himself that he is dealing with a bonafide prospective buyer or associate. It is essential that there be agreement as to what items are deducted from the gross income to arrive at the net. These deductions are (Elmstrom, 1974): 1) employee wages; 2) payroll taxes; 3) personal property taxes; 4) rent; 5) business insurance; 6) interest on business liabilities; 7) services and supplies; 8) utilities; 9) depreciation on business property; 10) merchandise purchased for sale or display; and 11) any other expenses directly attributable to the practice of optometry. Remember to look realistically at the number of hours worked per week to generate those gross and net figures in relation to the number of hours per week anticipated desirable in the new present and future of the practice.

Inventory and Supplies

The value of inventory of frames and supplies is equal to what it would bring in the open market if one were to choose to sell and replace it. Although this should be accounted for, it is not a significant item in the total value of the practice.

Accounts Receivable

The worth of accounts receivable must be agreed upon also. The value of various accounts will be largely determined by their age. Accounts that have been turned over to a collection agency will be reduced by the agency's 50% charge on any amounts collected successfully (Barstow, 1959). Banks will not usually loan money on the basis of accounts receivable. It is unwise to leave them in the hands of the previous owner, for he may become ruthless in his collection procedures. One alternative to their sale is for the purchaser to agree to collect the seller's receivables along with his own fees - then deduct 20% for expenses and send the remaining 80% to the seller (Elmstrom, 1974). Be sceptical of a total of accounts receivable that exceeds the value of two months' gross. This indicates an inadequate collection system and a lower value to accounts receivable (Milkie, 1972). When actually sold as part of the practice, they are usually "discounted". Accounts less than two months old are typically discounted by 30%. After the first two months, the true value of the account drops sharply, reaching only 10-15% by the sixth month. As a general rule, accounts within 60 days could be considered worth about 70%, dropping 15% with the passing of each 30-day period.

Instruments and Equipment

The instruments and equipment are usually sold at market value, for the buyer may wish to actually sell all equipment and buy new replacements. The money the seller receives is tax-free for the undepreciated portion, with capital gains rates applying to any remainder. It is to the buyer's advantage to pay as much of the fair worth of the practice as possible for equipment, as it is a depreciable item for him.

Goodwill

The value of goodwill can be attributed to many factors, including: 1) location; 2) type of practice; 3) personality of the

optometrist; 4) patient recall system; 5) potential growth; 6) age of the practice; and 7) if the seller will be staying a few years. It often takes about three years for a new doctor to gain his patients' confidence. Optometric practices retain their patients better than do medical practices, as evidenced by the valuation by medical management consultants of the goodwill of optometric practices at 100% of the annual net as opposed to 25-50% for medical practices (Cotton, 1966).

A more tangible means of establishing the value of goodwill is to place an actual value on each patient record on the basis of the rate of return of the patient and the time elapsed since his last visit. This method is more represenative of the actual value of the goodwill in some ways, but it is difficult, time-consuming, and often impractical due to the actual mechanics of such a determination.

Due to the fact that today's beginning solo practitioner is able to make approximately $13,000 in his first year, he should not pay excessively for another's goodwill. In addition, the senior partner can look forward to earnings typically 15% higher than the solo practitioner after the first couple of years of partnership (Topaz, 1969, Elmstrom, 1974, Gregg, 1974). Add to this the increased economic efficiency of a partnership, and the goodwill value brought by the new associate becomes significant and somewhat offsetting in itself.

A good office recall system makes goodwill more tangible. If patients are dismissed and only urged to return after a number of years, the certainty of their return does not exceed 35% within a 5-year period. Conversely, a perpetual appointment system with appointments booked at a definite time a year or more in advance will show as high as a 70-80% return of patients at the time appointed for them (Barstow, 1959).

Restrictive Covenant

There is a clearer deductibility for certain alternative ways of paying for goodwill. One is the non-competition agreement, also called restrictive covenant or covenant-not-to-compete. For a consideration - for instance, a sum equal to the total negotiated value of goodwill - the seller agrees not to reopen an optometric office or otherwise offer his services within 20 air miles of the old address

within a period of five years. The cash exchanged for a noncompetition contract is a deductible expense to the buyer and ordinary income to the seller. The cost of eliminating competition is a capital expenditure (Arkin, 1971). Table VII illustrates the tax basis of the items that constitute a practice valuation.

Table VII

How the Profits of a Practice Sale are Taxed:

Professional Asset	Seller	Buyer
Supplies	Ordinary Income	Fully Deductible, Year of Purchase
Equipment	Capital Gain	Depreciation Deductions
Goodwill	Capital Gain	Non-Deductible
Restrictive Covenant	Ordinary Income	Amortizable Expense
Patient Records	Ordinary Income	Amortizable Expense
Building	Capital Gain	Depreciable Expense
Land	Capital Gain	Non-Deductible

Real Estate

The value of real estate may be determined by its tax appraisal value and/or the appraisal of one or more qualified real estate agents. As with the other items of value, its value may be adjusted upward or downward in compensation for any compromises in other areas.

CHAPTER 5

THE PARTNERSHIP AGREEMENT: INGREDIENTS EXPLAINED

Considerations Involved

The agreement between two optometrists to form some form of professional relationship does not mean that the colleagues are now partners. The formation of a legal partnership requires the creation of a new, formal relationship - one controlled by common law, by statute, by mutual understanding and, ideally, by written contract. Reducing rights and obligations to a document is always a good idea. Most doctors who have set up a partnership on the basis of an oral understanding have sooner or later regretted it. Even good friends sometimes disagree as to the meaning of an oral understanding. Or their memories fade as to exactly what was promised. In a written contract potential issues of dispute can be resolved in advance. Major negotiable issues can be decided during organizational discussions, when each party still has full bargaining power.

The partnership contract must be a thorough, all-encompassing document, while at the same time written in such understandable terms as to lend itself to easy interpretation. The best course of action is to seek references, obtain contract examples, and spend the necessary time together to settle all the joint details. This saves considerable time and expense as opposed to meeting with an attourney throughout the entire development of the agreement. When ready, the agreement is submitted to an attourney, whose job it is to transpose the agreement into a legal document, abiding by all applicable local, state, and national laws. The important point is to put everything in writing. Let nothing be left as merely an understanding, for this may lend itself to diverse interpretations at a later date.

The Trial Period

Before drawing up the contract for an intended new partnership, consider the practicality and safety of a trial period. Most authorities recommend a period of six months to a year. A shorter period is

not long enough to assess each other properly, and a longer period may create tension and anxiety. One of the most common and obvious means for implementing a trial period is for the junior associate to be on an employed basis. An abbreviated contract is drawn up to include the following: 1) practice name; 2) purpose of the practice; 3) individuals involved and their relationship; 4) date of and length of the trial period; 5) understood intent of the trial period; 6) joint options to terminate the agreement early; 7) specific duties expected from the junior associate; 8) time required of both parties toward patient care and fulfillment of duties; 9) vacation time allowed both practitioners; 10) time allowed both parties for continuing education; 11) allowances for sickness and disability; 12) payment for various memberships and expenses by the practice; 13) division of net income; 14) brief terms of the eventual partnership contract to follow; 15)valuation of practice worth prior to commencement of the trial period;and 16) conditions for either party's unwillingness to enter into the contemplated partnership at the end of the trial period.

The following material is an article-by-article description of the ingredients that constitute a thorough partnership contract. These articles form the basis for the actual partnership agreement of Chapter 6, which is this author's own concept of what constitutes a complete and equitable partnership agreement. No two partners and no two partnership agreements are ever exactly alike. Chapters 5 and 6 merely attempt to establish helpful guidelines and suggestions to assist potential partners in the composition of a "personalized" partnership agreement. Chapter 6 illustrates only one possible format and one possible way of wording an agreement. Innumerable formats and word structuring may be devised, based upon the information contained herein, upon the ideas of the partners, and upon the information obtained from legal and economic consultants.

Article I: Nature of Partnership

This includes the name of the partnership, date of agreement, parties involved, location of office(s), and purpose of the partnership. The name of the partnership may exclude the partners' names, such as "Cedar Valley Optometric Center", or it may include their names as in "Doctors Smith and Jones". The date of signing may be the date of origin of the partnership, or a future date of origin

may be projected. All parties involved in ownership of the partnership are mentioned. The office address, city, county, and state are specified, and the purpose for which the partners are associated is stated. Also stated is the term covered by the contract, whether it be until a certain date, until a certain occurrence, or until a certain period of time has elapsed. If the senior partner has expressed a wish to retire, a specific age or date may be specified, subject to mutual amendment if desired.

Article II: Capital Contributions

Statement is made as to who is contributing the necessary capital to operate the partnership. Any items not property of the partnership are specified. Provision is made for the equalization of contributions to partnership assets and capital. The capital of the partnership consists of the physical assets, equipment, supplies, accounts receivable, goodwill, and working or operating funds. The value of the practice on the date of agreement is specified. Each partner's ownership percentage is specified, and the plan for gradual increased ownership by the junior partner is specified. Provisions are made for the handling of previous business licenses, insurance policies, and certificates of ownership. Handling of any liabilities of the old practice by the new partnership is covered. The status of the facility is discussed as to whether it is rented from an outside party or by the partnership from one of the partners. There should be discussion of the means by which additional capital is to be raised when needed.

To equalize equipment investments or to put them in their proposed percentages, the junior partner must contribute or sign a note for the necessary amount on the date at which the percentage division is effective. If the senior optometrist's equipment and supplies are valued at $6000, and the junior partner wants to be a 50% partner, he must contribute or promise $3000 to the senior partner.

Capital accounts may be established for each partner, whereby each contributes a specified amount yearly to be placed in a "reserve fund". This fund may be retained in the business, invested, or reinvested by the agreement of the partners and utilized for such purposes as the partners may mutually decide.

All accounts receivable on the account books of the first party as of the date of the partnership onset shall become an asset of the partnership. The new partner's contribution will be included in the practice valuation in proportion to the new partner's contribution for his percent ownership.

Article III: Time Devotion

The definition of what constitutes full time work for each partner is precisely established. The working hours of the total practice are specified. Each partner vows to devote his full allotted time to practicing within the partnership and refrain from outside activities, with exceptions and stipulations provided. While a very precise arrangement pertaining to the division of work would be too inflexible, it is wise to reach a definite written understanding of policies on division of labor before signing the partnership agreement. If the senior partner wishes to cut down on the time he spends in the practice, his decreased drawing may be compensated for by the junior partner's ability to pay off a larger portion of the purchase price with his consequent increased compensation.

Vacation time for each man is specified, as well as provisions for future alteration. Non-working holidays are specified, and any regular days off are arranged. Any other arrangements for extended vacations and positive or negative compensation for fewer or extra days off are discussed. A minimum of 20 working days in addition to New Years, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day is recommended for vacation time. This time should be reserved in advance to avoid any undue patient rescheduling.

Policies regarding time off for attendance at continuing education courses, congresses, professional society meetings, workshops, and clubs are established. Professional association and society memberships and adherence to their codes of practice are discussed. Payment for membership fees, registration fees, travel expenses, lodging, and meals are discussed relative to their respective sources for payment. A limit should be placed on the number of days per year that a partner may be absent with full compensation. Time off should be reserved in advance whenever possible, to eliminate shifting of appointments.

Article IV: Sickness and Disability

In the consideration of time off for sickness and disability, many differing approaches arise. The problem is that of being as generous as possible to a disabled man while still playing fair with the partner left practicing alone in the other's absence. Various systems range from as limiting as a 50% cut in benefits after only 2 weeks' sickness, to as generous as the first three months' illness at full pay. In most cases, the active partner may hire a substitute at the partnership's expense after a 6-week absence of his partner. The active partner receives the compensation lost by the inactive partner, and may purchase the inactive partner's interest usually after two years of his absence. Minimal (usually 5-10%) compensation continues into the second year of disability, but with the beginning of the third year of disability the active partner has the option to retire the disabled partner by the method discussed in Article X.

Article V: Pay and Profit Sharing

A. Trial Period

The first consideration is the instance of the established practitioner becoming associated with a new graduate. The partnership agreement should be set up and compensation determined both for the trial period and for the anticipated partnership. It is vital that certain important considerations be worked out at the very outset of negotiations between the established and the newly-graduated optometrist. These considerations are: 1) the salary and incentive to be received by the new man during the trial period; 2) the division of partnership income if and when the partnership plan is undertaken; 3) the plan for the new partner's payment and/or acquisition of partnership equity and the time span involved; and 4) the total valuation of the practice worth, prior to even the trial period.

The prospective new partner is frequently brought into the existing practice at a stage when the practice earnings have or soon will be reaching a plateau or gradual decrease. The new partner's role is often to either handle increased numbers of patients in a saturated practice, help maintain the earnings of an already overworked optometrist, reverse the decline in earnings of an older practice, or enter the practice as a potential buyer to maintain the

practice value. The wise practitioner, who does not already have a partner, will be quick to realize when he is unable to serve increasing numbers of new patients, when he is becoming overworked by his present patient load, or when his practice has reached its eventual plateau or point of decline in the years preceding retirement. Since the new optometrist will be adding to the valuation of the practice by his working presence, it is important that the practice valuation is determined before this occurs. Then, whether the new partner purchases his equity by cash, promissory note, by participation, or any combination of these, the purchase will have a specified endpoint in terms of the finances involved. Reference to Chapter 4, "Checking the Value of a Practice", and to the following discussion of equity acquisition will provide further details.

If there is definite room for expansion in the practice and that growth is properly managed, the new associate should be able to produce at least 50% more than his salary. With this in mind, provision should be made for bonus payment to the new associate during this trial period. For example, if the practice grosses $8000 monthly and the associate is paid 1350 dollars/month, he should receive at least 20% of any amount over $9350 gross charges generated by the practice. In this way, the associate must "earn his salary" before he is entitled to any additional compensation. Example I shows two variations of an incentive program for the employed and/or trial period associate (Davidson, 1969).

Example I

Associate Salary Incentive Programs

Plan A (lower minimum, higher incentive)

Range of Fees Assoc. Earns	Incentive %, This Bracket	Max. Incentive, This Bracket	Max. Total Salary
under $35,000	0	0	$14,000
35 to $40,000	15	$ 750	$14,750
40 to $45,000	20	$1000	$15,750
45 to $50,000	25	$1250	$17,000
50 to $55,000	30	$1500	$18,500
55 to $60,000	40	$2000	$20,500
60 to $65,000	40	$2000	$22,500

Plan B (continued on next page)

Plan B (higher minimum, lower incentive)

Range of Fees Assoc. Earns	Incentive %, This Bracket	Max. Incentive, This Bracket	Max. Total Salary
under $50,000	0	0	$16,000
50 to $55,000	15	$ 750	$16,750
55 to $60,000	20	$1000	$17,750
60 to $65,000	25	$1250	$19,000

Plan A minimizes the danger to the employing optometrist of his income dropping as a consequence of hiring a new associate. At the same time, there is ample incentive for the employed associate to develop his patient load to supplement his income further. This is merely a basis for an incentive pay schedule to serve as inspiration for personalized alteration which may be arrived at after negotiations between the employing and employed optometrist.

Plan B assures the employed associate of a better income, but it relinquishes most of the additional earnings to the employing optometrist. Here the incentive is more for the employer to channel patients to the employed associate to enhance his productive capabilities to their fullest. Both plans have their inherent advantages.

It is vital that both parties are aware of the great potential of the new optometrist. Given the proper incentive, the new optometrist will attract new patients from his own general age group and social circles; he will enable broader availability of general optometric services and implementation of specialty areas; and he will quickly catch the overflow of patients from the busy established optometrist. It is not uncommon for a new partnership to double its gross revenues in less than 5 years.

B. Determination of Net

Since determination of pay and profit sharing is based primarily on the partnership net income, it is important that the exact determination of this figure be specified. The following items are customarily deducted from the gross income to arrive at the net income: 1) employee wages; 2) payroll taxes; 3) personal property taxes; 4) rent; 5) business insurance (except auto, life, health, and accident); 6) interest on business liabilities; 7) services and supplies; 8) utilities; 9) depreciation on business property; 10) merchandise purchased for sale or display; and 11) any other expenses directly attributable to the practice of optometry.

C. Drawing Accounts

It is usually recommended for new partners to share income equally (50-50) as soon as possible - for example, year #1 (35%-65%); year #2 (40%-60%); year #3 (45%-55%); year #4 (50%-50%). Once the two partners are equal as optometrists, they should draw equal earnings even though profit-sharing may still be based on percentage ownership (Waller, 1968).

"Drawing Accounts" are usually set up on a monthly basis. The yearly net income is projected, and a conservative 60% of this figure is divided between the partners in the form of monthly "salaries". The percent of anticipated net to be distributed as drawings is a negotiable item, depending upon the quarterly and/or year-end division of the remaining net profits after deduction of capital reserve contributions (Cotton, Jan. 14, 1963). Twenty percent of anticipated net income is withheld until the year's end, exclusive of quarterly bonuses, to accommodate any large variations from quarter to quarter and to permit the first three quarterly calculations to ignore non-cash adjustments such as depreciation. In terms of depreciation, a partner should equitably claim a proportion of the depreciation on office and equipment that is equal to his share of the earnings (Comeau, 1969). The individual partners report their own income situation as shown on the partnership information return and pay their taxes accordingly, even though all the income is not actually distributed to them (as in the case of money retained for partnership capital).

D. Two Basic Approaches

The two basic approaches of income division systems are as follows: 1) simple percentage division; and 2) productivity division. Each has certain disadvantages, advantages, and numerous variations which should all be recognized, and the method a partnership chooses could be either system in its pure form or any variation of features comprising a unique formula. But the desire to take more and more factors into consideration must be balanced against the value of keeping the formula easy to understand and administer.

Percentage Division The simplest of all methods, of course, is for the participants simply to divide the income derived from their joint efforts equally. Other groups may divide income in unequal fixed percentages - perhaps in recognition of seniority, time involve-

ment, special training, etc. A percentage method has the advantage of offering a certain "group incentive". It minimizes competition between members since there is no direct financial reward for seeing a greater number of the partnership's patients, producing more of its billings, etc. Those practices involving a great deal of patient interchange between practitioners are most likely to use simple divisions satisfactorily. But due to the fact that partners are rarely equally productive and exhibit other differences, it is best to consider only partial use of the strict percentage division of income.

Productivity Division The basic alternative to predetermined percentage division is to compensate each member in direct proportion to the amount he contributes to the partnership income. The common measure of such contribution is the amount of fee charges recorded on the books. It is self-adjusting, in that it compensates a partner more or less, depending upon the hours he works and the patient load he carries. But it can create competition among partners for the available work. It tends to reward a doctor for creating dollars, while ignoring other important but less measurable contributions to the practice such as: 1) the partner whose general practice or active status in the community is effective in generating referrals to the other partner(s); 2) the managing partner who spends a significant portion of his time seeing that the practice runs smoothly and efficiently; and 3) a high patient volume but a small dollar volume, due to a vital specialty's lower monetary productivity. Even though by itself productivity division has numerous disadvantages, it is a valuable procedure to record members' relative production even if they share income in a different manner. Only by having this information can the partners recognize changes or inequities before too much dissension develops.

E. Combining the Alternatives

Variations on the combination of percentage and productivity division of income are limitless. Some examples are: 1) 50% of net divided equally (or in some other predetermined %) and 50% divided in a ratio determined by the partners' own charges; 2) 60% divided equally and 40% according to productivity; 3) 30% equally and 70% by productivity; 4) 10% equally, 28% according to initial seniority

differences, 60% on productivity, and 2% goes to the managing partner to reward him for his extra effort; etc (Beck, 1973).

Just as in the case of the employed associate who shares any additional income beyond "paying his salary", so also should there be a similar incentive for the new partner. The net of the last year preceding the new partner's trial employment serves as a starting point for this incentive method of income division. Up to a figure matching the previous year's net, the senior partner is most responsible for the net. Somewhat beyond this figure, both partners contribute to the net. And significant growth in the net is largely due to the success of the junior partner. Consequently, appropriate compensation is made to the respective partners relative to the various income levels. This principle is illustrated in Example II. This method primarily favors the incentive of the new partner after rewarding the established partner extra for his contribution. This benefits both practitioners, since the extra incentive income gained by the junior partner can be applied toward earlier payment to the senior partner for the junior partner's practice equity (Milkie, 1972).

Another variation consists of providing equal drawing accounts for both partners at an agreed-upon amount significantly below the anticipated yearly net. Additional quarterly profits could then be divided on a percentage basis determined by relative percentage ownership of partnership equity. If the senior partner owns more, he earns more. But if the senior partner has sold a significant portion of his partnership equity to the junior partner, each is appropriately compensated - the junior partner achieves greater earnings, and the senior partner receives payment of equity from his partner's increased earnings (Cotton, Jan. 14, 1963).

Example III is a calculation sheet that can be expanded to accommodate more than two partners and can have additional income-determining factors added or subtracted. Percentage spaces on the standard form are blanks, so that as figures are renegotiated periodically, the form with the altered percentages is always usable. Use of such a form, plus records of amounts received by partners in previous income distributions, will simplify income bonus shares to be distributed at the end of every quarter. The 20% held back will

Example II

Income Bonuses Pro-rated to Relative Growth Contribution

Average of year's net preceding trial period = $40,000

Drawing Accounts: Senior Partner (SP) = Junior Partner (JP) = $16,000

(year) Gross Income = $130,000

Less Total Expenses : $ 74,000

Total Net = $ 56,000

Less Drawing Accounts: $ 32,000

Profit = $ 24,000

Less Capital Reserve Account (5% of Net): $ 2,800

Profit to be Shared = $ 21,200

Profit to be Shared					SP	JP
Total = $21,000		Yearly Drawing Accounts:			$16,000	$16,000
Profit Divisions		Amount Applied	SP%	JP%		
First	$5000	$5000	70	30	$3500	$1500
Next	$5000	$5000	60	40	$3000	$2000
Next	$5000	$5000	50	50	$2500	$2500
Next	$5000	$5000	40	60	$2000	$3000
Next	$5000	$1200	30	70	$ 360	$ 840
Next	$5000	____	30	70	____	____
				Totals:	$27,360	$25,840

This format may be used in a simple percentage division of partnership income to systematically divide the profit remaining after expenses and drawing accounts have been deducted from the year's gross receipts. Unequal or equal drawing accounts may be used, different percentages may be substituted, and different amounts may be used under "profit divisions".

Example III

Doctors: Smith & Jones

Calculation of Income Bonus and Shares

3rd Quarter, Ending: September 30, 1975

	Dr Smith	Dr Jones	Dr ______
(i) Monthly Drawing Accounts:	$1250	$1250	
1) Net Income Through Quarter: $40,000			
2) Less 20% to be Held Back to Year's End: $8000			
3) Income to be Divided: $32,000			
4) 60% of #3 to be Divided in Set %: $19,200			
a) Dr. Smith 50%	$9600		
b) Dr. Jones 50%		$9600	
c) Dr. ______ ___%			
5) 30% of #3 to be Divided by Charges: $9600			
a) Dr. Smith $58,600 58.6%	$5625.60		
b) Dr. Jones $41,400 41.4%		$3974.40	
c) Dr. ______ ______ ___%			
Total $100,000 100%			
6) 5% of #3 to be Divided by Seniority: $1600			
a) Dr. Smith 60%	$960		
b) Dr. Jones 40%		$640	
c) Dr. ______ ___%			
7) 5% of #3 to be Divided Administratively: $1600			
a) Dr. Smith 75%	$1200		
b) Dr. Jones 25%		$400	
c) Dr. ______ ___%			
8) Total Entitlements to Date:	$17,385.60	$14,614.40	
9) Less Amounts Received Prior:	11,100.60	9,500.40	
10) Less Drawings This Quarter:	3750.00	3750.00	
11) Distributions to be Made:	2535.00	1364.00	

"take up any slack items" at the end of the year, plus enable a larger income bonus for Christmas spending.

An additional consideration, similar to productivity, is income division according to time devotion. If each partner worked 250 days of the year, their income shares from this factor would be equal (each would receive 250/500 = ½). Example IV shows examples of income division factors based on days worked per year and also hours worked per week. The decision to use either of these methods or their combination as an additional income-determining factor would depend upon each partnership's division of labor. The methods show division of either all or part of the net profit for illustration purposes, but these factors may be implemented as a singular consideration among other factors, as illustrated in Example III.

The important point to remember is that what is successful for one partnership may be absolutely wrong for another. The problem requires honest and candid attention by all parties concerned. It also requires periodic reexamination even after the partnership has adopted a system. Provision for such reevaluation should be specified as to frequency in the contract. Income division disputes are likely to grow in intensity as time passes, and prompt attention often saves an effective partnership from dissolution.

F. Acquiring Partnership Equity

There are innumerable variations by which a new partner may obtain equity in an established practice. Unless the established practitioner intends to sell his entire equity, the most common situation concerns the elevation of the new partner to a 50-50 equity situation. The new partner should not consider an eventual 49-50 equity as favorable (49% for the junior partner and 51% for the senior partner). If the established optometrist desires an extra weight in management decisions, this may or may not be agreed upon and specified in the partnership contract. But a 49-51 division of equity provides unfair advantage to the 51% owner and cannot be called a full partnership.

The new partner may wish to initially "buy" a 50% equity in the partnership by signing a promissory note at an agreed interest rate and payment schedule. Sharing of profits may then be equal or

Example IV

Income Distribution Relative to Time Devotion

In both of the following examples, the senior partner (SP) has decided to devote less time to the practice either for want of more free time, for participation in professional organizations as a director or officer, or as a gradual phasing toward eventual retirement. The junior partner (JP) in these examples is working either full or extra time to either compensate for the temporary absence of the SP or to establish himself firmly as the major practitioner.

<u>Income Division by Days Worked</u>

Net = \$50,000; Drawing accounts of JP = SP = \$15,000 per year

JP worked 250 days of the calendar year; SP worked 150 days

JP earnings:	250 / (150 + 250)	= 62.5% of \$50,000	= \$31,250
		Less yearly drawing acct.:	- \$15,000
		Share of net profit remaining :	+ \$16,250
SP earnings:	150 / (150 + 250)	= 37.5% of \$50,000	= \$18,750
		Less yearly drawing acct.:	- \$15,000
		Share of net profit remaining :	+ \$ 3,750

<u>Income Division by Hours Worked</u>

Previous hours were: JP = SP = 35 hours/week/partner; Net = \$16,000

New hours are: SP = 25 hours/week; JP = 50 hours/week

JP earnings:	50 / (50 + 25)	= 66.67% of \$60,000	= \$40,000
		Less yearly drawing acct.:	- \$15,000
		Share of net profit remaining :	+ \$25,000
SP earnings:	25 / (25 + 50)	= 33.33% of \$60,000	= \$20,000
		Less yearly drawing acct.:	- \$15,000
		Share of net profit remaining :	+ \$ 5,000

determined by any of the various methods discussed earlier with various "weightings" of factors properly negotiated. This methodology is in keeping with the all-important practice valuation that is set prior to the trial period.

Another common means for obtaining equity is "by participation". This may appear attractive at first glance to the new partner, because this method customarily requires no cash payment or promissory note for the equity eventually received. In the past such contracts have provided for a new associate to become a full partner over a period of as long as twelve years. Example V is an example of a typical and commonly-used nine-year partnership equity acquisition "by participation". Essentially, the junior partner is willing to accept a smaller share of income division in exchange for equity.

Example V

Drawings, Profit Sharing and Ownership of Practice

Inasmuch as the senior partner (SP) has been practicing his profession at the location of the partnership for many years and is the owner of the equipment, furniture, and other supplies with which the partnership shall begin its operation, the schedule as hereinafter set out reflects the agreed drawing accounts of the parties, the division of their sharing of net profits above drawing accounts and the percentage of practice ownership during the first nine years of the partnership and thereafter. The amounts shown as the weekly draw and the percentage of profit sharing shall become effective at the beginning of said partnership, whereas the percentage of practice ownership shall not accrue until the completion of each year, as shown in the schedule below. Said agreed schedule is as follows:

	Weekly Drawing Accounts		Percent Sharing of Net Above Drawings		Percent Practice Ownership	
Year	SP	JP	SP	JP	SP	JP
1	$250	$135	90	10	97	03
2	$250	$150	85	15	94	06
3	$250	$165	80	20	90	10
4	$250	$180	75	25	85	15
5	$250	$190	70	30	79	21
6	$250	$215	65	35	72	28
7	$250	$225	60	40	64	36
8	$250	$240	55	45	55	45
9	$250	$250	50	50	51	49

At first glance, it may seem that in Example V the junior partner is getting 50% of the practice "free" after only 9 years of work. In the particular instance where this contract was applied, a trial period of six months preceded the 9-year contract. No practice valuation was applied to this contract,other than that used for fire and life insurance purposes. The net income of the practice prior to the trial period was $25,000. The situation was that of a potentially large patient load well beyond the time capabilities of the established practitioner. A visitor to this practice at the end of year #3 of the partnership would have observed the following: 1) The senior partner had maintained his patient load at its original level; and 2) The junior partner, by virtue of his hard work and the excellent opportunity for patients in the community, had achieved a volume of patients even slightly surpassing that of the senior partner. In essence, the practice had doubled in size in under 3 years of actual partnership. The net had reached $50,000. Going back to the partnership beginning and assuming a net at the end of year #1 of $30,000 and a net at the end of year #2 of $40,000, the calculations of this thesis are as follows:

Example VI

Partners' Earnings in 3-year Practice Example

Year's Net	Year	Drawing Accts. SP	Drawing Accts. JP	% Sharing of Net SP	% Sharing of Net JP	Total Incomes SP	Total Incomes JP
$30,000	1	$12,000	$7020	90($9882)	10($1098)	$21,882	$ 8,118
$40,000	2	$12,000	$7200	85(17,680)	15($3120)	$29,680	$10,320
$50,000	3	$12,000	$7920	80(24,064)	20($6016)	$36,064	$13,936

By not splitting the $30,000 equally in year #1, the junior partner contributed $6882 "by participation". By not splitting the $40,000 equally in year #2, the junior partner contributed $9680. By not splitting $50,000 equally in year #3, the junior partner contributed $11,064 "by participation". So at the end of three years in the partnership, the junior partner now owned 10% of the partnership equity "free" - for $27,626 contributed "by participation". At the beginning of the trial period, a rough estimate of the practice value would have been approximately $40,000, for which the junior

partner could have signed a note for $20,000 to be a 50-50 partner. The junior partner could even have offered the senior partner a premium rate of interest on the amount owed. But after 3 years of work the junior partner had instead lost $27,626 in potential earnings in return for only a 10% ownership of partnership equity. Projecting these calculations out to the end of the nine years and making a purposefully conservative estimate that the net would "stagnate" at $50,000, one finds the junior partner finally owning 49% of the practice at a "by participation" cost of $53,738, and that does not include the building. When one considers what that cost figure would have reached with a typical inflation of the $50,000 yearly net, the impact of such a contract is devastating. Consequently, what is exemplified is a negative incentive contract. The more the junior partner contributes to the practice growth, the more he is paying for his fixed share of equity. The major omission in this contract is that of a set figure for the practice value prior to beginning even the trial period. Furthermore, the percentages, drawings, and/or term of the contract should have been tailored to reflect a contribution from the junior partner no greater than the value of what he was to receive in return.

Example VII shows three examples of "by participation" contracts designed around a "ceiling" or maximum contribution from the junior partner as determined from the initial practice valuation. The examples are this author's conceptualization of more equitable "by participation" equity division. Included in the practice valuation should be all the extra financial consideration owed to the senior partner for his years invested in the practice. Beyond this, from day #1 of the partnership (following the typical trial period) the junior partner should be seeing half of the patient load, doing half of the work, and be essentially entitled to half of the proceeds. If the senior partner feels his financial compensation should be greater than half, it should be reflected in the valuation and not be "held over the junior partner's head" as his entitlement for the years to come. Goodwill should only be paid for once. The analysis of the three plans in Example VII is based upon the junior partner's entitlement to half the total net income. Whatever portion of half the net not received by the junior partner in salary or income shar-

Example VII

"By Participation" Plans for Acquisition of Partnership Equity

Year's Net	Beginning of Year:	Yearly Draw SP	Yearly Draw JP	% of Net Shared Above Draw SP	% of Net Shared Above Draw JP	Total Yearly Income SP	Total Yearly Income JP	Am't JP Paid
$50,000	1	$16,000	$16,000	80($14,400)	20($3600)	$30,400	$19,600	$5400
$55,000	2	$18,000	$18,000	70($13,300)	30($5700)	$31,300	$23,700	$3800
$60,000	3	$21,000	$21,000	60($10,800)	40($7200)	$31,800	$28,200	$1800
$65,000	4	$23,500	$23,500	50($ 9,000)	50($9000)	$32,500	$32,500	Balance Paid
$50,000	1	$16,000	$16,000	90($16,200)	10($1800)	$32,200	$17,800	$7200
$55,000	2	$18,000	$18,000	80($15,200)	20($3800)	$33,200	$21,800	$5700i
$60,000	3	$21,000	$21,000	70($12,600)	30($5400)	$33,600	$26,400	$4100ii
$65,000	4	$23,500	$23,500	60($10,800)	40($7200)	$34,300	$30,200	$1800iii
$70,000	5	$26,000	$26,000	50($ 9,000)	50($9000)	$35,000	$35,000	Balance Paid
$50,000	1	$16,000	$16,000	75($13,500)	25($4500)	$29,500	$20,500	$4500
$55,000	2	$18,000	$18,000	70($13,300)	30($5700)	$31,300	$23,700	$3800i
$60,000	3	$21,000	$21,000	65($11,700)	35($6300)	$32,700	$27,300	$2700ii
$65,000	4	$23,500	$23,500	60($10,800)	40($7200)	$34,300	$30,700	$1800iii
$70,000	5	$26,000	$26,000	55($ 9,900)	45($8100)	$35,900	$34,100	$ 850iv
$75,000	6	$28,000	$28,000	50($ 9,000)	50($9000)	$37,500	$37,500	Balance Paid

i = +$1000 cash ii = +$2000 cash iii = +$3000 cash iv = +$4000 cash

Balance Paid = (The valuation of equity received by the JP) - (The amount of earnings forfeited + cash)

ing is the amount he has forfeited as "by participation" payment to the senior partner for his gradual acquisition of partnership equity. Consequently, both partners should be aware of the yearly financial contribution of the junior partner toward the initially negotiated figure which represents the portion of partnership equity the junior partner will eventually reach. As an additional factor, depending upon the desired equity and its price, it may be necessary for the junior partner also to make some cash contribution. A successful practice, netting $50,000 by the end of the trial period and one year of partnership, was chosen as the basis for the three examples. In addition, a $5000/year addition to partnership net income was an added assumption. The parentheses figures under "% of Net Shared Above Draw" in Example VII represent each partner's dollar share of net profit remaining after monthly drawings have been paid. Half the total net above drawings minus the junior partner's share of net above drawings equals the amount forfeited that year by the junior partner as his "by participation" payment for equity received.

To show examples of all the different partnership agreements conceivable would be an endless task. Whatever basis that is used for the partnership profit distribution, it is vital that the necessary informative calculations are worked out in advance, based upon the practice valuation. For the partnership of 50-50, the new man should be able to achieve this in less than 5 years, or he is either paying too much or not being paid enough (Waller, 1968).

Article VI: Management

This section can be as brief and open, or as involved and precise as the partners desire. Included are promises and assurances for neither partner to financially encumber any of the partnership assets or receivables without mutual consent. Decision-making powers may be mutual or delegated accordingly. All limitations imposed on the actions of only one partner should be specified clearly. The section should be complete to the extent that each partner knows his duties, responsibilities, and specific singular limitations.

Article VII: Accounting

Rental, salaries, taxes, and all other partnership expenses of every kind and nature shall be paid from the partnership funds. Statements regarding appropriate record keeping as to patient flow, expenses, and receipts should be included. All case records should be kept at the principal place of practice or agreed location, and all records and copies shall be considered non-removable partnership assets. Each partner shall have the right to examine and have free access to said records and accounts. All correspondence, bills, or other documents are to be kept at the office of the partnership and open at all times to the inspection and examination of each partner.

The type of system for recording profits and losses as well as the agreed method for bookkeeping must be discussed. Whether an accountant or CPA will be enlisted and the frequency of his published audit are points to include. A statement as to determination of net for distribution between partners adds clarity to the agreement. The partnership fiscal year must be specified, whether it be a calendar year or date-to-date (e.g, July 1 to June 30).

Also included should be the partnership bank(s) patronized, name of account(s), type of accounts, signature(s) required on checks written, and any other mutual considerations involving partnership-patronized financial institutions. State the maximum expenditure that one partner may make without the other partner's approval.

Article VIII: Insurance

Insurance policies covering the life of each partner to the extent of his partnership equity are one of the additional advantages of a partnership. For the deceased partner's family under such an arrangement, his interest is automatically sold and the proceeds readily available. For the surviving partner who has lost his colleague, the necessary finances to purchase his partner's interest are readily available.

Where the life insurance policy is used to fund an "entity purchase" plan, with the policy owned by and payable to the partnership, the proceeds of that policy are not taxable as income to the partnership. Section 101 (a)(1) of the 1954 Internal Revenue Code states the general rule that, "gross income does not include amounts

received under a life insurance contract, if such amounts are paid by reason of the death of the insured".

It is unusual as well as generally undesirable to designate the insured's estate as the beneficiary of partnership-owned life insurance paid for by the partnership to fund an "entity purchase" contract. Ordinarily the policy proceeds will be made payable to the partnership as beneficiary of the insurance it owns on the lives of the partners. The partnership then pays the purchase price, as set out in the agreement, to the personal represenative of the deceased partner for that partner's equity. In such event, the proceeds are not includable in the deceased insured's estate,although the value of his partnership equity <u>is</u> included. <u>Both</u> the partnership interest and the insurance proceeds (or purchase price) are <u>not</u> includable for estate tax purposes.

No ownership, legal or beneficial,in a policy should be attributable to the insured. If this is overlooked, then there is a possibility that maturing insurance would be held to be includable in the deceased partner's (the insured's) estate,a consequence obviously undesirable (Guild, 1961).

Group life insurance coverage can also be excluded from estate taxes if the following three conditions are met: 1) The right to convert it to an individual policy was transferred along with all other incidents of ownership; 2) The group master policy specified that the owner had the right to assign his insurance to someone else; and 3) The plan was wholly paid for by the "employer" (Hitchings, 1971).

It should be understood and agreed between the partners also, that public liability on the premises where the practice is conducted, together with workmen's compensation, shall be an ordinary insurance expense of the partnership. In addition, adequate malpractice insurance shall be an expense of the partnership. Malpractice authorities believe that, for complete protection, technicians should either be named in the practitioner's insurance policy (the additional cost is very small) or be protected by a separate policy with the same company that insures the practitioner (Tovey, 1966).

Every year, replacement value of all equipment, furnishings, and supplies should be precisely reinventoried with photographs taken.

Whether the building belongs to the partnership or only one of the partners, its yearly replacement value should be carefully assessed. All factors should be insured to at least 80% of their value to receive insurance proceeds matching their fully insured value (Elmstrom, 1974).

The importance of having all insurance, especially the liability and malpractice, under one company cannot be overemphasized. This will solve disputes over which company pays. At least once each year the complete insurance portfolio should be carefully appraised by an experienced certified underwriter, since the needs for various types and amounts will change with inflation and changing circumstances.

Article IX: Yearly Practice Valuation

It is understood that a total valuation was placed on the practice at the outset of the trial period. This was to assure the junior partner that he was not purchasing any equity of his own making. The value of the 50% equity the junior partner was destined to acquire over a period of 4 partnership years had a set value. But his equity thus acquired and the 50% equity of the senior partner that remained unattached would undoubtedly inflate in value yearly due to the efforts of both men. Also, the value of partnership property would inflate accordingly. Consequently, a practice valuation separate from the initial valuation is necessary, especially from a life insurance standpoint.

To go into the various formulas and means for valuation again would be redundant. For such valuation tips, refer back to Chapter 4, "Checking the Value of a Practice". The yearly valuation would preferably occur toward the last half of the fourth quarter of each year. Regardless of the "by participation" and cash purchase underway by the junior partner, a total valuation should be placed on the practice and assigned to the upcoming year-end ownership division. Once this valuation is complete, any dissolution of the partnership following the completed valuation would apply to the valuation and the upcoming year-end ownership division.

This current valuation would also apply to any purchase agreement signed at any date following the valuation made at the beginning of the trial period. If either partner at any time wished to purchase

or sign a contract to begin purchasing the interest of the other partner, the valuation used would be the selling partner's percentage of the current yearly practice valuation.

This practice valuation would be for the purpose of sale of interest, any liquidation or dissolution, and the current fire and casualty insurance inventory.

Article X: Dissolution

Specify under what conditions the partnership could be terminated. Among these conditions are: 1) one partner leaving; 2) mutual consent to separate; 3) retirement; 4) permanent disability; and 5) dissolution by misconduct or breach. These items,as specified in the partnership agreement of Chapter 6, are basically self-explanatory as listed.

Article XI: Sale of Partnership Interest

As in Article X above, conditions prompting the sale of any portion of the partnership are listed and are self-explanatory portions of the partnership agreement in Chapter 6.

Article XII: Restrictive Covenant

In legal parlance, a restrictive covenant or covenant-not-to-compete is an agreement restricting the seller of a practice from engaging in a similar business to that being sold, for a given period of time in a specified area. To be enforceable, covenants must be reasonable, or the courts will strike them down. For tax purposes, there should be a specific dollar value placed on any restrictive covenant, as well as a specific area radius and period of time over which the covenant is valid (Arkin, 1971).

A typical covenant is one restricting the departing practitioner from practicing within a 5-year period from his date of departure and within a radius of 25 miles from the practice location. An unreasonable covenant in the eyes of the court is one which extends over too many years and too many miles. What constitutes excessive time and area will vary,depending upon the court and the individual circumstances. A covenant will generally stand up in court if: 1) It reasonably protects the senior man in an association or the buyer of a practice; 2) It isn't unduly harsh on the departing or selling doc-

tor; and 3) It isn't harmful to the public interest. The important consideration is whether the covenant is fair in a particular situation. For example, if the covenant prohibited a departing doctor from practicing in a town with an obvious optometric shortage, it might be thrown out by the courts.

Attourneys usually suggest that a new associate be given a trial period of six months to a year in which the covenant won't be in effect. In this way, a young man won't be unfairly forced to leave an area after practicing a limited time there. In such a case, the young associate may be required to pay the established practitioner a "fee" if he refuses to remain, the amount depending upon the salary and benefits extended during the trial period.

It is recommended that the covenant be nullified if the departing doctor leaves for "just cause" (to be jointly decided in advance, if possible), or is dismissed without just cause. The important consideration is that each should be satisfied, before signing, that the covenant is not more restrictive than each would like (Geylin, 1966).

The best practice management advice to give to the new doctor of optometry contemplating employment is not to sign a contract containing a restrictive covenant, in its absolute sense. If the senior partner insists upon a restrictive covenant, then the junior partner should insist upon a trial period of approximately one year before the covenant becomes operative (Milkie, 1972).

Restrictive covenants can be used to a practitioner's advantage or disadvantage, depending upon the circumstances. If one is signed, be sure the area,duration, dollar value, and conditions are agreeable.

Article XIII: New Partners

New partners may be admitted only by full mutual agreement of both existing partners. The partners shall mutually decide upon what terms they will admit additional partners. Mutual decision of the partners is also a condition precluding either or both partners' sale of any part or all of their partnership interest.

Article XIV: Miscellaneous

Grouped under this heading are such brief yet important considerations as amendments, arbitration, notices, administration,

building and land, waiver, and effective dates.

And last, but by no means least, an unsigned contract is quite literally meaningless. Both partners' signatures must be affixed to the contract, signifying that each has at least read the agreement as it stands and does agree before witnesses that he is by honor and legalities bound to uphold its written component parts. It is also recommended that the contract be signed by the partnership's lawyer, accountant, and any other parties involved in the agreement itself or in its composition. The partners may also wish to have the document notarized or by any other means given its maximum respect as a binding document.

CHAPTER 6

THE CONTRACT

Article I: Nature of the Partnership

This partnership agreement, made this _____ day of __________, 19___, by and between John J. Smith, first party, and Robert R. Jones, second party, both of ______________County, ______________ witnesseth:

That whereas first party is a licensed optometrist and has practiced his profession for many years in _______________, _______, and second party is also a licensed optometrist, and the parties desire to practice their profession as partners,

Then therefore, in consideration of the mutual promises and covenants herein contained, it is agreed between the parties that they shall practice as a partnership under the following terms and conditions:

1.1 Partners: "First party" shall hereafter refer to John J. Smith, who has practiced optometry at the partnership location for ____ years. His intention is to sell 50% interest to Robert R. Jones, hereafter referred to as "second party". Second party is a newly-graduated optometrist, duly licensed to practice in the state of_______.

1.2 Name and Location: The partnership shall be carried on under the name of __________________________, with offices located at (street), (city), (state), or at such other locations as may be mutually agreed upon.

1.3 Duration: The partnership shall, after its accessary trial period, commence on ___________, ___, 19___, and continue until mutually terminated or by reason of any of the terms and conditions as hereinafter set out. It is the agreement of the first party to fully retire not before ___________, ___, 19___, unless mutually agreed upon by both parties.

1.4 Purpose: The purpose of the partnership shall be to engage in the general practice of optometry and such specialities and related endeavors as may be from time to time agreed upon by the part-

ners. Each in his practice shall conform to the Code of Practice of the American Optometric Association, the ________________________, the ______________________________, and etc.

1.5 Employee Status: Commencing upon _____________, __, 19__, as before stated, and continuing until ______________, ___, 19___, second party's status will be that of an employee. This is for the intention of ascertaining the compatibility of both parties and the desirability of finalizing the partnership step. As of the second date above, unless another date is agreed upon in writing by both parties, employee status will have ended for the second party, and partnership status will be fully instituted by mutual consent of both parties.

Article II: Capital Contributions

2.1 Practice Valuation: The practice value as of _________, ___, 19___, is as follows: Equipment $_______; Furnishings $_____, Supplies $______; Patient Records $______; Discounted Accounts Receivable $______; Reserve Accounts $______; Restrictive Covenant $______; Cash and checking balance minus accounts payable totalling $______; and Market value of any other tangible partnership assets $______, for a total valuation of $________. Each of the above is determined on the basis of the methodology set out in 9.2. This does not include the office structure and land, which is owned by _________________, for which $_____ rent per month is paid as an expense of the partnership. This also does not include such miscellaneous and personal items as listed under Appendix A and initialed by both partners.

2.2 Initial Capital Contributions: First party states that the building in which the parties will practice is owned by him and his wife and shall be used by each of the parties without charge to the second party for his duration as an employee. At the date of termination of second party's employee status, the land and building will not be taken as partnership property, and the above monthly rental will become a partnership expense. First party further agrees that he shall, at his expense, furnish all of the equipment, apparatus, and other facilities necessary for the use of the second party in the practice of optometry. All other expenses of the operation

of said office, including utilities and the employment of personnel, will be paid by the first party. At the termination of the second party's employment status, all of the above except that specified in 2.1 shall become property of the partnership.

2.3 Capital Accounts: An individual capital account will be begun and maintained for each partner toward which each partner will contribute 2.5% of the year's net each Feb. 1. Except by mutual agreement of the partners, or dissolution, the capital contribution of the partners cannot be withdrawn. These amounts will be credited to the capital account of each partner and placed in a separate "Reserve Fund". This fund may be retained in the partnership or utilized for such purposes of the partnership as the partners may mutually decide.

2.4 Additional Partnership Capital Contributions: No partner shall be required to make additional contributions to partnership capital, and no partner shall be allowed to make a voluntary contribution to capital without the written consent of all partners. Any loan by a partner to the partnership shall be separately entered and shall bear interest at the then current rate on business loans, and shall be evidenced by a promissory note.

All physical property consisting of fixtures, equipment, furniture, materials, and supplies owned by the first party shall become assets of the partnership as of its commencement date in 1.3. Subsequent purchases of assets falling in this category after that date shall be made from partnership income, and the cost thereof shall be deducted in determining net profit. Should additional funds be reasonably required, each party shall contribute an amount represenative of his percentage of ownership at the end of the year prior to such contribution.

2.5 Accounts Receivable: All accounts receivable on the books of the first party as of the date of initial practice valuation shall become an asset of said partnership, and second party's contribution is included in his net forfeiture "by participation" and in any cash payments made toward the balance of his equity acquisition.

Article III: Time Devotion

3.1 Full Time: Each of the parties shall diligently devote himself to the full time practice of optometry, except as otherwise mutually agreed upon. Neither party is obligated by the partnership to contribute more than forty hours of weekly office time, except as mutually agreed upon. Office hours are ________ to ________, Monday through Friday and ________ to ________ on Saturday, each party having one day off during the week, by mutual agreement. Sundays are to be a scheduled day of rest, without exception. Neither party may be employed by anyone else or otherwise be gainfully employed in a professional capacity without the written consent of the other party.

3.2 Holidays: The following may be considered as non-working days with full pay: New Years, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas.

3.3 Vacations: Each partner shall be entitled to twenty working days of paid vacation per calendar year. All vacation time should be reserved in advance whenever possible, to avoid rescheduling of patients. Time consumed in attending meetings and seminars of various associations and societies and normal travel time to and from shall not be included as vacation time, and time taken by either partner in attending meetings as an officer or committee member of professional organizations related to the practice shall not be charged against the stipulated vacation time. Additional days off for brief periods may be taken with the other partner's permission if such days lost are made up by working days normally taken off by that party. Unused vacation days may be accumulated from previous years to the total of five unused days per year.

3.4 Association and Society Memberships: Each partner in his practice shall conform to the Code of Practice of the American Optometric Association, the (state optometric association), the (local society), and any other organizations of his choosing, and each shall maintain memberships in the first three. All membership dues for organizations mutually agreed to be related to the practice shall be paid by the partnership. Registration fees incurred by

either partner in attending the meetings or seminars of said associations and societies or other professional organizations mutually agreed upon shall be paid by the partnership for each of the partners and their respective wives. Travel expenses, lodging, and meals will be paid by the individual party. Each partner is entitled to ten working days per year with pay for the purpose of conventions, meetings, societies, and continuing education. These days should be scheduled in advance and by mutual consent of the partners. These days may not be used for other purposes such as sickness or vacation.

3.5 Outside Practice Income: Any monies earned by either partner on a day not specified as a holiday, vacation, or association-related are classified as an income of the partnership. All expenses incurred in performance of such a duty are payable by the partnership by mutual consent of the partners.

Article IV: Sickness and Disability

4.1 Allowance and Compensation: Twenty working days per standard year may be taken off by either party without modification of the percentages used in determination of compensation. Of the remaining approximately 215 working days, for the next 50 days abscence the non-productive party may receive 60% of his draw and profit sharing, 40% for the next 50, 20% for the next 50, and 10% for the remaining working days of the calendar year.

In the event that a partner's abscence extends into the next calendar year, the one year's allotment system may then be calculated starting from the first day's abscence of the preceding year and running for 365(6) days. The disabled partner remains at 10% compensation for all days absent until he can total 150 days of work in the year following his extended abscence or until by mutual agreement the parties decide to reinstate the full allotment system. If after two years of disability a partner is unable to work 50% of the time, the partnership may be terminated at the healthy partner's option and the disabled partner's interest purchased at the current practice valuation. The terms of said purchase shall be the same as those hereinafter set out in 11.1 for retirement.

Unused sick leave may not be transferred to the following year. The active partner may hire a substitute at the partnership's expense after the other partner's abscence for six weeks. All compensation deducted from the inactive partner's share of drawing and profit sharing automatically is added to that of the active partner.

4.2 Partial Disability: If the partners can agree upon compensation for the previously-disabled partner to continue as a part-time practitioner, he need not retire. Negotiations would be dependent upon the state of disability and the amount of productive time to be contributed by the partially-disabled partner. The part-timer's share of partnership profits and losses shall be proportional to his productive contribution to the partnership's gross income, to be determined by mutual agreement of the partners. If the part-timer is unable to produce at least one-fourth of the practice gross income over two consecutive quarters, then either partner shall have the option of terminating the partnership upon 30 days written notice. Retirement procedures as set out in 11.3 would apply.

Article V: Pay and Profit Sharing

5.1 Determination of Net for Distribution: For determination of the yearly net the following categories of items are to be deducted: 1) employee wages; 2) payroll taxes; 3) personal property taxes; 4) rent; 5) business insurance; 6) interest on business liabilities; 7) services and supplies; 8) utilities; 9) depreciation on business property; 10) merchandise purchased for sale or display; and 11) any other expenses directly attributable to the practice of optometry. A yearly 5% of the net income is to be placed in a capital reserve account before net above drawings is distributed, unless agreed otherwise by mutual consent of both partners.

5.2 Drawings, Net sharing, and "Participation" Equity: The second party shall become a 50-50 partner over a five-year period. Fifty percent of the initial practice valuation of 2.1 shall constitute the amount of compensation due the first party for the second party's eventual 50% equity. The following worksheet shows the division of net profit on a monthly basis over the five-year period.

Drs. *Smith and Jones, Optometrists*

Calculation of Income Bonus Shares

Month of __________________, 19___

	Years in Partnership				
1) Monthly Drawing Accounts	1	2	3	4	5
Dr. Smith:	____	____	____	____	____
Dr. Jones:	____	____	____	____	____

2) Cumulative Net Income ____________

3) Less 20% to be Held Back to Year's End: ____________

4) Income to be Divided: ____________

	1	2	3	4	5
5) ___% of #4 to be Divided in Set Percentages: ____________	30 %	___%	___%	___%	___%
This Year: ____________ = Dr. Smith:	50 %	___%	___%	___%	___%
____________ = Dr. Jones:	50 %	___%	___%	___%	___%
6) ___% of #4 to be Divided by Charges: ____________	30 %	___%	___%	___%	___%

Dr. Smith: ________ = _____%

Dr. Jones: ________ = _____%

	1	2	3	4	5
7) ___% of #4 to be Divided by Seniority: ____________	35 %	___%	___%	___%	___%
This Year: ____________ = Dr. Smith:	95 %	___%	___%	___%	___%
____________ = Dr. Jones:	5 %	___%	___%	___%	___%
8) ___% of #4 to be Divided Administratively: ____________	5 %	___%	___%	___%	___%
This Year: ____________ = Dr. Smith:	70 %	___%	___%	___%	___%
____________ = Dr. Jones:	30 %	___%	___%	___%	___%

	Dr. Smith	Dr. Jones
9) Total Entitlements to Date:	________	________
10) Less Prior Amounts Received:	________	________
11) Less Cumulative Drawings:	________	________
12) Distributions to be Made:	________	________
13) Contribution to Equity Purchase:		________
14) Partnership Equity, per Partner:	________	________

To determine the monthly drawings, the year's net must be carefully estimated prior to each January 1. Of this estimated net, 60% will be allotted on a monthly basis for drawing accounts. Each party will be allotted an equal share of monthly drawing accounts, plus monthly division of net profits beyond drawings. Twenty percent of the net is shared between the partners on the basis of percentages agreed upon and applied to the preceeding worksheet before each January 1. Out of this 20% comes the second party's monthly payments for the practice equity he is purchasing. The final 20% of net income is withheld until the year's end to accommodate any large monthly variations and to permit the monthly calculations to ignore non-cash adjustments such as depreciation. Calculation is made of the number of days worked by each party, divided by the total of days worked by both parties. The resulting percentages are applied to the net remaining after deductions from the 20% figure. This determines each party's share of the remaining net. Factors 5, 6, 7, and 8 may be assigned different percentages in succeeding years, depending upon partnership income, the two doctors' charges, the second party's equity payment schedule, and the amount of time each partner spends administratively. The percentages in factor #7 (Seniority) are balanced such that the second party's payments on his 10% yearly equity purchase may be spread over 12 equal monthly forfeitures of net as nearly as possible. The cumulative yearly equity purchased by the second party is equal to 50% of #7, minus the percentage the second party <u>does</u> receive, if any. Relative to the initial practice valuation, a monthly balance may be maintained of each partner's current equity status. If at the year's end, the second party's equity contributions have not totalled a full 10% of the initial valuation, then the second party's remaining contributions are deducted from his share of the remaining net (the 20% held to year's end). Should any balance remain of the 10% equity payment at the end of the year, percentages for net sharing the following year will be altered accordingly such that the remaining payment is included. A cumulative yearly total of payments for equity by the second party is to be maintained, such that the second party will contribute no more than 50% of the initial practice valuation.

5.3 Trial Period Salaries: The practice net:gross ratio for the year prior to beginning the trial period was 40%. The second party's trial period salary for purpose of the monthly drawing account will be $1200 per month, before deductions, for a total compensation before incentive of $14,400 on a yearly basis. Using the 40% net:gross guideline, the second party's total charges to achieve his net salary would be $3000 per month. Consequently, the incentive pay schedule for the second party is as follows:

Monthly Range of Fees Associate Earns	Incentive %, This Bracket	Maximum Incentive Pay, This Bracket	Maximum Monthly Total Salary
Under $3000	0	0	$1200
$3000 - $3350	25	$88	$1288
$3350 - $3750	30	$120	$1408
$3750 - $5000	35	$438	$1846
$5000 and Up	40	Open	Open

The remaining monthly net income belongs to the first party in entirety. Continuation of the trial period over or under the initially agreed length of time will not affect the above incentive schedule.

Article VI: Management

6.1 Decisions: Each partner shall have an interest in the conduct of the affairs of the firm in proportion to his current percentage ownership. However, each of the partners shall have an equal voice in the management and conduct of the partnership, and the consent of both is necessary to the resolution of any question. The partner who is contributing the largest proportion of charges to the partnership gross income at any point in time may be considered possessing an equivalent management voice.

An office manual shall be established and kept up-to-date with responsibilities of all personnel, office daily procedures, step-by-step instructions to new personnel, office policies, fee structure, each doctor's educational and personality profile, and any other details toward providing for an efficient office. In addition, a weekly meeting time shall be scheduled in advance for all personnel to meet and discuss new ideas, present concepts, and problems.

6.2 Powers and Limitations: Employment of personnel shall be handled by mutual consent of the partners. Administrative concerns of the partnership may be divided as to interests, time, and capabilities by mutual agreement of the partners. A partner may not, without the consent of the other partner: 1) borrow money in the partnership name for its purposes or utilize collateral owned by the partnership as security for such loans; 2) assign, transfer, pledge, compromise, or release any of the claims or debts due the partnership except upon payment in full, or arbitrate or consent to the arbitration of any of the disputes or controversies of the partnership; 3) make, execute, or deliver any assignment for the benefit of creditors or a bond, surety bond, or contract to sell or contract of sale of all or substantially all of the property of the partnership; 4) lease or mortgage any of the partnership real estate or interest or enter into any contract for this purpose; 5) incur any obligation in the name or on the credit of the partnership to exceed $100. Any partner who incurs any obligation in the name and on the credit of the partnership in violation of this provision may be held individually liable by the other partner for the entire amount of the obligation thus incurred; 6) sell, assign, mortgage, hypothecate, or encumber his interest in the partnership, except to the other partner; 7) enter into any bond or become bail surety for any person; 8) commit any act whereby partnership assets or any part thereof may be attached or taken by execution; 9) commit or suffer to be committed any act whereby the partnership property may be subject to attachment or seizure; or 10) carry on any other professional practice directly or indirectly.

The partnership shall reimburse a partner for payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of the partnership business or for the preservation of the partnership business or property.

Each partner shall pay and discharge as they become due his separate obligations and protect the other partner and the partnership from all costs, claims, and demands in relation thereto.

Article VII: Accounting

7.1 Records: Proper books of accounts shall be kept by the partners and entries made therein of all attendance upon the patients of the partnership and of all such other matters and transactions as are usually entered by optometric offices. In addition, all other correspondence, bills, case records, copies of records, and other documents shall be kept at the office of the partnership. The above shall be open at all times to the inspection and examination of each partner, shall be considered as partnership assets, but shall not be removable from said office except by mutual consent of both parties.

The record of profits and losses shall be kept on the accrual system with accounts receivable shown as assets and charged off when deemed to be uncollectible.

Gross income shall be construed as all fees charged for services by the partnership or materials involved and as shown on the books for the preceeding twelve month period.

Net income for distribution between the parties shall be construed as such funds as remain after the payment of all expenses of operating the partnership and after subtracting the monthly drawings made by each partner and the accounts receivable charged off as uncollectible.

A quarterly audit of the partnership financial status by an accountant or CPA chosen mutually by the partners will be instituted. This information will be available to both parties. The partnership fiscal year shall be January 1 through December 31.

7.2 Finances: The partnership bank account is to be established at (name of bank) in (town), (state), in the name of Smith and Jones. Adequate funds to cover expenditures of the partnership shall be maintained in the partnership checking account, with any funds deemed as surplus above expenses to be transferred to the partnership savings.

All checks drawn on the partnership shall bear the signature of the office manager and be countersigned by one of the partners or by both partners in the absence of the office manager. Neither party shall purchase any fixtures, supplies, equipment, or other items for the partnership costing in excess of $100 without the consent of the other party.

Article VIII: Insurance

8.1 Public Liability and Malpractice: Public liability insurance shall be carried on the practice premises. This, together with workmen's compensation and adequate malpractice coverage for both partners and all assistants, shall be an expense of the partnership. All coverages shall be reviewed with a qualified insurance underwriter yearly, and amounts are subject to mutual agreement of the partners. Every effort shall be made to assign all insurance policies to the same company.

8.2 Property Insurance: Fire, theft, and any other casualty insurance shall be carried and updated yearly at the expense of the partnership. Each year, replacement value of all equipment, furnishings, and supplies shall be redetermined and reinventoried by photographs and records to be kept in safe deposit outside the office. It is agreed that all these items, as well as the replacement value of the building, will be insured to at least 80% of value to assure total insured coverage. If the building is still owned by one of the partners, he agrees to abide by the aforementioned at his own expense.

8.3 Life Insurance: The partnership shall maintain term life insurance policies on each of the partners, with the policies owned by and payable to the partnership. It is understood that the proceeds of either policy are not taxable as income to the partnership. Such policies, by yearly updating, shall be maintained such that the value of each partner's partnership equity is fully covered. No ownership, legal or beneficial, in a policy shall be attributable to the insured.

Each partner agrees that, upon his death, the value of his partnership interest as stated in the current partnership valuation shall be the amount entitled to his estate, regardless of insurance proceeds. Each partner also agrees that, if he is the surviving partner, he will take the partnership's proceeds from the insured's life insurance and make payment in the amount specified as the deceased partner's interest in the current partnership valuation. Any excess insurance proceeds shall remain as partnership capital reserve. In the event that insurance proceeds do not match or exceed the valuation of the deceased partner's interest, the balance shall be payable as stated in 11.6.

If either or both partners withdraw from the partnership before their deaths, they shall have the right to purchase the respective life insurance policies held and owned by the partnership. Purchase shall constitute paying an amount equal to the interpolated reserve value of the policies as of the date of transfer, less any indebtedness charged against the policy, plus the proportionate part of the gross premium last paid before the date of transfer which covers the period extending beyond that date. This right shall lapse if not exercised within 30 days of such singular or mutual withdrawal.

Article IX: Yearly Practice Valuation

9.1 Purpose of Valuation: A yearly practice valuation shall be instituted mutually by the partners with the aid of any needed advisory assistance. The valuation thus determined will be used for any life insurance modifications, to update fire and casualty insurance coverage, as a basis for determining estate value of each partner's interest, and as a valuation for purpose of further exchange of partnership equity between partners or for sale to an additional entity.

9.2 Timing and Methodology: The valuation shall be determined each year, beginning no earlier than October 1 and completed no later than December 15.. Based upon the previous three quarters, upon cumulative and anticipated net and gross figures for the fourth quarter, and upon all anticipated expenditures prior to December 31, the year's net and gross are determined. The total practice value is then the total of the following: 1) the current market value of equipment; 2) the current market value of furnishings; 3) the purchase invoice total of supplies; 4) the value of patient records = the year's anticipated net, exclusive of all expenses and drawing accounts; 5) accounts receivable (accounts within 60 days are worth 70% and drop invalue by 15% with the passing of each 30-day period); 6) total of cash reserve accounts; 7) restrictive covenant (10% of the above net); 8) cash and checking account balance minus accounts payable; and 9) market value of any other tangible assets of the partnership. Refer to Appendix C, Yearly Partnership Valuation Worksheet.

Article X: Dissolution

10.1 By a Partner's Departure: Either partner may choose to leave the partnership upon 60 days written notice delivered to the other partner in person or by registered mail. The remaining partner is obligated to purchase the interest of the departing partner at the current valuation as established in Appendix C, relative to the departing partners share of that valuation. The remaining partner shall make payments of the above valuation by such means as set forth in 11.1. The restrictive covenant of Article XII shall be in effect and enforceable as of the partner's date of departure.

10.2 By Mutual Consent of Partners: Partners may mutually decide to discontinue the partnership, in which case one partner may purchase the other's interest relative to the current valuation in Appendix C, or both may sell the partnership to a third party and divide the proceeds according to established shares. In the first instance, the remaining partner shall make payments by such means as set forth in 11.1, and the partners may mutually decide if the restrictive covenant is to be retained or deleted.

10.3 By Retirement: Either partner may retire from the partnership as scheduled or upon 60 days written notice delivered to the other partner in person or by registered mail. The remaining partner is obligated to purchase the interest of the retiring partner at the current valuation as established in Appendix C, relative to the departing partner's share of that valuation. The remaining partner shall make payments as set forth in 11.1. The restrictive covenant of Article XII shall be in effect and enforceable as of the retiring partner's date of departure. Any further employment of the retiring partner is subject to another contract.

10.4 By Disability: Should either partner become disabled such that he is not working 50% of the time following an adjacent two years of disability, he may qualify for part-time status as outlined in 4.2. Mandatory retirement shall occur by such terms as also stated in 4.2. The active partner's obligations and restrictive covenant are applicable as also stated in 10.3.

10.5 By Breach or Misconduct: Any of the following grounds shall constitute cause for either partner dissolving said partnership: 1) being convicted of a felony or any offense involving moral turpitude or immoral conduct; 2) engaging in personal misconduct of such a serious matter as to render his continued performance in the partnership personally or professionally obnoxious or detrimental; 3) having his license to practice revoked or suspended, except that a temporary suspension shall not constitute such grounds during the period of temporary suspension, although said partner shall not participate in the income during such period of suspension; 4) becoming insolvent, making an assignment for the benefit of creditors, or being declared bankrupt; and 5) converting any partnership asset to one's own use. Said partnership may be dissolved by reason of either party's misconduct as stated heretofore under limitations, breach of any other provisions herein contained, or by any of the above reasons. The same formulations for determining the aberrant partner's share of the valuation shall be used as that set out under retirement, except that said value shall be reduced by 25%. Also, the aberrant partner shall abide by the restrictive covenant of Article XII, which shall be immediately in force upon his departure.

10.6 By Death: Upon the death of any partner, the partnership shall be continued by the surviving partner. The partnership shall purchase for the account of the surviving partner, and the estate of the deceased partner shall sell, the partnership interest of the deceased partner. The current valuation as established in Appendix C, relative to the deceased partner's share of that valuation shall be paid to the deceased partner's estate as set forth in 11.6. Upon the completion of said purchase and sale, the estate of the deceased partner shall have no further interest in the partnership or any of its assets.

Article XI: Sale of Partnership Interest

11.1 By a Partner's Departure: The remaining partner is obligated to purchase the total current interest of the departing partner at the current valuation, as established in 9.2 and listed accordingly in Appendix C. The remaining partner shall purchase the interest of the departing partner on a contract for the sale of the

same, which contract shall provide for a down payment of 10% of the total purchase price. The remaining balance shall be paid in 60 equal monthly payments on the first day of each month thereafter, at a monthly interest rate of 0.5% of the unpaid balance. The title to the interest being purchased shall remain with the selling partner until said payment shall have been paid in full by the buying partner. Payment delinquency by more than 10 days shall result in an interest increase on the unpaid balance of 0.05% on the monthly interest rate per each month delinquent. There shall be no penalty for prepayment.

11.2 By Mutual Consent of the Partners: As set forth in 10.2, using the current valuation methodology of 9.2, the total and current interest shares, and the current valuation figure of Appendix C, the remaining partner shall buy out the departing partner as also set out in 11.1. In the event of both partners leaving, the sale price is to be negotiated accordingly with the buyer with proceeds divided according to the total and current interest shares.

11.3 By Retirement: As set forth in 10.3, 9.2, Appendix C, and the partners' latest interest shares, the remaining partner shall buy the interest of the retiring partner by means set forth in 11.1.

11.4 By Disability: Once permanent disability is established, terms of sale by the departing partner to the remaining partner are the same as those in 11.1

11.5 By Breach or Misconduct: Once grounds for expulsion have been established and the respective partner is compelled to depart and sell his interest, terms of sale by the departing partner to the remaining partner are the same as those in 11.1. But in addition, said value of the departing partner's share shall be reduced by 25% to determine actual valuation for sale.

11.6 By Death: Upon the day of death of a partner, the value of the deceased partner's interest shall be determined by the nearest current interest shares as applied to the current valuation listed in Appendix C. With due reference to 10.6 and Appendix B, the partnership shall collect the proceeds of the insurance policy or policies insuring the life of the deceased partner and shall pay the full value of the deceased partner's interest from the insurance policy proceeds to the executor of the deceased partner's estate. If insurance proceeds are sufficient to cover the full amount due the

deceased partner's estate, then the respective bill of sale shall be given over to the surviving partner, acting in behalf of the partnership. The surviving partner shall execute and deliver to the estate of the deceased partner an agreement, indemnifying the estate of the deceased partner against any further liabilities of the partnership.

If the purchase price exceeds the proceeds of the life insurance, the balance of the purchase price shall be paid in 12 consecutive equal monthly installments beginning one month after receipt of the bill of sale from the deceased partner's estate. The unpaid balance shall be evidenced by a promissory note from the surviving partner to the deceased partner's estate at a monthly interest rate of 0.5% on the unpaid balance. Payment delinquency by more than 10 days shall result in an interest increase on the unpaid balance of 0.05% on the monthly interest rate per each month delinquent. There shall be no penalty for prepayment.

The surviving partner and the executor of the deceased partner's estate shall make, execute, and deliver any documents necessary to carry out this agreement. This agreement shall be binding upon the partnership, the partners, and all legal representatives and assigns of either the partnership or the estate of the deceased.

11.7 Exception to Valuations Used: If any of the conditions for dissolution of the partnership should occur before the second party's acquisition of at least 50% interest as set forth in 5.2, the partnership equities possessed by each partner at the last month's profit division will be used with the valuation set forth in Appendix C.

Article XII: Restrictive Covenant

12.1 Trial Period: No restrictive covenant shall exist during the second party's one-year trial period. Second party agrees to give 30 days written notice of any intention to leave the practice. Both parties agree to begin discussing their respective views regarding implementation of the proposed partnership no later than the twelfth month of trial employment.

12.2 Within the Partnership: Whichever partner should ever leave the partnership practice will be paid an amount equal to his current interest in the practice multiplied by 10% of the projected year's net income before drawings. The departing partner covenants

and agrees not to engage directly or indirectly in the practice of optometry, in the optical business, or in any related practice or enterprise without the consent of the remaining partner for a period of 5 years and within a radius of 25 miles from the practice location. Time accumulation begins on the departing partner's first permanent day of absence from the practice.

Article XIII: New Partners

13.1 By Admission: New partners may be admitted only by full mutual agreement of both existing partners. Terms for admission are dependent upon mutual deliberation of the partners.

13.2 By Sale of Interest: A partner may sell all or part of his partnership interest to an outside party only upon mutual consent of the other partner. The non-selling partner must receive first option to purchase any interest his partner has to sell. If the non-selling partner declines to purchase the interest for sale within one month of its offering, the selling partner may then sell all or part of his interest no earlier than 3 months following the one month buffer. The terms of sale shall be those devised by the selling partner with all due consideration for the remaining partner, in the event of a sale to an outside party. In the event of sale to the non-selling partner, the % interest being sold shall be a factor of the current partnership valuation in Appendix C. The equity owned by each partner at the time of sale shall be the interest specified at the latest monthly profit division.

Article XIV: Miscellaneous

14.1 Amendment: This partnership agreement may be amended by written consent (or initialling) by the partners. Each and every amended item must follow this written procedure and be witnessed by the signature (or initials) of the partnership's lawyer or accountant. The partners agree to review this agreement, in its entirety, on a yearly basis. This yearly review applies especially to drawings, income division, all insurance, and the yearly partnership valuation figure.

14.2 Arbitration: Any dispute between the partners which cannot be resolved by mutual agreement or assistance of the partnership lawyer or accountant shall be submitted to final arbitration by the American Arbitration Association. The decision of the majority of the panel shall decide the dispute.

14.3 Notices: All notices provided in this agreement shall be in writing and shall be sufficient if sent by certified or registered mail. Notice is considered given only upon its receipt by the intended partner.

14.4 Administration: The partners agree that they will execute any further means, and they will perform any acts which are or may become necessary to effectuate and carry on the partnership created by this agreement.

14.5 Building and Land: The building in which the parties are to practice their profession is owned by the first party and his wife. The partnership and the first party and his wife shall make a separate lease agreement, and all rental payments shall be construed as an expense of operation. Should first party retire voluntarily, retire involuntarily, or die, second party shall be obligated to continue to rent the office building occupied by the partnership from the first party and his wife or the first party's widow, for a period of 2 years at the same rental being paid at the time of the first party's departure. At the end of the 2 years, second party has the option of extending his tenancy on such terms as may be mutually agreeable, purchasing the building and land by mutual agreement, or moving into another building at the complete relinquishment of all rights to the office site. Second party shall be given first option on the purchase of the building and land during any period of his inhabiance.

The first party and his wife, as owners of the building and land, are landlords. Consequently, all expenses of structural maintenance, upkeep, necessary structural remodeling, and any negotiated building and/or land improvements required by the purposes of the partnership shall be borne by the landlords and not by the partnership.

14.6 Waiver: The failure of either party to compel the performance by the other of any terms or conditions of this agreement

shall in no way affect his right to thereafter enforce the same, nor shall it constitute his waiver thereof.

14.7 Effective Dates: The effective date of the accompanying trial period is (month), (day), (year). Its duration shall be for no longer than one calendar year from this date except by mutual amendment by both parties. Its duration also can be shortened only by mutual consent of both parties. The second party is subject to all clauses of this agreement except those pertaining to privileges, responsibilities, and duties of ownership. It is understood by both parties that the intention of this trial period is for professional and personal association toward a mutual decision to enter a partnership or discontinue said association upon completion or abbreviation of said trial period. In witness thereof, the parties hereto have executed this trial agreement in (city, state) ________, on the ________th day of (month), (year).

First Party ______________________________

Second Party ______________________________

Witness ______________________________

Lawyer ______________________________

The trial period is, by mutual agreement, completed. The first and second parties to this agreement agree that all statements set forth are at this time agreeable to them, and all amendments presently desired have been properly made and mutually agreed upon. Both parties are of sound mind and resolve with intention to undertake this agreement as partners, equal in stature as optometrists with intention to become equal in ownership. The effective date of this partnership agreement is (month, day, year). Its duration shall be as long as this agreement allows and its partners desire. This agreement shall be binding upon the parties, their heirs, executors, and assigns. In witness thereof, the parties hereto have executed this trial agreement in (city, state), on (month, day, year).

First Party ______________________________

Second Party ______________________________

Witness ______________________________

Lawyer ______________________________

APPENDIX A

Miscellaneous Property Not Owned by the Partnership

First Party's Property Items

Item(s)	Purchase Date	Price	Comments	Partners' Initials
1)				
2)				
3)				
4)				
5)				
6)				
7)				
8)				
9)				
10)				
11)				
12)				

Second Party's Property Items

Item(s)	Purchase Date	Price	Comments	Partners' Initials
1)				
2)				
3)				
4)				
5)				
6)				
7)				
8)				
9)				
10)				
11)				
12)				

APPENDIX B

Insurance Policies

Life Insurance

The partnership is the applicant, owner, and beneficiary of the following life insurance policies more particularly described and updated as follows:

Date Premium is: Due	Paid	Policy Number	Amount	Insurance Company	Insured

Malpractice Insurance

Date Premium is: Due	Paid	Policy Number	Amount	Insurance Company	Insured

General Liability Insurance

Date Premium is: Due	Paid	Policy Number	Amount	Insurance Company	Coverage

Fire, Theft, and Casualty Insurance

Date Premium is: Due	Paid	Policy Number	Amount	Insurance Company	Coverage

APPENDIX C

Yearly Partnership Valuation Worksheet

Factors	19__	19__	19__	19__	19__	19__	19__	19__
1) Equipment								
2) Furnishings								
3) Supplies								
4) Patient Records								
5) Accounts Receivable								
6) Cash Reserves								
7) Restrictive Covenant								
8) Net Cash & Checking								
9) Other Assets								
Yearly Valuation TOTAL								

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