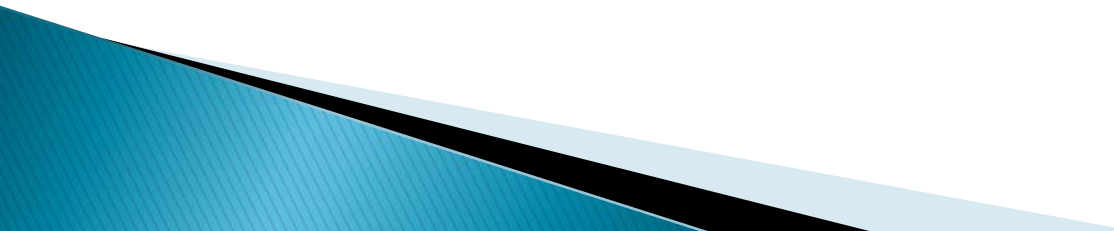


Workers Unite! Dentists Beware!

Presented by Matthew Wilton
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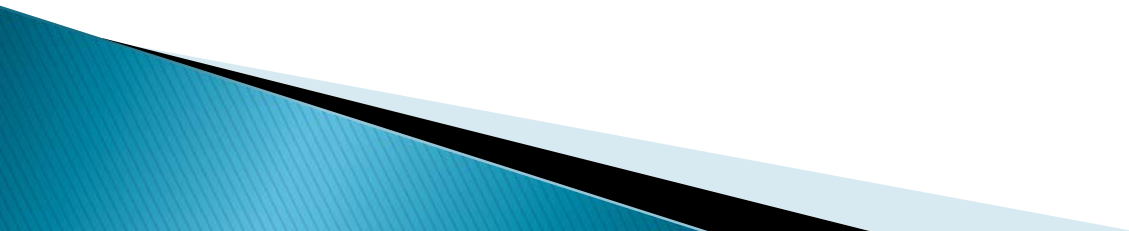
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Unions in Dental Offices

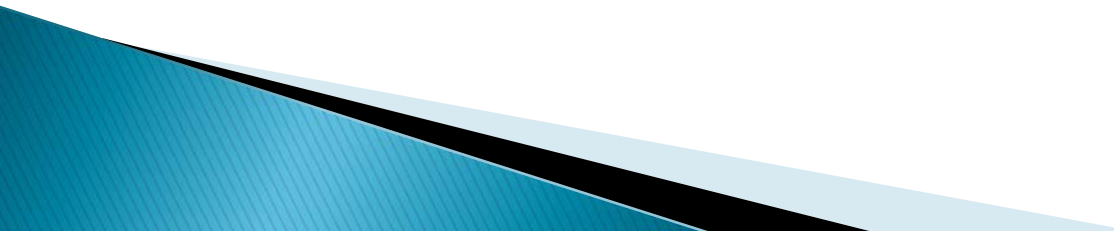
- ▶ In 2014, Credit Valley Oral Surgery was the first dental office to become unionized in Ontario.
 - ▶ It is a poorly kept secret that a specific union is targeting dental offices for unionization.
 - ▶ If further unionization is to become a reality, it will represent a seismic shift in the employment law landscape for dentists.
- 

Information posted on UFCW
(United Food and Commercial Workers)

Website about unionizing Dental
Assistants.




The Benefits of Unionization for Dental Assistants


- ▶ We all deserve to be treated with dignity at work and to be fairly compensated for our skills and qualifications. After investing considerable time and money in training and accreditation, Dental Assistants are right to expect a working environment that is safe, professional and fosters secure careers.
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- ▶ Unfortunately, all too often many dental practices are plagued by inadequate pay and benefits, unsafe conditions and broken equipment, and a lack of respect for the hard work and dedication of Dental Assistants.

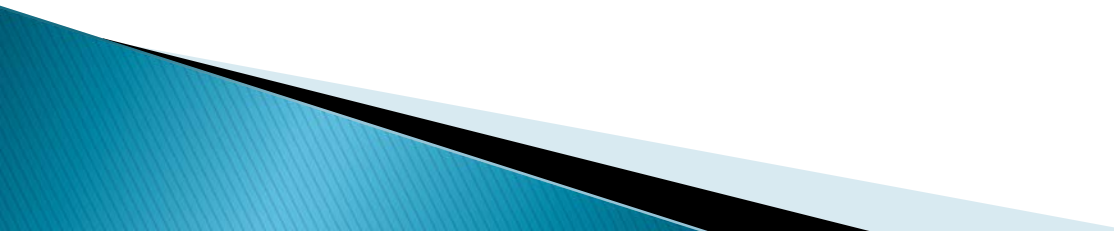
The Benefits of Unionization for Dental Assistants, cont.

- ▶ During the past two years, Dental Assistants in Ontario have been joining a union to improve their working conditions. Unionization is the only way to ensure an employer is legally obligated to implement the improvements that employees want. Union members engage in the process of collective bargaining: they elect their negotiating committee, vote on their collective agreement, and elect their workplace representatives.
- 

BENEFITS OF A UNION COLLECTIVE AGREEMENT

- ▶ Paid sick days and personal days
 - ▶ Regular wage increases for all employees
 - ▶ Better health benefits for you and your family
 - ▶ Fair and consistent scheduling and overtime pay
 - ▶ Legal representation at the labour board and WSIB
 - ▶ Job security and recognition of service and experience
 - ▶ Grievance procedure to ensure fair treatment, dignity and respect
 - ▶ Personal leaves of absence for career and educational opportunities
 - ▶ On-line courses and post-secondary scholarships for you and your family
 - ▶ Protection from unfair discipline, termination or alteration of working conditions
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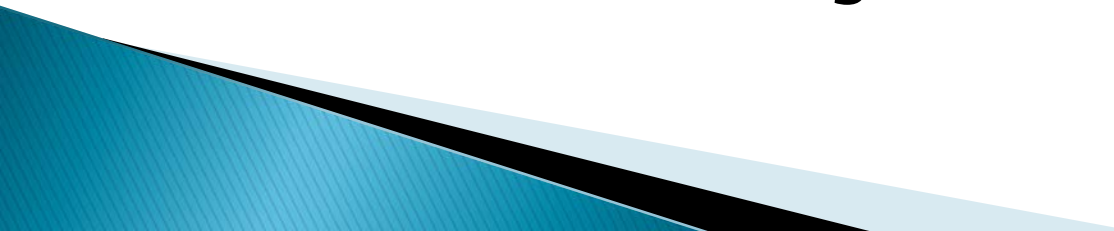
DENTAL ASSISTANTS ARE MAKING HISTORY!

- ▶ Last year, Dental Assistants at Credit Valley Oral Surgery in Mississauga, Milton, Oakville and Burlington joined UFCW Canada Local 175. This year, more than 60 employees at Square One Dental and Meadowvale Dental in Mississauga also joined Local 175. The unionized employees at these six locations include Dental Assistants, Hygienists, Nurses and Treatment Coordinators. These employees contacted the union to achieve better pay and benefits, job security, safe working conditions, consistent scheduling, and more paid sick days.
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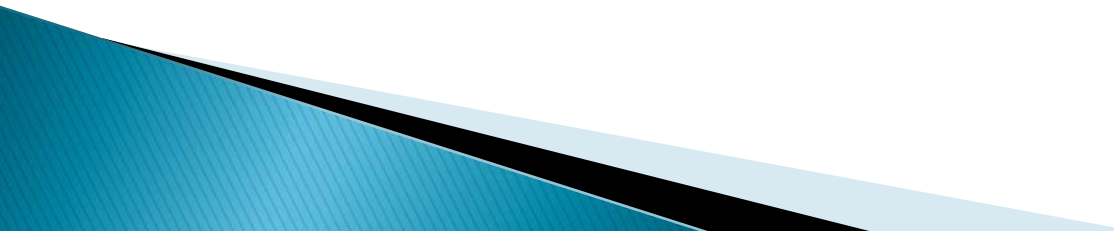
DENTAL ASSISTANTS ARE MAKING HISTORY! cont.

- ▶ The process of unionization begins by simply meeting with a UFCW Canada organizer. Currently, National Representative Kevin Shimmin, an organizer for UFCW Canada, is making presentations at ODAA membership meetings across the province. The association is making these presentations available to members so that you can learn more about the benefits of unionization and to share your own workplace experiences. To find out more about the union for Dental Assistants, please contact Kevin: kshimmin@ufcw.ca

ODAA – Ontario Dental Assistants Association – Facebook March 25, 2015

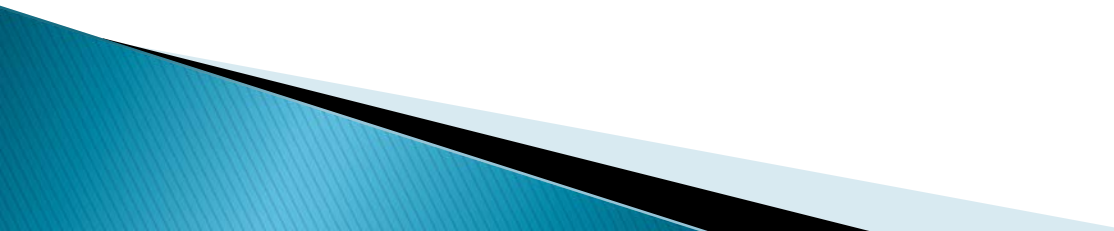
- ▶ ODAA is committed to doing what we can to improve working conditions for Ontario dental assistants. We still have many members who have little or no recourse should they be injured on the job and far too many of our members are part of the "working poor". With this in mind, many of our Spring meetings will have Union officials speaking about the benefits of unions and what they can do to improve working conditions and wages for our members.
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ODAA – Ontario Dental Assistants Association – Facebook May 25, 2015

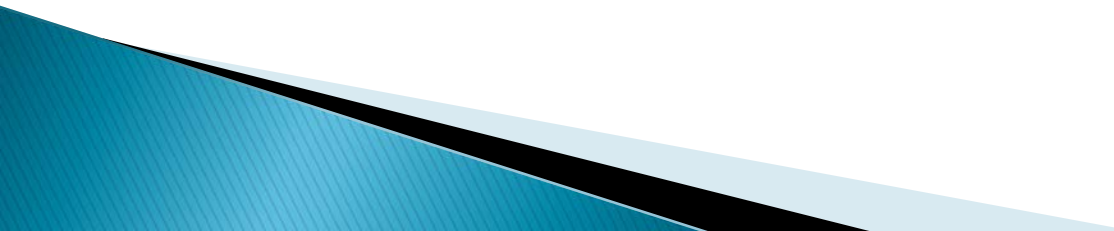
- ▶ Looks like we touched a nerve with the Ontario Dental Association. They have sent out letters to their members about "union organizing activity"... "apparently connected with the Ontario Dental Assistants Association". Well, frankly if more dentists were better employers, we would not have to provide information to our members on the benefits of unionization! Just doing our job!
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Canadian Dental Assistants Association Salary and Benefits Survey 2013

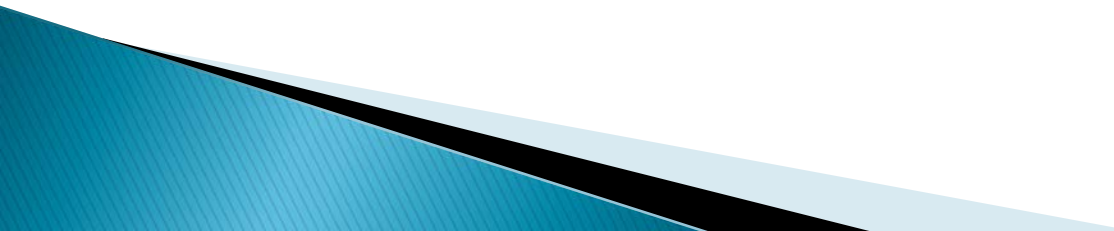
Wages:

- ▶ Wages are up from a national average of \$23.25 in 2011 to \$23.97 per hour in 2013; median hourly compensation has increased from \$22.25 to \$23.00.
 - ▶ The average hourly wage for all respondents working in private practice varies between \$22.69 and \$24.92 per hour.
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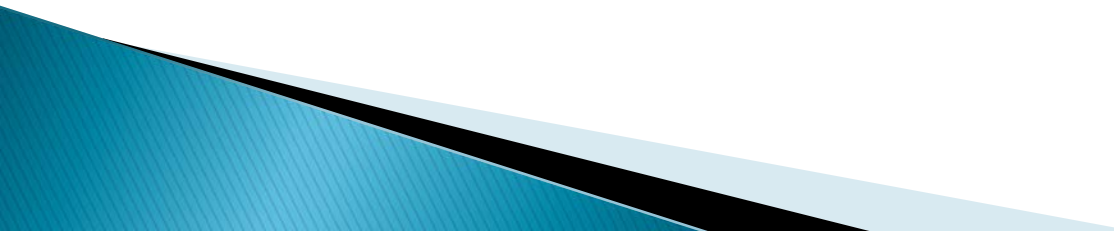
Benefits

- All respondents working in dentistry reported receiving one or more benefits, either from their employer or from another source.
 - Dental benefits – for respondents and their families – continuing education, pay bonus and a gift of appreciation are the most common employer provided benefits.
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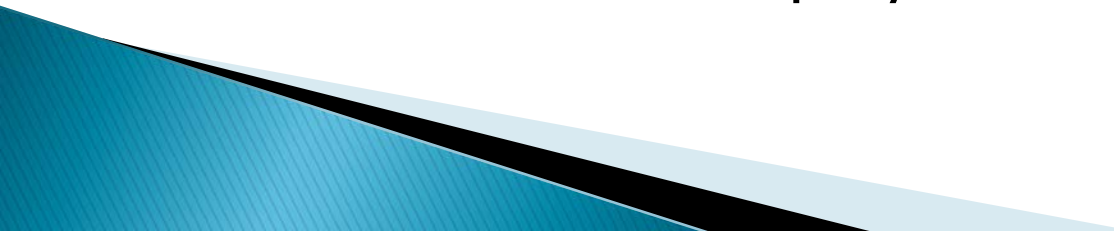
Personal and Professional Issues

- Almost half of the respondents (45%) plan to stay in the profession for more than 10 years; 28% will have to be replaced by new recruits over the next five years.
 - In general, respondents like their profession and work environment.
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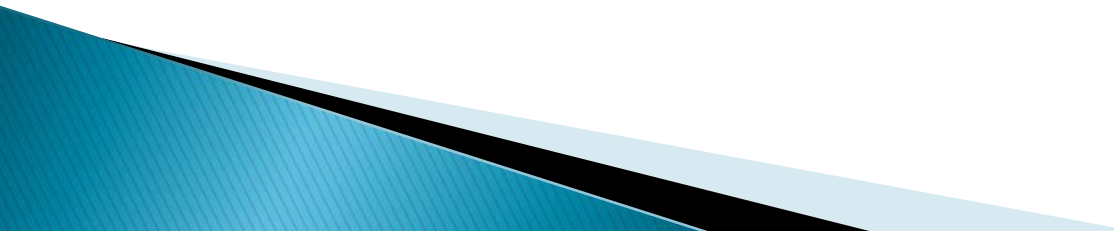
Unions

- ▶ Unionized workplaces are governed by collective bargaining agreements, which act as a collective contract between all staff and the employer.
 - ▶ The employer must negotiate with the union, which acts as the bargaining unit for the entire staff.
 - ▶ Hence, any staffing issues (ie., changes in hours, changes in pay, discipline, or termination) must be completed in accordance with the negotiated collective bargaining agreement.
- 


Risks to Employers

- ▶ A unionized workplace results in the employer losing a large measure of control over workplace issues.
 - ▶ Unions seek to drive up wages and benefits for employees, with a corresponding cost to the employer.
 - ▶ It will not be possible for the employer to negotiate individual contracts with employees.
 - ▶ There will be no latitude to differentiate between productive and unproductive employees.
 - ▶ Collective bargaining agreements typically provide for grievance processes for employees. These processes can involve contested arbitration hearings. This will significantly drive up the time commitment and legal costs for dentist employers.
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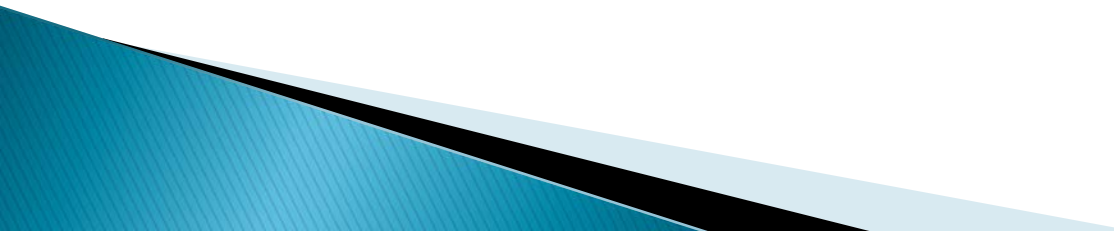
Unions affect the value of the practice

- ▶ A dental practice with a union in place will be more difficult to sell than a non-unionized work place.
 - ▶ The sale of a dental practice to a new owner will not remove the union from the workplace.
 - ▶ Potential purchasers will be deterred by the presence of a union in the workplace, as the presence of the unionized workforce will result in more administrative headaches, and potential expenses.
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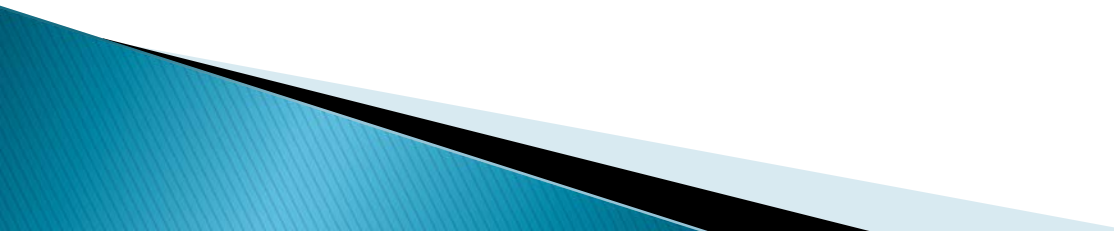
The Unionization Process

- ▶ The union will often commence organizing initiatives with employees in the workplace while the employer has no idea that these initiatives have commenced.
 - ▶ If the union has the support of at least 40% of the employees in the workplace, then it can file an application with the Ontario Labour Relations Board (the “OLRB”) seeking certification to represent the employees in the workplace.
 - ▶ The union then serves the application for unionization on the employer.
 - ▶ The employer is required to immediately post notice of the application in the workplace, so that it is brought to the attention of all employees.
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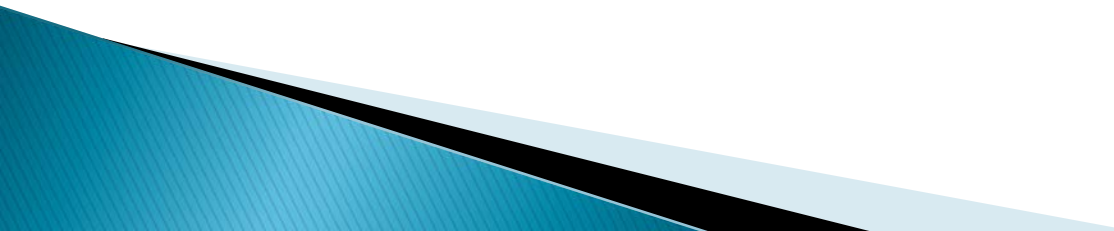
Unionization Process, cont.

- ▶ The employer then has 2 business days to complete, serve, and file a response. The response is limited to the employer declaring its position on which workers constitute the bargaining unit, which workers should be excluded, and whether the union actually has obtained 40% or more support in order to proceed with the vote.
 - ▶ Five days after the original application is filed, the employee vote takes place. An officer from the OLRB supervises the vote.
 - ▶ If 50% + 1 of the employees vote in favour of the union, then the workplace becomes unionized.
- 

Unionization Process, cont.

- ▶ The percentage necessary to certify the union is based only on the number of employees who actually vote, not the number of employees employed in the workplace.
 - ▶ For example, if a dentist has 10 employees, but only 4 vote, then this group of employees will dictate whether or not the remaining employees become unionized. If a majority of this 4 out of 10 employees (3 of the 4) vote in favour of unionization, then the entire workplace will become unionized.
- 

Unionization Process, cont.

- ▶ If the union drive is successful, the employer and the union will enter into negotiations for a collective bargaining agreement.
 - ▶ The timelines are short, and the OLRB is typically unforgiving of employers who cannot meet the deadlines.
 - ▶ This process can leave the employer scrambling to counteract the union campaign, in circumstances where the union has a significant head start.
- 


Employer's Right to Free Speech

- ▶ If you think all of this sounds unfair and frightening...
 - then you are correct!
- ▶ However, the employer is not completely without rights in the process.
- ▶ It is a common misconception that employers are not allowed to discuss the unionization process with employees. This is simply not correct.
- ▶ The Ontario *Labour Relations Act* does not prohibit discussions with employees, but rather moderates the contents of those discussions.


Section 70 of the *Labour Relations Act*

- ▶ Under s. 70 of the *Labour Relations Act*, the employer is free to express his or her views regarding unionization, so long as the employer does not use:
 - *coercion*
 - *intimidation*
 - *threats*
 - *promises*; or
 - *undue influence*.
- ▶ So, while the employer may communicate with employees concerning unionization, they must be very careful in how they do so.

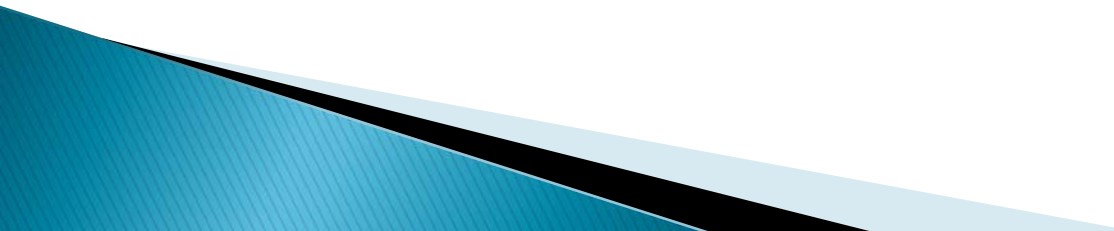
Employers can...

- ▶ inform employees that the employer wishes for the workplace to remain union-free, and that it does not wish to have a union intervene in the employment relationship.
 - ▶ inform employees that a union cannot guarantee its promises. Unions may often make promises to employees about what they will receive through unionization. However, a union does not unilaterally impose the terms and conditions of employment on the employer after certification. Instead, after the union is certified, the parties will still have to negotiate a collective bargaining agreement.
 - ▶ indicate that if a collective bargaining agreement is not reached, then this will most likely result in a strike or a lockout.
- 


Employers can...

- ▶ Communicate facts about the union's finances, such as:
 - the amount of strike pay unionized employees receive while on strike;
 - the amount of union dues that will be payable;
 - what union dues pay for; and
 - the salaries of union personnel
 - ▶ Provide accurate information about the financial aspects of unionization, which is likely the employer's strongest defence to unionization.
 - ▶ Stress the importance of voting in the process. Remember, if the voter turnout is low, then a minority of employees could end up binding the entire workforce.
 - ▶ Combat incorrect information or statements made about the workplace by the union.
- 


Employers can...

- ▶ Ultimately, employers are entitled to discuss their opposition to unionization, and can provide employees with facts about the union.
 - ▶ Communications with employees should be conducted either in writing, or in what is known as a “captive audience meeting”, where the employer meets with employees to discuss the unionization process.
 - ▶ Depending on the volatility of the situation, and the employer’s familiarity with what they can and cannot say, this may be a constructive exercise, or one that blows up in the employer’s face.
- 


Employers cannot...

- ▶ make implicit or explicit references to job security, such as:
 - advising employees that they will be fired if they attempt to unionize;
 - advising that if the workplace becomes unionized, it may be shut down entirely.
 - ▶ engage in more subtle forms of discipline, such as a reduction in hours of employees who support unionization.
 - ▶ promise bonuses, or pay increases, or additional benefits to employees in exchange for voting against a union, or agreeing not to participate in the process.
- 


Employers cannot...

- ▶ side with employees who are voicing anti-union opinions that would be a violation of the *Act* if communicated by the employer personally.
 - ▶ advise employees that the business will become less competitive if the workplace is unionized.
 - ▶ ask employees how they intend to vote.
 - ▶ conduct surveillance of employees to determine whether or not they are participating in union activities. Employers also cannot have another employee report to them concerning union campaign initiatives.
- 


Don't go too far!

- ▶ It is very important for employers faced with a union drive to not overstep the stipulated legal limits in communicating with employees.
 - ▶ Employers can expect that unions will be aggressive in combating inappropriate employer communications.
 - ▶ An employer who goes too far runs the risk that the union, or an employee, will make a complaint to the OLRB against the employer for engaging in “unfair labour practices”.
 - ▶ The Board has the remedial power to certify a union without a formal vote in response to an employer who engages in unfair labour practices.
- 

Keep Calm!

- ▶ The unionization process elicits a visceral reaction in many employers. There is a strong sense of the small business owner being “in charge” of their office, and unionization represents a loss of that control.
 - ▶ This can be a difficult pill to swallow for a business owner who has invested their entire career in building a successful practice.
 - ▶ However understandable the negative reaction to a unionization of the workplace may be, an ill-planned response that will not serve the employer well.
 - ▶ If the employer is emotional or angry, then these feelings are bound to taint the discussions with employees, and may cause the employer to go too far in their communications.
- 

Keeping Unions Out

- ▶ If employees are happy, they will rarely seek to unionize.
 - ▶ An employer who proactively pays attention to their employees, and treats them fairly, will face less of a chance that the workers will band together to unionize.
 - ▶ Employers are often caught flat-footed when faced with a unionization drive.
 - ▶ In this increasingly tumultuous time for dental offices, it would be prudent to have in place strategies to combat unionization initiatives, including information on how to conduct meetings with employees, and to draft acceptable communications to employees in response to union pressure.
- 

Takeaway Message

- Is the sky falling in? Probably not.
 - From a business standpoint, the union is unlikely to pursue unionization in small dental offices.
 - The expense likely does not justify the increase in revenues for the union derived through collecting union dues.
- 