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By Jodi Schafer, SPHR, SHRM-SCP
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I-9 Forms: What Every Employer Needs to Know

Question: I'm new to my position and recently attended a training on human resources administration. There I heard about something called the I-9 form. What is the I-9 form and what are the requirements that our practice needs to follow?

Answer: To begin, the I-9 is a document required by the federal government that every employer (including every dental employer) has to complete with every new employee, regardless of practice size or the employee's status (full time, part time, temporary, seasonal etc.). If they are a W-2 employee on your payroll, then you need to have an I-9 on file for them.

The process of completing the I-9 form documents the employee's eligibility to lawfully work in the United States, and it applies to both citizens and noncitizens. As part of the process, the employee must produce documents to verify their status, such as a Social Security card, passport, driver's license, permanent resident card, etc. The employer must physically inspect these documents within three days of hire and sign off via the I-9 form that they viewed them. Photocopies of documents are not valid.

Once the forms are completed, you do not send them anywhere. You keep them on file, ready to produce if ever audited. For recordkeeping, I recommend keeping all your I-9s together in one folder, binder, or digitally. If you were ever audited, you only want to show the documents that are specifically requested. You also must retain completed I-9 forms for one year after the date an employee separates from employment or three years after their date of hire, whichever is later.

The current I-9 form has an expiration date of Oct. 31, 2022. On Oct. 11, 2022, the Department of Homeland Security posted an Employer Alert stating that "Employers should continue using the Form I-9, Employment Eligibility Verification, after its expiration date of Oct. 31, 2022, until further notice. The Department of Homeland Security

will publish a *Federal Register* notice to announce the new version of the Form I-9 once it becomes available." You can continue to check for the most recent form by going to the DHS website at www.uscis.gov.

As I mentioned previously, employers have been required to physically examine an employee's documents, but due to the COVID-19 pandemic the Department of Homeland Security has allowed the examination of these documents virtually through web conferencing, fax, etc. This temporary loosening of the rules was supposed to expire on Oct. 31, 2022. However on Oct. 19, 2022, DHS announced an extension of the flexibility in complying with requirements related to the I-9 form due to COVID-19. This temporary guidance was set to expire Oct. 31, 2022. But because of ongoing precautions related to COVID-19, DHS has extended the Form I-9 flexibilities until July 31, 2023.

I know this process can feel a bit daunting, but failure to comply with I-9 requirements can be costly. Fines for a missing, incomplete, or inaccurate I-9 form can range from hundreds of dollars to over \$1,000 per form! As they say, an ounce of prevention is worth a pound of cure, so I would recommend conducting an internal I-9 audit to see how your practice measures up. Determine if you have in your possession completed I-9 forms for all your current employees and previous employees (refer to the record retention requirements above). Review the I-9 forms you have on file to see if the forms are fully and accurately completed. If you find mistakes, cross them out (do not use correction fluid), write in the correct information, then initial and date the correction. If you do not have completed I-9 forms for current employees, complete them quickly, but do not backdate the form.

Once you have an overall picture of where your practice stands in meeting this requirement, draft a memo to keep with your I-9s that summarizes what you found and what you did to resolve the issues. It is better to document what happened previously and show that you have corrected errors moving forward rather than trying to cover up mistakes. If audited, auditors look more kindly on companies that attempt to correct and rectify their processes. ●