INSURANCE BY DENTISTS

INSURANCE BY DENTISTS FOR DENTISTS

A PRACTICE OWNER'S REFERENCE

A Dentist's Guide to *Malpractice Insurance*

What every dentist should understand before a claim occurs.

IN THIS GUIDE

1 | FOUNDATIONS

Why Malpractice Insurance *Matters*

Your policy is more than a certificate. It is a plan for protecting your finances, reputation, license, and ability to continue practicing.

Dentistry is built on precision, but no professional can eliminate uncertainty. A routine extraction can produce an unexpected complication. A dissatisfied patient can interpret an unfavorable result as negligence. A board complaint can begin with a misunderstanding rather than an injury. Malpractice insurance exists for the moment when clinical care and legal risk collide.

A POLICY IS A THREE-DIMENSIONAL WALL

Its **height** is the amount of protection provided by the limits. Its **length** is determined by dates, including policy periods and retroactive dates. Its **depth** is the scope of what the contract actually covers.

A strong policy may provide more than payment for a settlement or judgment. Depending on its wording, it can appoint experienced defense counsel, pay legal expenses, investigate allegations, support you through a dental board inquiry, and help manage communication during a crisis. The insurer becomes a silent partner whose value may not be fully visible until something goes wrong.

The four elements of a malpractice claim

- **Duty** — A professional obligation existed between the dentist and patient.
- **Breach** — The care allegedly fell below the applicable standard.
- **Causation** — The alleged breach directly caused the injury.
- **Damages** — The patient suffered an actual physical, emotional, or financial loss.

A poor outcome alone does not automatically establish malpractice. All four elements generally must be supported. However, even a weak allegation can require time, legal guidance, documentation, and an organized response.

EXPERT TIP

Do not evaluate malpractice insurance only by premium. Compare who is insured, what activities are covered, how claims are defended, who controls settlement decisions, and whether legal expenses reduce your limits.

2 | COVERAGE TRIGGER

Occurrence vs. Claims-Made

When choosing a malpractice policy, you're choosing between two types: an occurrence policy or a claims-made policy.

FEATURE	OCCURRENCE	CLAIMS-MADE
Trigger	The incident occurs while the policy is active.	The claim is made and reported while the policy is active, subject to the retroactive date.
After policy ends	Covered incidents remain protected even if the claim appears later.	Protection generally ends unless tail coverage or another solution is arranged.
Tail coverage	Normally not required.	Often required when coverage ends, the retroactive date changes, or you move to occurrence coverage.
Initial cost	Usually higher at the beginning.	Usually lower at the beginning, then increases as the policy matures.
Administration	Simpler long-term date management.	Requires careful protection of the retroactive date and reporting requirements.

A claims-made policy can be an effective choice, but its lower early premium should not be mistaken for permanent savings. Tail coverage may cost a substantial percentage of the final annual premium, and a lost retroactive date can create a gap for past work.

EXAMPLE

Dr. Harper leaves an associate position after five years under a claims-made policy. A former patient later alleges injury from treatment performed in year three. Coverage may depend on whether tail coverage was purchased or the new policy preserved prior acts back to the original retroactive date.

EXPERT TIP

When changing employers or insurers, obtain written confirmation of the retroactive date, prior-acts coverage, and who is responsible for purchasing tail coverage. Do not rely on a verbal promise.

3 | WHO IS PROTECTED

Name the Right Dentist and the Right Entity

A beautifully written policy cannot protect a person or organization that was never properly included.

The declarations page assigns the key roles in the insurance contract. The **first named insured** generally has the greatest control over the policy. **Named insureds** receive broad protection under the contract. **Additional insureds** receive more limited protection tied to a specific relationship or exposure.

GOLDEN RULE

The warrior unseen on parchment carries no shield when arrows rain.

Questions every owner should answer

- Does the exact legal name on the policy match the current practice entity?
- Are every treating dentist and every location properly scheduled?
- Is the practice entity covered as well as the individual dentist?
- Do associates have individual limits, shared limits, or separate policies?
- Are hygienists and employees covered for acts within their job duties?
- Are independent contractors required to carry their own coverage?
- Is there protection for locum tenens dentists or temporary providers?
- Are volunteer work, moonlighting, teaching, and services outside the main office addressed?

Entity coverage matters because a malpractice lawsuit may name both the treating dentist and the business. A corporation or LLC can provide important operational and legal benefits, but it does not erase personal responsibility for professional negligence. Both the person and the entity need an intentional insurance structure.

PRACTICE CHANGE ALERT

Update the insurer when you add an associate, open a location, change the entity name, form a partnership, begin work in another state, or change the services being performed. Insurance should mirror the practice that exists today, not the practice that existed at the last application.

Policy Clauses That Control the Claim

The smallest paragraph in the policy may determine who makes the largest decision of your career.

Consent to Settle

Determines whether the insurer must obtain your approval before resolving a claim. Pure consent provides the greatest control. Exceptions may transfer authority back to the insurer.

Hammer Clause

Creates financial consequences when you reject a settlement recommended by the insurer. A hard hammer can leave you responsible for amounts above the proposed settlement and later defense expenses.

Defense Costs

States whether attorney fees and litigation expenses are inside or outside the liability limit. Inside-limit defense costs reduce the amount left for settlements or judgments.

Duty to Defend

Requires the insurer to provide a defense for covered allegations, including claims that may be groundless, false, or fraudulent.

The **cooperation clause** is equally important. It requires you to provide records, attend proceedings, assist counsel, and communicate honestly. Failure to cooperate can threaten coverage. Once an allegation appears, the defense should be treated as a coordinated professional process, not as a problem to manage alone.

EXPERT TIP

Look for meaningful consent to settle, defense costs outside the limits, a clear duty to defend, and a hammer clause that is absent or softened. Ask the agent to show you the actual policy language, not merely a marketing summary.

5 | FINANCIAL PROTECTION

Choosing Appropriate Limits

To go beyond is as wrong as to fall short. The goal is not the largest number available. It is a limit suited to the exposure.

Malpractice limits are commonly displayed as two numbers. The **per-claim** or **per-incident** limit is the most the insurer will pay for one covered claim. The **aggregate** limit is the most the insurer will pay for all covered claims during the policy period.

EXAMPLE

A $1 million/$3 million policy may provide up to $1 million for one claim and up to $3 million for all claims during the policy year. Whether defense expenses reduce those amounts depends on the policy wording.

Factors that should influence the decision

- **Procedures & specialty** — implants, surgery, sedation, anesthesia, and complex cases may increase severity.
- **Patient profile** — medically complex, pediatric, elderly, or high-expectation patients can change exposure.
- **Legal environment** — state laws, damage caps, claim trends, and local verdict patterns matter.
- **Practice structure** — multiple dentists, locations, and shared aggregates can increase the chance of limit exhaustion.
- **Contractual requirements** — employers, facilities, lenders, and managed-care arrangements may require minimum limits.
- **Personal & business finances** — limits should protect against a loss that could threaten the practice or personal stability.

Do not assume that an LLC, a personal umbrella policy, separate bank accounts, or a trust replaces adequate malpractice coverage. Professional liability is usually excluded from personal umbrella policies, and professional negligence can create personal exposure despite the business structure.

EXPERT TIP

Review limits whenever the practice grows, a new procedure is introduced, a higher-risk associate is hired, or multiple dentists share one aggregate. Ask how defense costs, board defense, and supplementary payments interact with the stated limit.

6 | HIDDEN GAPS

Endorsements, Exclusions, and Changing Services

Every new service creates an opportunity for growth and a new question for the insurance contract.

An **endorsement** changes the base policy. It can expand protection, clarify an activity, add a person or location, or restrict coverage. **Exclusions** identify what the policy will not cover. Both deserve attention because a procedure may be clinically permitted while still falling outside the contract.

Activities that may require specific review

- Moderate or deep sedation and general anesthesia
- Implant placement, bone grafting, and complex oral surgery
- Sleep apnea screening and oral appliance therapy
- Botox, fillers, and services near the boundary of dental practice
- Teledentistry and treatment across state lines
- Use of artificial intelligence, robotics, CBCT, or other advanced technology
- Hospital or ambulatory surgery-center privileges
- Clinical teaching, supervision, volunteer work, or charitable missions
- Cyber events, HIPAA incidents, and electronic patient data
- Dental board investigations and license-defense expenses

Common exclusions include intentional or criminal acts, sexual misconduct, unlicensed services, and procedures outside the dentist's disclosed scope. Coverage may also depend on permits, training, supervision, and compliance with state rules.

PRACTICE CHANGE ALERT

Before launching a new service, tell the insurer exactly what will be done, who will do it, where it will occur, and what training or permit supports it. Obtain written confirmation that the activity is covered and whether an endorsement or additional premium is required.

7 | WHEN TROUBLE APPEARS

What to Do After an Incident, Claim, or Complaint

The first response should protect the patient, preserve the truth, and activate the professionals hired to help you.

A claim can begin with a demand letter, a request for records, a threat of legal action, an unexpected complication, or notice from a dental board. A lawsuit is a formal court action with strict deadlines. Both require prompt attention. Waiting for an allegation to become more serious can reduce the insurer's ability to guide the response.

01 Address immediate patient-care needs and document the clinical response accurately.

02 Notify the malpractice insurer or designated reporting contact promptly.

03 Preserve the complete chart, images, consent forms, messages, billing records, and audit trail.

04 Do not alter, rewrite, backdate, delete, or “improve” the clinical record.

05 Do not admit liability, promise payment, or negotiate directly without guidance.

06 Limit discussion to the insurer, assigned counsel, and those who need to know.

07 Follow all response deadlines for lawsuits and board complaints.

08 Under counsel's direction, prepare a separate chronological recollection of events.

09 Cooperate with the investigation and remain available to the defense team.

WHY CHART ALTERATION IS DANGEROUS

Electronic records preserve metadata and audit trails. A late change intended to strengthen the defense can instead damage credibility, create allegations of concealment, and turn a manageable clinical dispute into a far more serious legal problem.

EXPERT TIP

Report circumstances that may reasonably become a claim, not only filed lawsuits. Claims-made policies can contain strict reporting requirements, and late notice may jeopardize protection.

8 | PREVENTION

Reducing the Risk of a Claim

The best defense begins before the procedure, inside the daily habits of the practice.

Risk management is not a promise that no patient will complain or sue. It is the disciplined process of identifying exposures, reducing preventable errors, transferring financial risk through insurance, and continuously reviewing whether the systems still work.

Seven habits of a safer dental practice

01 **Work within competence.** Refer or seek support when a procedure exceeds your training, comfort, or available resources.

02 **Assess before treating.** Review medical history, medications, diagnostics, expectations, and factors that increase complication risk.

03 **Communicate plainly.** Explain the diagnosis, alternatives, material risks, expected course, costs, and limits of treatment.

04 **Document the story.** Record the reasoning, consent discussion, instructions, missed appointments, complications, and follow-up efforts.

05 **Manage expectations.** Cosmetic and elective treatment can create dissatisfaction even when technically successful. Define realistic outcomes.

06 **Respond to conflict early.** Listen without defensiveness, address concerns professionally, and obtain insurer guidance when threats appear.

07 **Review systems.** Train staff, audit records, investigate near misses, and update protocols as the practice changes.

A PRACTICAL TRUTH

Patients are less likely to view an unwanted outcome as betrayal when they felt heard, respected, and honestly prepared for the possibility. Good communication does not replace good dentistry, but it strengthens the trust surrounding it.

9 | ANNUAL REVIEW

Your Malpractice Insurance Checklist

A policy should evolve with the dentist, the practice, and the legal environment.

- Confirm whether the policy is occurrence or claims-made.
- For claims-made coverage, verify the retroactive date and tail obligations.
- Confirm the exact legal names of the dentist, entity, locations, and associates.
- Review per-claim and aggregate limits, including whether limits are shared.
- Confirm that defense costs are outside the liability limits when available.
- Review consent-to-settle language and any hammer clause.
- Confirm coverage and limits for dental board complaints.
- Disclose every material procedure, technology, permit, and practice location.
- Review exclusions and all endorsements, not only the declarations page.
- Confirm protection for employees, contractors, locum tenens, and outside work.
- Review insurer financial strength, claims expertise, and risk-management services.
- Know exactly how and where to report an incident after business hours.

CLOSING THOUGHT

Malpractice insurance is tested at the claim, not at the quote. The right time to understand the policy is while the practice is calm and the choices remain yours.

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Insurance and risk-management guidance built specifically for dental professionals.

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