Insurance Guide for Dental Practitioners

Safeguard Success

1300 136 339
www.dentalessentials.com.au
## Contents

**Introduction**
- 2

**Insurance Overview**
- How it works 2
- Underinsurance & Average Clauses 3
- Duty of Disclosure 4
- Excess & Claims History 4

**Strategies to Minimise Risk & Severity of a Loss** 5

**Disaster Recovery Planning**
- 6

**Types of Business Exposures**
- 6

### Physical Loss or Damage
- Business Property 6
- Flood 6
- Theft & Money 6
- Glass & Signage 8
- Goods away from premises 8
- Breakdown of machinery & equipment 8

### Liability
- Medical Malpractice 9
- Public Liability 9
- Other legal exposures 9

### Financial Exposures
- Business Interruption - Loss of Revenue / Profits 11
- Tax Audit 11
- Employee Theft 11

### Employee Protection
- Workers Compensation 12
- Employees Property 12
- Journey Cover 12
- Travel Insurance 13

### Personal Protection
- Income Protection 13
- Business Expenses 13
- Life 13
- Total & Permanent Disablement 13
- Trauma 13
- Key Person 13
- Buy-Sell 14

**Dental Essentials** 14
Introduction

Like any business a dental practice has differing types of business exposures to consider which could result in financial losses. These exposures may effect short or long term profitability of the business, and at the larger end of the scale could result in considerable costs, hardship or failure of the business.

This material is aimed at providing an awareness of the risks involved and ways in which these risks can be managed to protect financial loss.

We will discuss the common risks we see facing dental practices later in this course material, and will indicate what can be insured and will identify common pitfalls and misconceptions made by those who are unfamiliar with insurance. The aim of this material is to;

- Provide a general outline of insurance concepts & terminology;
- Discuss how you can put measures in place to reduce the chance of losses occurring, & planning for recovery if a disaster does occur;
- Discuss exposures faced and tips regarding insurance strategies to protect against these risks and mitigate any losses incurred.

Insurance overview

How it Works

Insurance can be taken to protect against the major exposures faced by a business & is a means of transferring a particular risk from one party to another (i.e. your business to an insurance company) in exchange for a premium. It is a contract between the two parties under which the insurer agrees to pay a specified sum for losses covered under this contract.

Insurance in some cases is made compulsory by law, such as Workers Compensation insurance & Medical Malpractice. Similarly, some assets need insurance in order to satisfy a financial contract requirement.

When reviewing the risks faced by your Practice and determining what to insure, it is important to think about what the most likely risks are, which assets could not afford to be lost & what liabilities are too great a potential threat to be left uninsured. An obvious example would be business property (dental equipment, practice fit-out, office equipment, computers and so on). Partial damage to, or complete loss of these assets by way of fire, storm, flood or other means would obviously be devastating to any business and insurance to protect against these losses is essential.

It is then a matter of determining what types of losses could occur and making sure the insurance in place covers those events (e.g. Fire, cyclone, flood, and theft).
Everyone has a different attitude towards risk and how much they are prepared to accept. In some cases an option chosen by some may be to leave certain risks of lower magnitude uninsured (referred to in the insurance industry as ‘self insurance’) and accept the risks involved.

Obviously if you were to go down this path, one would assume that the financial risk is one that could be absorbed by the business without significant hardship or the threat of going out of business. An example of this could be insurance for portable business property such as phones or laptop computers, money or tax audit insurance.

Average & Underinsurance Clauses

An important insurance concept to be aware of is the existence of ‘Average’ or ‘Underinsurance’ clauses found in certain sections of commercial insurance policies, and the effect this can have on a claim payout.

These clauses require you to insure your assets for their full value. Where this is not the case, an insurer can reduce the amount of a claim settlement to account for the proportion of underinsurance involved. Each policy will differ but this generally can apply where the property is insured for less than 80% of its full value. This will always apply to business property covers (e.g. buildings, contents & stock), and commonly applies to Business Interruption as well as Equipment breakdown.

Average clauses are intended to ensure that the insurer receives the correct premium for the risk they are accepting to insure, & to avoid the temptation of intentionally underinsuring to save on insurance premiums.

A simple example of how this applies. You arrange insurance on property with a $100,000 replacement value for $50,000 (i.e. 50% underinsurance). A fire occurs and you lodge a claim for $20,000 repair costs. Your insurer assesses the loss and realises the property is underinsured, and so the Average clause in your policy is applied to your settlement. As a result you will only receive a $10,000 settlement, leaving you to cover $10,000 of the repair cost.

As this simple example illustrates it is important that you are aware of which areas of a policy are subject to an ‘underinsurance’ clause, and that the time is taken to ensure your insured values are correct.

If you are unlucky enough to have a serious disaster happen to your business, receiving a reduced settlement from your insurer is the last thing you would want on your mind, and it is easy to see how this would make returning to normal trade after an event all the more difficult. Steps can be taken to make sure your levels of insurance are correct for the property you are insuring;

- Prepare and keep an inventory of your business property using replacement values for all items (replacement values i.e. new for old) and reviewing this periodically. Dental Essentials can provide a simple pre-prepared Excel based tool to assist on request.

- Ensure new additional equipment is accounted for at the time of purchase.
- Allow for inflation each renewal to ensure increased replacement costs are accounted for. Your insurer may automatically ‘index’ your sums insured by a certain percentage and this should be checked to ensure adequacy.

- Ensuring you are not basing your sums insured on depreciated accounting values.

If you lease your premises you probably purchased or installed your fit-out, which forms part of your business property. The cost to replace this will need to be included when arranging cover for your property. As fit-out can form a large part of your sum insured, not including this would be a pitfall that could easily lead to an Average clause applying if a claim event occurs.

Purchasing insurance to protect your business against sudden & unforeseen loss or damage is a sound investment. Taking time to periodically review your levels of cover benefits you by ensuring you will have sufficient insurance to re-establish your business if a peril occurs, as well as avoiding any reduction in a claim payout due the application of an Average clause.

**Duty of Disclosure**

In dealings with insurers all insured persons / entities have a duty of disclosure imposed by the Insurance Contracts Act 1984. This duty requires disclosure of every matter that you know or could reasonably be expected to know may be relevant to the insurers decision to provide insurance or not, and on what terms. This duty also applies at inception of a policy as well as renewal, and whenever it is extended or varied.

Failure to comply with this duty may allow the insurer to reduce a claim payout or avoid payment of a claim entirely.

Anything which is common knowledge, diminishes the risk, or that the insurer ought to have known is not subject to the above.

Common examples of required information are claim history details, criminal history details, instances of bankruptcy or receivership and so on. Prior to offering insurance to a new client, insurers will query the insurance history of the business normally for the previous 5 years.

**Claim excess**

Sometimes referred to as a ‘deductible’, an excess is an amount which the insurer will deduct from a claim settlement. An excess can also be time based, such as a 24 or 48 hour excess for business interruption claims. This amount or time period must have expired before a claim is able to be made.

It is commonly known that an excess can be increased to reduce the premium charged by the insurer. Excesses are also used by insurers to try and control claims frequency. Insurers can impose an excess on certain areas of a policy to discourage claims or try to limit their exposure to certain risks, which is commonly done when frequent claims are made and a trend becomes evident.
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**Strategies to Minimise The Risk & Severity of a Loss**

Insurance is an important means of transferring the financial risks you face from yourself to an insurer. However it shouldn’t be used as the first line of defence.

Frequent claims can result in your insurer increasing your insurance premiums, can result in them applying restrictive terms on your cover (e.g. Increased claim excess, sub limits applying) or in certain cases decline to offer insurance based on a claim history presenting them with too great a risk to accept.

As another strategy, risk management planning with an aim at minimising the probability & severity of certain losses occurring is another means of managing risk. As well as avoiding unnecessary loss and interruption to your business, it should also assist in keeping insurance premiums and terms as favorable as possible.

Certain measures can be taken which may seem obvious, but are frequently not put into place by many businesses. Measures required depend upon the particular situation and location of the practice involved. Some common examples of questions to consider are below;

- Do you have systems in place to prevent possibility of employee theft?

- Is an inventory conducted at the end of each day to account for small equipment which can easily go missing such as hand pieces, cameras etc. (i.e. thrown away inadvertently)?

- Are external doors and windows adequately lit or protected with security devices to deter burglary attempts?

- Do you have any external plant which may be a theft target & is it protected adequately?

- Are workplace systems in place restricting use of expensive equipment to only suitably trained staff?

- Do you have adequate power surge protection devices installed?

- Have you considered isolating the power to expensive pieces of equipment after hours to remove the possibility of power surge, storm, and lightning damage overnight?

- Is money stored in a safe & banked regularly?

- Do you have any stock or equipment which is stored close to ground level which would be damaged if water entered the storage area, & can these be elevated to avoid a loss or the severity of any loss?

- Are there smoke alarms and can these be linked in to a monitored alarm system to help reduce severity of fire after hours?
Disaster Recovery Planning

Statistics available indicate that each year 1 in 500 business will suffer a severe disaster. Of these 43% never reopen and of those that do, 29% close within 2 years.

Properly arranged insurance can indemnify you for financial loss, but the inconvenience caused by an event requiring an insurance claim is stressful & can create uncertainty nonetheless.

This is where disaster recovery planning can assist. By preparing for the worst and having a plan to fall back on after say, a fire, you should be able to get your Practice back up and running as quickly as possible.

Consideration should be given to;

- Types of losses the business is exposed to;
- Premises - Considering where you would go (are alternative premises readily available in the area?);
- Staff – Considering who will be responsible for what tasks in each scenario. I.E;
  - Advertising to patients to advise of new or temporary premises, sourcing new or hiring of equipment;
  - coordinating staff; liaison with the insurer or claim assessor.
- What will you do with key staff;
- Suppliers - Alternate suppliers if you’re usual suppliers are out of stock or go out of business

Working from templates can assist in this activity and are available from Dental Essentials free of charge.

Types of Business Exposures

Physical Loss or Damage

Business Property
Purchasing and installing a practice fit out, dental equipment, office equipment, stock and other items of business property such as furnishings as well as buildings in some cases involves a significant outlay of funds.

When insuring any property it is important to be aware of what types of loss or damage the property is protected against, so that you can select the right policy or the right options or sections of the policy involved.
There are two major classes of insurance available for business property. ‘Defined Events’ (also referred to as ‘Fire & Perils’, & Accidental Damage. A Defined Events policy contains descriptions of certain perils (literally, defined events) for which you are insured. To constitute a claim, the circumstances of your loss must precisely meet the description given in the policy. If the cause of your loss does not fall under one of the listed ‘events’ no cover will apply. These events will typically include:

- Fire, lightning or explosion
- Storm, tempest, rainwater, snow, sleet, wind, hail, cyclone
- Malicious Damage
- Impact (by vehicle, aircraft, tree branch, animal etc.)
- Earthquake, Volcanic Eruption, Tsunami
- Riot, civil commotion
- Water leakage

Accidental Damage policies are a broader form of cover insuring you against any and all losses unless the loss is excluded in the policy wording. By their very nature, Accidental Damage policies are the superior level of cover.

As an example, dropping and damaging equipment would typically not fall under any defined ‘event’ and would be excluded if ‘fire and perils’ only cover is in place. Accidental damage insurance would be needed to cover this type of loss.

**Flood**

The vast majority of commercial insurance policies do not provide cover against loss or damage caused by a Flood as standard, and this cover needs to be specifically requested from the insurer.

The insurance industry has recently adopted a standard industry wide definition of what the word ‘Flood’ refers so there is certainty as to what this means in any policy. This definition defines Flood as;

> “the covering of normally dry land by water that has escaped or been released from the normal confines of (a) any lake, or any river, creek or other natural water course, whether or not altered or modified; or (B) any reservoir, canal or dam”.

If your business location is at risk of Flood as defined above, insurance to protect against flood should be arranged if possible. Your local council should be able to assist in providing data to indicate the likelihood and severity of Flood risk in the area if you are unsure.

**Theft & Money**

In most cases, insurance against theft / burglary & Money is a separate area of cover from the Fire & Perils or Accidental Damage cover noted above.

To protect against burglary a specific section of cover is required and you will need to specify the amount of cover required. When arranging this, the value of items on site which are at risk of being stolen / are theft targets should be considered.
Sometimes insurance policies can restrict cover for theft when there has not been forced entry into the premises. It is worth checking these limits and adjusting the cover / moving policies if your cover is unsuitable.

Money is usually separate to this theft limit. To protect against theft and loss of money, a specified section of cover is required and you will need to specify the amount of cover required (i.e. $1,000, $2,000 limit or greater).

**Glass & signage**
When insuring buildings it is important to note that glass is normally a separate section of cover, and if unselected you will be uninsured for losses to do with glass breakage.

This is important to make note of if you own the buildings or are required to insure plate glass under the terms of a lease.

In addition, illuminated signs are normally insured under this section of a policy to a specified limit. If there are signs of this type in place, the section of cover should be held and the limit confirmed as adequate, adjusting as required.

**Goods away from premises / transit / portable goods**
When insuring business property (contents and stock) portable items such as laptop computers and mobile phones are in most cases not insured for loss, damage or theft when they are taken away from the business premises.

If you have items of this nature, and want your practice insurance to cover these types of losses, these items will need to be listed in the relevant section of your policy, commonly referred to as General Property.

If you move other types of practice equipment regularly it is best to refer to your insurance provider / broker to ensure loss during that type of movement / transit is covered if you want to insure this risk.

**Breakdown of machinery and equipment**
Dental practices contain a lot of expensive equipment. Repair or replacement costs following breakdown of equipment as a result of an internal fault (i.e. no external cause such as lightning or storm) are not insured by the ‘fire & perils’ or ‘accidental damage’ cover mentioned earlier.

A separate area of insurance is needed to insure against these risks referred to generally as Equipment or Machinery Breakdown, sometimes ‘engineering’. Maintenance or wear and tear is never insured but rather sudden & unforeseen breakdown of equipment. Common examples are burnt out compressor motors, faulty x-ray components, burnt out computer servers and so on.
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Liability

Medical Malpractice Exposure
The most obvious forms of insurance needed for a dental practitioner is Medical Malpractice insurance, which protects against sums which may be sought by a patient for compensation following instances of professional negligence.

It is a requirement for all practitioners to hold this form of insurance in order to be able to provide treatment.

Public Liability
This refers to liabilities to third parties in relation to personal injury or property damage occurring in connection with your business activities. Examples of this could be a person tripping over some worn carpet in your waiting room, stock in a hallway, or slipping down wet stairs causing long term injuries.

For a third party to make a claim for public liability, basically, it is a requirement that they prove negligence (i.e. breach of your duty of care) on part of the business.

All businesses should hold Public Liability insurance as protection against sums you may become liable to pay in compensation for personal injury and / or property damage, as well as legal expenses.

This area of insurance is commonly combined together with ‘Products Liability’ referred to as ‘Broad form Liability’.

You can select the limit of cover required usually at limits between $5Million - 20 Million. The increasing costs of litigation in Australia and the fact that serious claims can take years to settle means it is important to consider what level of risk you have and how much cover you require.

Contractual Liability - If you assume any liabilities under a contract which are beyond your liabilities at law (e.g. you agree to indemnify another person or company for their liability) it is important to be aware that this can have a limiting effect on your insurance.

All public liability insurance policies contain an exclusion for ‘contractual liability’, so it is important that you discuss this type of scenario with your insurer or broker for advice.

Other Legal Exposures
The types of exposures discussed so far are commonly known as well as the insurance available to protect against them. There are other risks which aren’t considered as often and can be just as costly. Insurance can be taken to protect against many of these potential costs as will be outlined below.

Employment Related Exposures
With society as litigious as it is becoming it should be no surprise that employees are as well, and are more aware of their rights than ever before. There are a lot of employment regulations to abide by,
and without a dedicated human resources department the burden generally rests with the employer. To name a few areas to consider;

- Unfair dismissal
- Failure to employ or promote
- Sexual discrimination
- Racial or religious discrimination
- Workplace bullying

There is always the possibility that legal action can be brought against you by an aggrieved current, former or prospective employee, and even if it is a completely baseless claim, you will still incur legal defence costs. Insurance is available against these types of costs referred to as Employment Practices Liability insurance. Legal costs as well as penalties imposed can be insured.

**Investigations by Regulatory Bodies**
There are a variety of laws and regulations imposed on all businesses. Regulatory bodies can conduct investigations or audits into your business which can result in costs either by way of fines, penalties, or legal costs. These investigations could relate to;

- Occupational Health and Safety / Work Cover
- Trade Practices legislation
- Privacy
- Medicare

**Errors & Omissions of Employees**
The actions of your employees in dealing with the public can result in legal action against you as the employer. As an example, in their dealings with the public a staff member may be deemed to have discriminated against a third party who then seeks compensation from you as you can be held vicariously liable. Insurance is available to protect against this type of scenario.

**Property / Contract Disputes**
Disputes can arise from a contract or agreement in relation to the rent, purchase, hire or supply of goods or services in relation to your business. Disputes can arise in relation to use of property under terms of a lease and so on. Again, this type of cost can be insured against.

**Directors & Officers**
When arranging their business structure many organisations create a company for a range of reasons. As a director or officer of a company, obligations are imposed as to how they perform their duties. In certain circumstances if it is proven that they have committed a wrongful act, legal action can be brought against them directly rather than against the company. This leaves their personal assets open to attack. Insurance is available to protect Directors & Officers of a company against this type of exposure.

As outlined above, there are a variety of legal exposures any business is faced with. Potential costs come in the form of legal expenses, fines and penalties. There are various forms of insurance available to protect against these costs. Speak to your Broker or Adviser to discuss your options in detail if you would like to insure against these risks.
Financial Exposures

Business Interruption
Following a major loss such as a fire, as well as physical losses to property, the business will most likely experience a loss of income. Insurance is available for this type of loss which is termed Business Interruption insurance, and sometimes ‘Consequential Loss’.

Business Interruption cover will apply following insured property damage. For example fire, cyclone, earthquake.

Available statistics indicate that 43% of businesses that experience a disaster will never re-open & 29% close within 2 years. Over 90% of businesses without business interruption insurance failed within 2 years according to recent studies.

Cash flow is the life blood of any business, & holding Business Interruption insurance when a disaster strikes will enable you to:
- Pay ongoing business expenses;
- Retain key employees while property is reinstated;
- Recover additional expenditure incurred in minimising your loss;
- Recover claim preparation expenses;
- Recover loss of profit.

It is common for Business Interruption insurance to be confused with Business Expenses or to a lesser extent, Income Protection insurance. These forms of insurance do not apply to lost business income following property damage, but rather to personal injury or illness of the insured person. This is a major difference to be aware of.

Tax Audits
All businesses are exposed to the possibility the ATO may conduct a random audit of tax records. These can vary in scope and can be costly in the form of accountant’s fees for their services in preparing & submitting the required information. This can be especially costly in cases where a business involves multiple legal entities with complex relationships.

Insurance is available for these costs referred to commonly as Tax Probe or Audit Expenses. You can select the level of cover you require usually anywhere from $10,000 per claim upward.

Employee Theft of Money or Property
It is not uncommon to hear of theft committed by staff. If left unchecked it is possible for staff to misappropriate funds for extended periods of time until an anomaly is identified which exposes the theft, usually discovered by accident. It could be very easy for a deceitful employee with payment or accounting responsibilities and authority to steal from the business without detection.

Apart from putting in place procedures to hopefully reduce the likelihood of this occurring, insurance can be taken to protect against these losses, which is typically referred to as Fidelity Guarantee, Crime or Employee Dishonesty insurance. Price for this type of insurance will vary in most cases based on numbers of staff and the amount of cover you request.
**Accounts Receivable**
If you have a loss involving fire or water damage it is quite possible unpaid account information may be damaged and unable to reconcile. Many surgeries avoid exposure to this type of claim by either taking payment on the day of treatment, or in many cases records are electronically stored and backed up.

If you believe you are exposed to a loss from this type of occurrence, you can insure this risk. This is commonly an optional cover under the Business Interruption section of a policy, and you can select the sum insured based on your level of exposure.

**Employee Protection**

**Workers Compensation**
Workers Compensation Insurance is compulsory in all states of Australia. Legislation applying to each state is different and different schemes operate.

In Western Australia, Tasmania, ACT and Northern Territory a privatised system operates which enables insurers to offer their own rating structure & you are able to utilise the services of an insurance broker. In all other states a government run system operates which does not allow differentiation on rates or broker involvement.

Employers are required to hold Worker’s Compensation for all of their workers. Each state differs to a degree, but the definitions are broad and extend to include sub-contractors as well as direct employees (full time, part time, casual). If you are unsure whether you have your insurance arranged correctly contact Work Cover in your state or your broker for advice.

Penalties apply in all states for non-compliance so it is important this is arranged correctly.

**Employees Property**
If you would like to give some protection to staff for loss / damage or theft of their personal effects while at work, this can be included in the business policy if the right cover is taken.

In many cases when insuring business property, an additional benefit may be given to protect these items at the business premises. It is important to note this only applies if the employee involved doesn’t hold their own insurance for this type of loss (e.g. Home insurance covering portable goods).

**Journey**
As a general rule Workers Compensation insurance will not provide cover to a Worker during their journey to and from their place of work.

As the employer if you want to provide staff with some protection, insurance can be taken referred to as Journey cover. This is purely optional and operates similarly to Personal Accident insurance.

**Travel**
If your staff travel for a work related purpose interstate or overseas, travel insurance should be looked into for protection against cancellation costs, luggage and medical expenses if travelling overseas, as well as other areas insured by a good travel policy.
For a smaller dental practice this is unlikely to be necessary, but for a bigger organisation with a larger workforce who may travel between locations, or to courses or conferences, a corporate travel insurance policy may be a cost effective means of providing this insurance year round rather than taking single policies each time travel is undertaken. This can also be a good staff benefit if arranged correctly.

**Personal Protection**

See below for a basic outline of the types of cover available.

**Income Protection**
Cover designed to replace 75% of your income in the event that you are unable to work due to an accident or illness.

**Business expenses**
Provides cover for business overheads (fixed operating expenses) following injury or illness. This cover is commonly confused with ‘Business Interruption’ Insurance covered earlier in this material.

**Trauma**
This cover provides a lump sum payment in the event of specified conditions e.g. Cancer, stroke, heart attack. Holding this cover allows you to focus on recovery without eroding existing wealth during this time.

**Life Insurance**
Life insurance provides a lump sum payout in the event of death / diagnosis of death with the aim to resolve debt and provide income to dependents following death.

**Total & Permanent Disability (TPD)**
Provides for a lump sum payment after a consecutive six month period of total disablement following which medical advice confirms you are unable to work again, either at your own occupation, or any occupation.

**Key Person**
The term ‘Key Person’ refers to a person or employee, whose contribution to an organisation is essential to its success/ successful continuity of the business. If the ‘Key Person’ dies or becomes disabled their major contribution disappears & the business would suffer financially. Key Person insurance provides funds to assist the business in continuing operations & implementing contingencies.

**Buy-Sell**
Part of a business succession strategy, which allows one partner to buy out a deceased or disabled partner’s share in the business. The purchase is funded by the insurance policy.
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Take advantage of the expertise and experience of Dental Essentials to protect your business. Contact Dental Essentials on 1300 136 339 or email enquiries@dentalessentials.com.au to discuss your needs.