

A commercial decision – To refund or not, that is the question

Yes No

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How likely am I to receive a complaint?

Dental practice differs from many other health professions, with practitioners undertaking multiple high-risk surgical procedures on a daily basis, working predominantly in private practice. These characteristics may place dental practitioners at an increased risk of complaints as well as certain forms of legal and regulatory action when compared with practitioners from other health professions.

AHPRA regulates health practitioners across 15 specialisations. Practitioners from these professions must have professional indemnity insurance (PII) arrangements that comply with the relevant registration standard, for all aspects of their practice.

A recent study shows that dental practitioners have the highest rate of complaints among fourteen health professions. The study showed that approximately 1 in 23 dental practitioners have a complaint lodged against them each year. Any practitioner facing a complaint has various options when it comes to responding to their complaint, including AHPRA, or the Health Complaints Commissioner (HCC). Often the complaint is accompanied by a request for a refund or a request for a compensation. The HCC often encourages people to attempt to resolve their complaints directly with the

practitioner, and can act as an intermediary in the process – further information can be accessed at www.hcc.vic.gov.au/public/our-process.

What's the potential impact if I receive a complaint?

Unfavourable outcomes or experiences during dental treatment may result in complaints against dental practitioners. Not only can adverse events in a dental setting lead to litigation and disciplinary action, complaints against dental practitioners are also known to contribute to stress and have ramifications across the entire dental practice. An AHPRA notification may result in conditions of registration, and/or requirements for further training and education at the practitioner's own expense.

What should I do if I receive a complaint?

Reporting incidents early enables support to be provided to a member by Guild Insurance, and for the implementation of management strategies to mitigate adverse outcomes. Timely notification enables the best outcome for the practitioner, the patient, and the profession. In the case of Guild insured ADA members, the member will be assisted by one of the Community Relations Officers (CROs) or Peer Advisors through their state branch.

It is crucial to understand that if a practitioner is aware of an incident or notification of a potential claim, the practitioner has a contractual obligation to notify their insurer. Failure to report can mean that seemingly minor incidents can escalate out of control, incurring significant costs, and potentially compromising the indemnity provided by the insurance policy.

If the patient directs their complaint directly to the practitioner, the practitioner is then provided with the opportunity to respond to and manage the complaint with the help and guidance from the state branch and this can reduce the time and stress involved in resolving a complaint as well as reducing the risk of the complaint escalating.

What are my options regarding resolving the complaint?

A complaint does not mean that the dentist has 'done something wrong'. Often a complaint is the result of a miscommunication and differing expectations.

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The possible decision to refund or provide compensation is a carefully considered option based on risk assessment conducted in collaboration with the insurer. A practitioner may decide not to agree to the patient's request for a refund or financial compensation, and the complainant may seek alternative pathways for their complaint, such as HCC or AHPRA.

The decision to refund, or not, is best made by the practitioner in collaboration with the indemnifier. Considerations include what is best for the patient's welfare, the practitioner's peace of mind, as well as the best interests of the long-term reputation of the practice.

Certainly, there are times when a commercial decision is not appropriate. It is not being advocated that the practitioner should resist defending the principle or accede to a patient's demands at the first hint of dissatisfaction. Each matter needs to be assessed on its merits and seeking advice is an appropriate approach to help in reaching a decision. A refund is not in any way an admission of liability, it's purely a gesture of goodwill.

One of the services provided by the CROs and Peer Advisors is to discuss the risks involved in the decision making and the possible outcomes bearing in mind that effective and appropriate complaint management strategies can prevent escalation of the matter.

If a decision is made to refund, it's important that the appropriate documentation is drawn up which may include a letter of offer and/or a Deed of Release, and your branch can assist with this process including assessing whether it is appropriate to claim under the indemnity policy.



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