

**Protecting Dentists.**

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## **Will You Be Liable for a Dental Implant Lawsuit?**




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The number of patients receiving dental implants is expected to increase 23% by 2026, and with the growth of mini-implant procedures and more value-based implant procedures offered by general practitioners, it is important for dentists to realize that doing a procedure which sometimes results in complications can lead to a lawsuit by a dissatisfied patient. Here are some tips on how to avoid that liability.

A thorough examination, diagnosis and discussion with the patient is very important to avoid a patient who is unhappy after treatment and claims he or she was promised a different result. Review the patient's medical history to check for pre-existing conditions or problem areas and inform the patient honestly about his or her decision regarding alternative prostheses or dental work which might be better than having an implant. Lack of proper informed consent is a separate cause of action nearly always alleged by lawyers in their malpractice suits and having a thorough verbal consultation as well as an understandable but detailed informed consent form is crucial. That makes it much easier to defend a case where the patient says that he or she was not informed of the dangers of complications of the implant treatment.

Refer out implant cases to an oral surgeon which may present a more complex case than a general dentist is used to handling. Additional training by a reputable source such as the American Association of Implant Dentistry always has meaning when a case for negligence is alleged because a dentist didn't know



how to handle complications such as post-operative infection, sinus involvement, non-restorable implants, etc. A good solution if a general dentist wants to take part in the implant procedure is to refer out the surgery phase where most complications occur, and then complete the prosthetic placement after the fixtures have been inserted.

Be choosy about treating difficult patients who you may foresee being dissatisfied with less than perfect results. Don't overpromise a perfect result as well. Stay within the financial means of the patient, for if the implant procedure is done just to make a buck instead of referring it out, the patient is going to complain that he or she was overcharged and will add that into damages as well as use this situation to harm the reputation of a dentist who is being accused of malpractice. There are many court cases of patients who come into an office with the possible need for an extraction and leave with expensive implants they later say they didn't need.

Complete documentation of all the steps in treatment planning, discussions with patients, informed consent forms and every part of the actual performance of the procedure is crucial to preventing eventual liability. Implants often are necessary when complications arose from prior treatment from a previous dentist or severe patient neglect, so it is important to note why the implant was necessary.

When treatment commences, don't be afraid to note complications or mistakes during the treatment procedure. Be honest about those mistakes or

unexpected complications soon after they occur and note that the discussion was had in your written notes. The patient will be less inclined to file a suit if the dentist is honest with them about every step of the procedure, even if something goes wrong. Remember that in Massachusetts a malpractice tribunal is required before a case can actually be submitted to a court or a jury and making a "mere error with an unfortunate result" may still allow to a case to be dismissed by a tribunal composed of at least some of your peers. If a patient decides to take a case to court even after the tribunal honesty and lack of unjustified defensiveness of a dentist has great weight in front of a jury.

The implant option is being advertised increasingly to potential patients and can be a lucrative part of your practice. As a larger percentage of the baby boomer population ages and teeth or dental work naturally wear out, a good percentage of the patient base might seriously be considering implants as the next step in their dental treatment plans instead of dentures. However, the process must be handled correctly since failure to meet a patient's expectations in such a costly procedure may easily result in liability harmful to you financially and to your reputation.

**Written By: HATCH LEGAL GROUP**

**Attorney Brian T. Hatch is the founder of Hatch Legal Group, the only dental practice specialty law firm in Massachusetts. Information about his firm and practice can be found at <https://hatchlegallgroup.com/> and you can contact him at [brianhatch@hatchlawoffices.com](mailto:brianhatch@hatchlawoffices.com).**

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**Katie Panikian, JD, CPCU, ARM**  
*EDIC Risk Manager/Chief Risk Officer*

Ms. Panikian is the Risk Manager at Eastern Dentists Insurance Company (EDIC). She has been in the risk management and insurance field for more than 10 years. Ms. Panikian is a licensed attorney in Massachusetts and Maryland and has achieved the Associate in Risk Management (ARM) certification and Chartered Property Casualty Underwriter (CPCU) designation. She can be reached at 508.475.0955 or [kpanikian@edic.com](mailto:kpanikian@edic.com).