
The National Society of Dental Practitioners and the Dentist's Advantage Insurance Program for Dentists

RISK MANAGEMENT ARTICLE

How a Claim Affects “Your Record”

As the claims administrator for the Dentist's Advantage Program, Intercare Insurance Services speaks to dentists on a daily basis about reporting a possible incident or claim. One of the most common questions we initially receive from our insured dentists is “how is this going to affect my record?” The answer to this question varies depending upon what “record” of which the dentist refers as well as the nature of the claim and the state in which the claim is brought.

For some dentists, the primary concern is how a newly reported claim affects their insurability, or their record with the insurance company. For others, the bigger concern is their record with the dental Board, or finally, there is sometimes concern regarding one's record with the National Practitioners Databank. How a claim affects each of these concerns is varied, and quite different depending upon the type of claim.

An insured's claims history, or “record” with the insurance carrier, certainly plays a role in the development of premiums as well as the renewal of coverage. In an attempt to avoid conflicts of interest, insurance companies have distinct claims and underwriting departments. A claims analyst, assigned to assist in your defense of a claim, will not be the same person deciding your renewal eligibility or your premium. With professional liability policies, just like any insurance policy, both the number of claims as well as the amount paid on each claim (including both indemnity and defense costs) are taken into account any time an insured applies to renew their policy. However, keep in mind, that insurance underwriters often take into account multiple other factors other than the number and type of claims when calculating premiums and determining insurability. Importantly, the Dentist's Advantage policies require that an insured report the notice of a claim, or potential claim, within a reasonable amount of time. Never avoid reporting a claim for fear of how it will affect your “record” with the insurance carrier. Failure to timely report a claim can jeopardize your coverage in the event the claim is pursued or evolves into a lawsuit. The prospect of being left without coverage far outweighs the potential for increased premiums.

A dentist's “record” with the dental Board as the result of a claim depends upon multiple factors, including the particular state in which the dentist is licensed, the type of claim, and the outcome of the claim. Some states require an insurance carrier to report any claim to the dental Board at the time the claim is opened, regardless of the type of claim. When your claim is assigned to a claims specialist, he or she can advise you whether the claim is being reported to the Board at the inception of the matter. Similarly, some states' dental Boards require the insurance carrier report the claim to the Board at the conclusion of the claim. Some dental Boards require a report only when a settlement or verdict is over a certain amount, and some require a report regardless of a settlement amount or even if no money is paid on the claim. Again, because this is state-specific, this is a question that your claims specialist can answer for you. For dentists practicing in states that only require reporting if a certain amount of money is paid out, it is important to discuss the reporting requirements with your claims specialist, as it may affect your decision whether to settle your claim. Finally, be aware that most state Boards have self-reporting requirements for certain events, whether or not a claim is brought. Your claims specialist cannot provide legal advice to you regarding statutory requirements for self-reporting incidents or claims. We recommend you regularly review your state specific self-reporting requirements to ensure you are complying with your licensure regulations. This information can usually be found on your state Board or local association's websites. If in doubt, consult a dental malpractice attorney in your area. Your claims specialist can recommend an attorney in your area.

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Another “record” of concern to dentists faced with a claim is that with the National Practitioner’s Databank. The Databank is a federally run organization that was created with the purpose of allowing state licensing Boards to share information regarding licensed health care providers. The practical effect of a report to the Databank is that if a dentist decides to seek licensure in another state, the local licensing Board can utilize the Databank to research the applying dentist’s history of claims and lawsuits in other states. The general rule is that the insurance carrier must submit a report to the Databank if a settlement or verdict in *any amount* is paid to a patient¹.

So, when you first report a claim and you are wondering how it will affect your “record” the answer to the question will likely be “it depends.” The effect of a claim against you depends largely upon which entity you are concerned about (the insurance company, the state Dental Board, or the Databank) and further upon the type of claim and most of all, in what state you are licensed. Most of these questions can be answered by your claims specialist. If we cannot answer your question we will always ensure you are directed to a resource who can. It cannot be stressed enough that you should not avoid reporting a claim to Dentist’s Advantage for the purpose of avoiding a “black mark” on your record. In the event a claim results in a report to the Databank or the state Board, keep in mind it is just one part of the claims process and your claims specialist will be available to guide you through an issues you may encounter.

About spotting and reporting incidents:

Your Dentist’s Advantage insurance policy is much more than a piece of paper - it’s a commitment to deliver the claims service that stands behind the policy. Spotting and reporting incidents is the essential first step in the claims process. But how do you know when you’ve experienced an incident? Many incidents are obvious. In other cases however, you may wonder whether it is necessary to report the event to Dentist’s Advantage.

Here is some basic information about incidents and guidelines on identifying and reporting them:

Medical Incidents are any error or omission in your dental services that you think may lead to a claim. Incidents also include any event indicating that a patient may be considering filing a claim relating to your professional services, even when you cannot find an error in your treatment.

Incidents can be clinical in nature such as adverse treatment results and medication errors but may also include signs of patient displeasure, such as a letter of complaint, a heated disagreement, or repeated failure to keep appointments without adequate explanation.

After you report the claim....

1. Do not discuss your claim with anyone, including the patient. Limit all discussion of the claim to your claims consultant or your attorney.
2. Do not make any changes, alterations, additions or deletions to the patient’s chart. Discuss any issues you may have with the patient’s chart with your claim consultant or attorney.
3. Do not sign or accept any document related to the claim from any party without obtaining approval from your claims consultant.
4. Avoid discussing, commenting upon, or taking issue with any information you receive regarding judicial or administrative proceedings.

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5. Be sure you do not admit liability, consent to any arbitration or judgment, or agree to any settlement proposal.
6. Be prepared to spend a substantial amount of time with counsel and your claims consultant to aid in the investigation of your claim.
7. Report any communication you receive from the patient, patient's attorney or any state or federal administrative agency, licensing or regulatory authority, immediately to Dentist's Advantage and your claims consultant.

†This is not applicable to employment related claims and for some claims paid on behalf of a corporation.

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