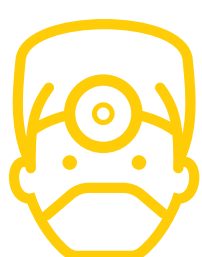


# DENTAL MALPRACTICE 101



## What is dental malpractice?

Malpractice is a type of negligence that pertains to professionals. It is the failure to provide the degree of care required of a professional under the scope of license resulting in injury, death or damage.

### HOW COURTS DEFINE MALPRACTICE VS. HOW PATIENTS DEFINE MALPRACTICE

#### Courts

Four elements must exist for an incident to be considered malpractice:

- Duty: a dentist-patient relationship must exist
- Breach: standard of care was not met
- Cause: injury was caused by the dentist's error
- Harm: injury resulted in damages

#### Patients

To patients, it is the *perception* of wrongdoing:

- Even excellent dentists can fail to connect with all of their patients
- If a patient perceives he or she has been injured as a result of the care you provided, or failed to provide, that patient could sue

### Dental malpractice lawsuits serve two goals



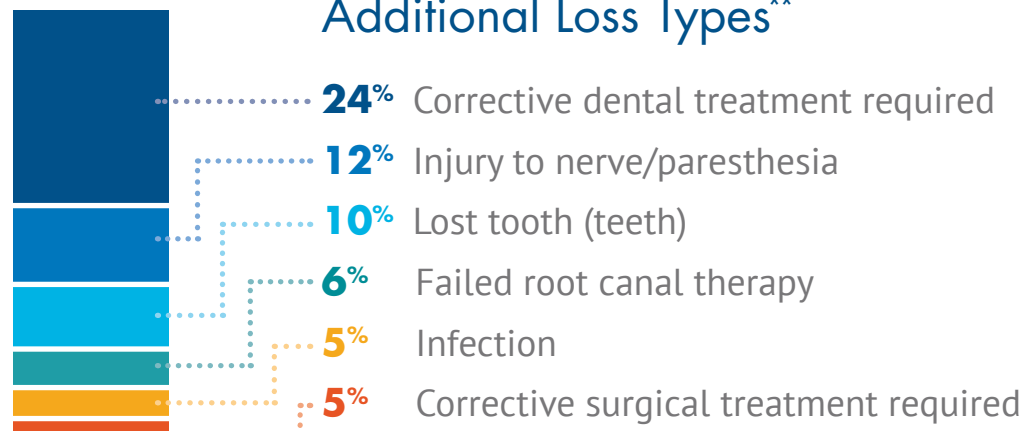
#### Types of recoverable damages:

| Medical expenses | Loss of income | Funeral expenses | Mental anguish | Pain and suffering | Loss of consortium |

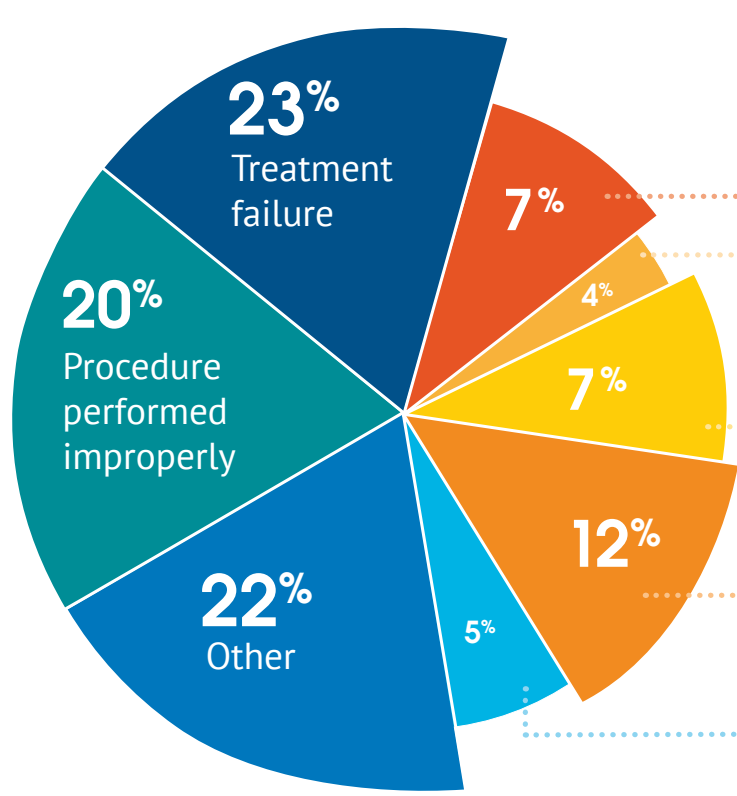
### Common Malpractice Allegations:

- Treatment failure
- Procedure performed improperly
- Inadequate precautions to prevent injury
- Inadequate supervision of personnel
- Failure to diagnose
- Inadequate informed consent
- Improper procedure performed
- Unnecessary treatment
- Wrong tooth (teeth) treated
- Equipment failure
- Improper follow-up care
- Failure to refer

### Top Alleged Injuries and Additional Loss Types\*\*



\*\*"Additional loss types" refer to corrective treatment interventions, or health conditions and findings that may have resulted from dental procedures or adverse outcomes.

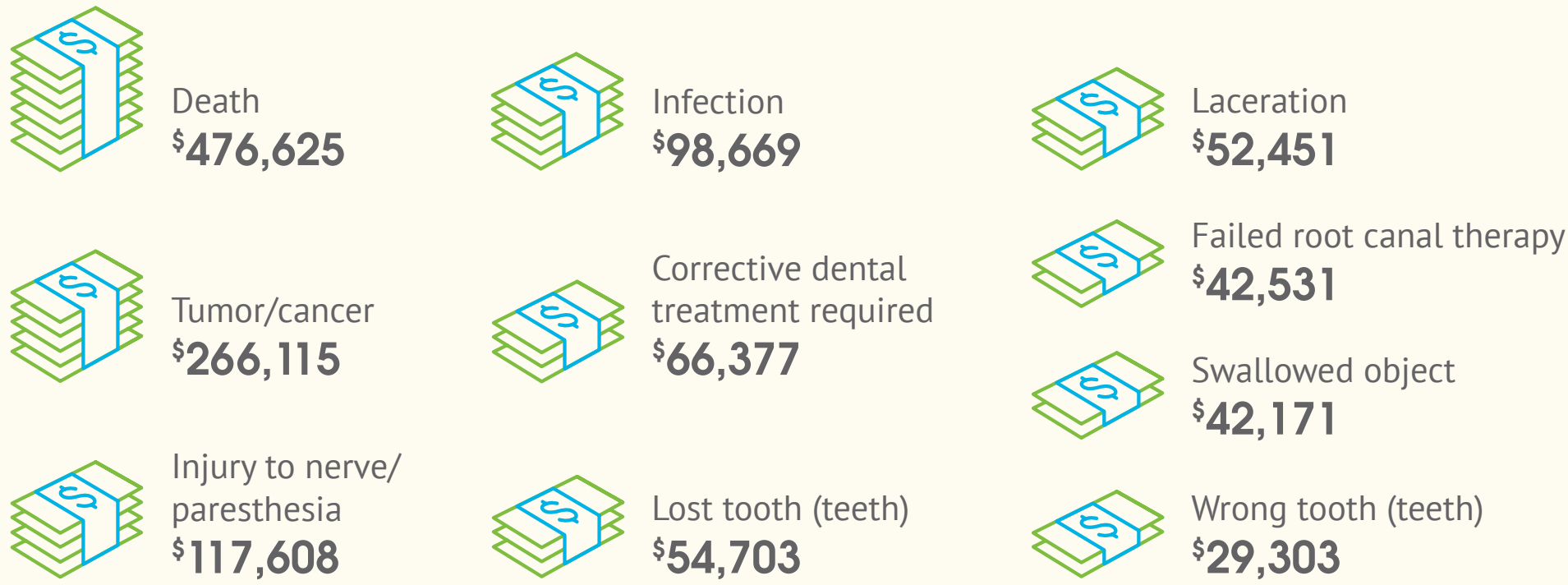


#### Top Allegation Categories\*

- 7% Improper procedure performed
- 4% Wrong tooth (teeth) treated
- 7% Failure to diagnose
- 12% Inadequate precautions to prevent injury
- 5% Unnecessary treatment

\*CNA. Dental Professional Liability 2016 Claim Report. 2016. <http://www.dentists-advantage.com/sites/DA/rskmgmt/Pages/DentalClaimStudy.aspx>

### Selected Average Payouts by Alleged Injury and Additional Loss Type\*



\*CNA. Dental Professional Liability 2016 Claim Report. 2016. <http://www.dentists-advantage.com/sites/DA/rskmgmt/Pages/DentalClaimStudy.aspx>

Providing personal protection

## Professional Liability INSURANCE

Paying indemnity for economic and non-economic damages

| Professional liability insurance is coverage purchased by dentists to safeguard against dental malpractice allegations by |

Covering costs associated with hiring legal representation



### What to do if you have been named in a dental malpractice lawsuit?

If you become aware of a filed or potential professional liability claim against you, receive a subpoena to testify in a deposition or trial, or have any reason to believe that there may be a potential threat to your license to practice dentistry, you should immediately contact your personal insurance carrier.

Report claims or potential claims to your insurance carrier, even if your employer advises you that it will provide you with an attorney and/or cover you for a professional liability settlement or verdict amount.

Never testify in a deposition without first consulting your insurance carrier or, if you do not carry individual liability insurance, the organization's risk manager or legal counsel.

Refrain from discussing the matter with anyone other than your defense attorney or the claim professionals managing your claim.

Copy and retain all legal documents for your records, including summons and complaints, subpoenas, and attorney letters.

### Request a free quote

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888.778.3981