



Liability

Lifeline

The background of the cover is a photograph of a wooden floor. A blue fringed rug is laid out horizontally across the middle. A white fabric pocket is attached to the rug, and inside it lies a black stapler. The floor is scattered with a large amount of colorful confetti, including streamers and small paper pieces in various colors like red, blue, yellow, green, and purple. The overall scene suggests a festive or celebratory occasion.

Celebrations, Closures & Care

Holiday Precautions for
Dental Practices

During the chaos and excitement of the holidays, it can be easy to overlook the basic protocols necessary for the smooth operation of your dental practice. Seemingly innocent office celebrations can erupt into HR nightmares. Extended office closures can wreak havoc on property. Distractions (also known as “holiday brain”) can put patients’ health at risk. But practice owners don’t have to start the new year off correcting mistakes of the past. By taking a few precautionary measures, it is possible to curb risk while wrapping up 2019 with joy.

According to The Dentists Insurance Company, there are three major considerations when preparing for the end of the year: handling office celebrations, preparing for office closures and maintaining standards of care.

Handling office celebrations

We’ve all heard the holiday party horror stories. The egg-nog-fueled conga line. The overly flirtatious co-worker. The slurry karaoke renditions of “Santa Baby.” While letting loose can be a boost to office morale, going overboard can have disastrous effects from a liability perspective.

Alcohol and holiday parties often go hand in hand. But providing alcohol to employees — even after hours, away from the office — can be a cause for a liability claim. If an employer invites most or all employees to a hosted social event, and attendance is mandatory or highly encouraged, it can be considered an employment function. Because alcohol reduces inhibitions, remarks and behaviors can easily turn inappropriate. Allowing an

5 Holiday Mixology Tips

If you do choose to serve alcohol at your year-end event, consider this guidance:

1. Stress that those in management roles must lead by example.
2. Use a voucher system or limit the number of drinks that are served.
3. Switch to coffee, tea and soft drinks at the end of the night.
4. Arrange alternative transportation in advance of the party.
5. While you cannot control them, recommend against “after parties.”

event to become too casual and unprofessional can set the stage for a harassment claim.

In one case reported to TDIC, a dentist hosted a holiday party at his house. Toward the end of the night, the dentist, who appeared to be intoxicated, allegedly approached an employee and made an inappropriate advance. The employee pushed him away and abruptly left his house in tears. She later stated that the dentist had expressed he wanted to date her and made comments about her personal life. She stopped showing up for work and hired an attorney.

In another case, a dentist took his staff out for drinks in celebration of the holidays. Afterwards, his office manager and hygienist went out to a bar. The office manager alleged that the hygienist made a pass at her. The office manager quit a month later and hired an attorney. In both cases, there were five-figure settlement demands.

TDIC reminds practice owners that standard harassment, anti-discrimination and workers’

compensation policies apply at company-sponsored events. Employers can, and have, been held liable for their employees’ behavior regardless of when or where it occurred. Celebrating off-site or after hours does not negate the responsibilities of an employer. Employers can also be held liable if an employee drives under the influence and causes an accident.

In response, many employers have considered eliminating holiday parties altogether. In fact, according to a study by executive outplacement firm Challenger, Gray and Christmas Inc., the number of companies hosting holiday parties is on the decline. In 2017, 11% of respondents indicated they were skipping the holiday party, compared to just 4% the year before. Of those that were planning a party, only 48% said they planned to serve alcohol, compared to 62% in 2016.

“Employers are currently very wary of creating an environment where inappropriate contact between employees could occur,” said Andrew Challenger, vice president of Challenger, Gray and Christmas

Inc. “One way to create a safer environment is to limit the guest list, hold the party during the workday and avoid serving alcohol.”

Other considerations regarding office celebrations concern overtime rules and rest periods. If a celebration is held during work hours, meal and rest periods are required as per usual. If held after hours and attendance is mandatory, overtime rules apply. TDIC recommends employers consider allowing their employees who are attending a party in the evening on a workday to leave work early.

Practice owners should establish clear guidelines and expectations regarding office celebrations. Maintaining a professional demeanor should be expected at all times, both for employers and employees. One option is to send out a friendly reminder to staff reiterating that office policies and standards apply to holiday events and that the office maintains a zero-tolerance policy for harassment.

Holiday closures

Taking extended time off to enjoy with friends and family is common practice over the holidays. But closing down a dental office takes a bit of preparation to ensure property is well protected while staff is away. There are several considerations to keep in mind when closing a practice for anything other than a long weekend: theft, property damage and patient care.

Deterring theft

The holiday season is prime time for would-be burglars. Thieves know many businesses are unoccupied during this time and take advantage accordingly. Preventive measures are

the best deterrent. While no solution is foolproof, the goal is to make it as difficult as possible for criminals to succeed. Most thefts are crimes of opportunity, meaning thieves gain entry via unlocked windows or doors. Taking the time to make a full sweep of the entire perimeter, checking all windows and doors (as well as interior cabinets and locked cupboards), is one of the best protections against theft.

TDIC recommends dental practices invest in high-quality window and door locks. Brightly lit entrances and parking areas are also good deterrents, as are clearing away bushes, trees and other places for thieves to hide. It's also a good idea to store valuables such as computers, cameras and drugs in locked cabinets as a secondary barrier. Installing surveillance cameras, security systems, motion detectors and audible alarms on windows and doors can also thwart a thief.

Property damage

Another issue concerning holiday closures is preventing damage to property, whether via water or fire. One of the most common claims handled by TDIC over the holidays results from a buildup of water pressure due to a lack of use during long closures. Should there be a point of weakness in a flexible water line, the pressure can be enough to cause the line to burst, flooding the office. TDIC advises practice owners to shut off the water to their building or suite prior to closing for an extended period and to ensure valves are in good shape.

Dental offices should have a water delivery shut-off valve, which should be routinely checked to make sure it is functioning properly. One way to do so is to shut off the water valve

and turn on the water at a sink and let it run. If the shut-off valve is functioning, the water will stop flowing once the water in the line has run out. If the water continues to flow, the valve has failed.

TDIC reports that water heater failures (and subsequent leaks) are another common property claim. Because water heaters are often behind closed cabinets, leaks can easily go undetected. If the leak continues for extended periods, such as a holiday closure, the damage can be catastrophic.

TDIC recommends practice owners check their water heaters regularly. Basic maintenance includes flushing and cleaning the water heater twice a year to clear out sediment and mineral deposits; checking the sacrificial anode rod(s) every two years to prevent rusting; and verifying that the water pressure is no higher than 80 psi every four to six months.

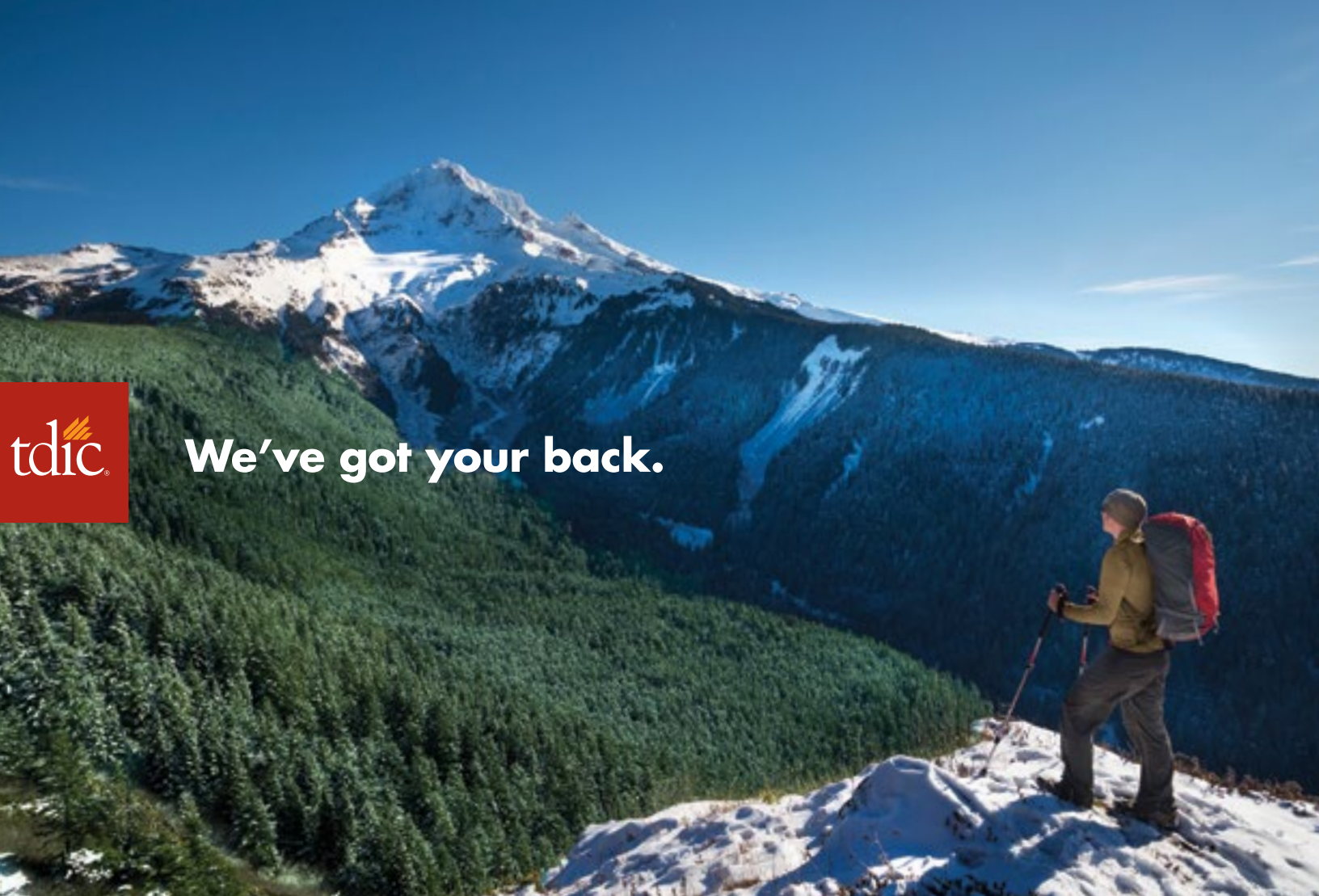
In addition, practice owners and staff should be aware of the signs that a water heater might be failing. This includes water that is cooler than normal; rusty-colored water coming from faucets; popping, crackling or rumbling noises coming from the water heater; water with a metallic taste; rust on the bottom of the water heater's exterior; and of course, puddles of water accumulating on the floor.

Fire is another concern for dental practices. Common causes of fires include everything from faulty wiring to human error. In one case reported to TDIC, faulty wiring inside a neon window sign sparked a fire that spread to an upholstered sofa in the reception area, causing hundreds of thousands of dollars in damages. A

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1:30 p.m. - 4:30 p.m.

Oregon Dental Conference

Oregon Convention Center
Portland, OR

Risk Management presented by
Christopher Verbiest

Registration Contact: Margy Simco,
800.452.5628 x 104,
msimco@oregondental.org

*participation in this course requires full
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Friday, May 29, 2020

7:30 a.m. - 10:30 a.m.

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few months prior to the fire, there was a short in the sign. Rather than hire a licensed electrician or replacing the sign altogether, the office hired a handyman to repair it.

Faulty wiring is one of the most common causes of workplace fires within dental offices. Old, outdated wiring coupled with the demands of dental equipment can be a recipe for disaster. TDIC recommends practice owners regularly inspect their electrical systems or, if leasing, work with the property owner to make sure the systems are in good working order and up to code.

Human error also causes many office fires, such as overloading electrical outlets, leaving space heaters running and improperly venting computers. Practice owners should train staff in fire prevention strategies and inspect their offices for potential danger before leaving for the holidays. It may also be a good idea to conduct an emergency drill so employees are familiar with the protocols.

Emergency care

Ensuring patients have access to emergency dental care is another crucial component of closing down for the holidays. Practice owners are required to make “reasonably careful” plans to provide patients with emergency care in their absence. These plans should include:

- Making arrangements with a colleague to provide emergency care or hire a dentist to work in your practice while you are gone.
- Notifying patients at least one month in advance and providing emergency contact information.

In doubt about how best to handle a situation?

Get answers to critical questions through a phone consultation with one of TDIC’s experienced risk management experts. Visit tdicinsurance.com/RMconsult or call **800.733.0633**. For risk management guidance in **Idaho, Oregon or Washington**, call **800.452.0504**.

- Enlisting a staff member or other representative to pick up mail daily to check for urgent correspondence.
- Leaving emergency contact information on your website and voicemail or answering service.

For practice owners whose offices will be open over the holidays with another dentist covering patient care, it is important to do the following:

- Verify the covering dentist has an active license and professional insurance.
- Ensure the dentist’s documentation and skill level meets your expectations.
- Discuss practice philosophies regarding emergency care and availability.
- Meet with your staff to plan for a smooth transition and clear communication.
- Leave your contact information so that you can easily be reached if needed.

- Leave contact information for property management, security/ alarm companies and other essential third parties.

Upon returning to the office, dentists should review the charts of all patients who may have been seen by a covering dentist. They should also follow up on all referrals and document any findings or treatments. Regardless of who provided care, it is the dentist of record who is ultimately responsible for a patient.

Standards of care

It can be a struggle to remain focused on day-to-day tasks such as record-keeping and documentation with the holidays looming. But the holiday season is no time to get lax. TDIC reminds dentists of the importance of keeping thorough, accurate patient records, even when distracted.

Dental practices often find themselves struggling to keep up at the end of the year, as many patients rush in to take advantage of expiring dental benefits. But no matter how busy or how distracted dentists may be, they should always be careful and cautious with patient care and documentation. Cutting corners is inexcusable and could leave a practice open for a liability claim. Practice owners should consider scheduling a meeting or morning huddle on the topic to remind employees of their responsibilities.

Nowhere is managing risk more essential than in the patient chart. Not only does it serve as a crucial document regarding patient health, it is also a dentist’s best defense if faced with a liability claim. Vague entries, incomplete entries, illegible

handwriting and omissions are indefensible against allegations of negligent treatment. Charts should also be free of abbreviations and words and symbols that aren't clearly understood in layman's terms. Corrections are acceptable, but should be made as soon as possible. All corrections should be signed and dated.

Proper documentation of informed consent discussions is especially crucial. With a packed schedule, it can be tempting to rush through these discussions and their subsequent recording. But failing to provide patients with all of the information needed to make an informed decision on treatments not only protects patient health, it also protects the practice in the event of a claim. Using an informed consent form or checklist can ensure that all topics are addressed and all questions answered.

Take precautionary measures to help curb risk while still wrapping up the end of the year with joy. The three major considerations are handling office celebrations, preparing for office closures and maintaining standards of care.

In a case reported to TDIC, a dentist placed veneers on a 29-year-old patient. The dentist discussed the procedure with the patient and she signed an informed consent form. The dentist charted the discussion, documented the procedure and took photos, including a final photo of the smiling patient with the new veneers in place. The dentist advised the patient to return in a few days for a post-op visit. The patient scheduled an appointment to return but never showed up.

A few months later, the patient called and demanded a refund. She said another dentist had to "fix" the veneers. The dentist learned that the second dentist remade the veneers due to incisal chipping resulting from the veneers being too long.

Although the original dentist had the documentation to support the treatment being clinically and aesthetically acceptable at delivery, there was no notation as to why the patient did not come to her follow-up appointment or any documentation of the office's efforts to contact her when she did not return. In the end, the dentist decided to give the patient a full refund in exchange for a signed release form.

TDIC recommends practice owners also check to make sure each patient's medical history form is up to date. Patients should review, revise, sign and date their health history forms at each appointment. The patient's signature serves as evidence that the information is current and that the dentist discussed it with the patient. Not only does this ensure treatments are rendered safely, it also serves as protection in the event a patient has an adverse reaction.

It is also crucial to thoroughly document all referrals in a patient's chart. Be sure to include the reason for the referral, the name of the provider, whether the patient accepted the referral, the timeframe for the referral, whether the patient followed through with the referral, when the treatment was completed, the outcome of the treatment and whether there were any complications or modifications to the original treatment request or any follow-up care.

What not to record in the patient's record is also important. Dentists are reminded to exclude subjective comments or personal opinions. It is also ill-advised to record personal comments regarding previous treatments or providers. Only objective, clinical opinions should be recorded.

Similarly, a patient's financial information should not be included in the chart. All financial transactions, estimated costs of treatment, insurance information and any payment or billing information should be kept in a separate file. Keeping financial information in a patient's clinical file can suggest that finances, not clinical opinions, is the driving factor behind treatment decisions.

For most people — dental teams included — the holiday season is a joyous, albeit hectic, time of year. It's natural to be distracted by thoughts of family gatherings and winter getaways. But by taking a few basic precautions, you can relax and enjoy the holiday season with the peace of mind that you've taken proactive measures to protect your patients and your practice.



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