

# Lifeline

## 2019 Practice Checklist

- Review office inventory
- Optimize computer systems
- Clean out clutter
- Inspect equipment
- Review employee files

## Spring Has Sprung

Time to get your practice in order

As the dark days of winter make way for the light of spring, many people take the time to deep-clean and organize their homes in preparation for the warmer weather. But spring cleaning shouldn't be limited to the home. Dentists can also take advantage of the season by getting their practices in order.

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A dental practice “spring cleaning” is much more than brushing away cobwebs or scrubbing floors. Practice owners should conduct a thorough evaluation of all elements of their practices, from the reception area to the back office. Not only will sprucing up workspaces and business systems create a positive and efficient environment, it will also help mitigate possible liability claims stemming from patient injuries, employment disputes and data breaches. Basic guidelines for conducting a thorough practice review, as recommended by The Dentists Insurance Company, follow below:

### Revisit patient charts

At best, outdated, inaccurate and incomplete patient charts reflect poorly on a practice. At worst, they can create problems during patient disputes. Accurate and complete records are the first line of defense in liability claims and dentists should regularly and thoroughly review patient charts. The following should be included in each patient chart:

- **A signed treatment plan.** If applicable, a plan should include an overview of the proposed treatment; the benefits, risks and alternatives to treatment; possible consequences of delaying treatment; treatment cost and referrals to specialists. Dentists should follow up with any patients who have incomplete treatment plans.
- **A signed financial agreement.** It is essential to store financial information separate from the patient’s protected health information, should it need to be shared with a third party such as an insurance provider.
- **A current health history form.** A patient’s health history form should be reviewed at every appointment. Topics to address include pregnancies, surgeries, radiation therapy, recent

emergency room visits and hospitalization as well as information about current prescription and over-the-counter medications. Patients should sign and date the health history form and all subsequent updates. Sample health history forms can be downloaded at [tdicinsurance.com/sampleforms](http://tdicinsurance.com/sampleforms).

When reviewing charts, dentists should look for the following:

- **Missed appointments.** TDIC recommends sending letters to patients who have failed to show for appointments.
- **Referrals.** Dentists should follow up with patients who have been referred to outside providers.
- **Incomplete treatment plans.** Dentists should follow up with patients who failed to follow through with recommended treatments. Allowing noncompliant patients to remain in a practice can put dentists at risk for allegations of supervised neglect. TDIC recommends dismissing noncompliant patients following a formal dismissal protocol.

### Review employee records

Keeping employment records accurate and up to date is another crucial responsibility of practice owners. It’s easy to get caught up in the day-to-day operations of a dental practice, but taking the time to ensure these records are complete protects a practice should an employment-related dispute arise.

Part of the hiring process in a dental office is checking that the candidate has the appropriate licenses and certifications required for the position. Once hired, the onus is on the employer to ensure employees — even temporary employees — maintain their licenses and certifications. Practice owners are subject to and will be held liable for the negligent behavior of their employees if those employees do not maintain their licenses and a patient

## Taking time to ensure records are complete protects your practice if an employment-related dispute arises.

is injured. Legal experts warn that practicing without a license — even an expired license — is “indefensible.”

In one case reported to TDIC, a dentist discovered his dental assistant had been practicing without a license for several years. Although she had previously been licensed, her license was revoked due to a nonpayment of taxes. The employee was terminated and the dentist was required to retake his state’s jurisprudence exam. Although the practice owner avoided disciplinary action, the incident remains part of his permanent record.

Licenses should be kept in the employee file, which should be reviewed at least annually. When in doubt, it is advised to verify licenses with the issuing agency. Most licenses can be easily checked online. If current licenses are missing from the employee file, dentists should ask the employee for a copy and maintain renewals. Practice owners should check to ensure the general employee file also contains the following; however, this list is not exhaustive:

- New employee orientation and onboarding checklist
- Résumés, applications and educational transcripts
- At-will agreement acknowledgement
- Training documentation (C.E. course certificates)
- Employee handbook acknowledgement (including any updated versions)

- Attendance records and time off requests
- Written agreements (noncompete, arbitration, etc.)
- Emergency contacts

The confidential employee file should include, but is not limited to, the following:

- Reference/background checks
- Medical insurance records
- Immunization records, drug test results
- Incident reports and workers' compensation
- Benefit forms and beneficiary designation forms
- Accommodation requests
- Direct deposit forms
- Flexible spending information
- Profit sharing/401(k) forms
- Unemployment
- Form W-4

The personnel file should also include policy acknowledgments. These policies include those related to introductory periods, discrimination and harassment, attendance and absences, personal appearance, professional and personal conduct, HIPAA privacy, infection control and safety, uniform laundering, meal and break periods, electronic and social media, paid sick leave and time off, timekeeping and time off requests, employee classification and overtime, electronic device use, telephone and email and performance evaluations.

Practice owners should ensure they are conducting regular performance evaluations for each employee at least annually as well. They should include a review of each employee's job description and verification that the description accurately reflects the employee's responsibilities. They should also

ensure compensation is commensurate with the work performed.

Practice owners should also review each employee's goals, objectives and expectations. They should consider whether the employee has addressed previous areas needing improvement and whether the employee has met annual objectives. Employers and employees should work together to set goals for the coming year and to create development plans if needed.

### Inspect equipment

Spring is also the ideal time to make sure all dental equipment is in good working order. A dental practice can come to a grinding halt if its equipment goes down, so inspecting equipment should be a part of a spring overhaul.

A good place to start is by reviewing equipment maintenance records. Following the manufacturer's recommendation, a service appointment can be scheduled if needed. And basic inspections can prevent a small glitch from turning into a major issue. For example, a tiny hole in a piece of flexible tubing can spell disaster if the water pressure goes up, thus bursting and flooding the office. Following are guidelines to equipment inspections; however, this list is not exhaustive:

- Change compressor oil (if oil lubricated) and filters.
- Have X-ray equipment inspected, calibrated and certified (requirements will vary).
- Replace worn tubing on delivery systems, nitrous and vacuums.
- Check handpiece gaskets and coupler O-rings.
- Clean model trimmer wheel and drain lines.
- Check electronic scaling units.

- Check hydraulic fluid in patient chairs.
- Replace central vacuum screens, traps and filters.
- Change sterilizer door gaskets, bellows and fill filters.
- Run a complete sterilization cycle to observe any signs of malfunction (such as a steam leak).

### Assess policies and procedures

It's easy to get distracted by the clinical aspects of dental practice ownership and put operational procedures on the back burner. But protocols and paperwork are part of running a successful practice and should be reviewed on a regular basis.

- **Employee policies.** TDIC advises practice owners to review their employee manuals at least once a year. It is important to make sure all policies are aligned with current laws, including those addressing meal and rest breaks, sick leave and time off, discrimination and harassment, professional and personal conduct and leaves of absence, to name a few. They should also ensure each employee has a signed acknowledgement of each policy.
- **Patient policies.** TDIC also recommends reviewing all policies related to patient care. This includes missed appointment and cancellation policies, policies concerning informed consent and refusal and those addressing emergency care. Forms, letters and other documents should be up to date, including dismissal letters, informed consent forms, health history forms, financial agreements and patient handouts. Employees should also be educated on all of the patient policies.
- **Safety and emergency protocols.** Having clear, concise emergency and safety plans can help mitigate liability in a dental practice. These plans should be thoroughly reviewed each year to ensure they are aligned with new regulations. Exposure control plans, hazard communication plans and medical waste disposal plans should also be updated regularly. Conducting mock emergency training drills can ensure staff know their

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assigned roles and have a clear understanding of their responsibilities during an emergency.

- **Other business documents.** TDIC recommends practice owners review all third-party contracts, such as agreements with insurance providers and other business associates. These include agreements with practice management software vendors, file-sharing services, attorneys, accountants, internet service providers and credit card companies, among others. Inactive or expired agreements should be stored or destroyed.

## Evaluate computer systems

Take time to ensure computer systems and other hardware are functioning as they should. Dentists are advised to check all software for outstanding updates, ensure anti-virus and security software are running properly and update all passwords and security settings. Double checking data backups is crucial. Failed backups can cost dental practices thousands of dollars in recreating patient files, not to mention lost income if billing information is lost.

In one case reported to TDIC, a dentist lost all of his patient records when his hard drive crashed. He attempted to restore the files via his backups, but realized the system hadn't been backed up in two years. The dentist had to spend thousands to rebuild his system and recreate patient files, including retaking radiographs. He had no choice but to hope that patients were honest enough to pay what they knew they owed, as he had no proof of their outstanding balances.

Catastrophic loss can be prevented if backup systems are checked regularly. Not only should systems be checked to ensure scheduled backups are occurring, they should

be checked to ensure the data itself is corruption-free. If they haven't already done so, practice owners should consider switching from an external hard drive to a HIPAA-compliant cloud-based service, which allows for real-time backups.

Spring is also a good time to check a practice's website and social media accounts to make sure they are current and accurate. Outdated contact information and broken links create negative impressions for prospective patients. TDIC recommends checking security settings for websites and email systems.

TDIC also recommends dentists check their voicemail greetings and confirm that after-hours and emergency contact information is up to date and accurate.

## Take an office inventory

As assigned to dental team members, practices should conduct a comprehensive inventory of all items necessary for a smooth operation. Lacking a key item needed during a procedure isn't just an inconvenience, it can threaten patient safety and put a dentist at risk of a liability claim.

One staple to any dental office is the emergency medical kit, and a well-stocked kit can sometimes mean the difference between life and death. The contents of an emergency medical kit will depend on the level of training of the dentist and office staff as well as the modalities of anesthesia administered in the office and whether the emergency is related to dental treatment. An emergency kit should be prepared by the dentist and be consistent with the dentist's training in

emergency medicine. It should not include drugs or equipment that the dentist is not trained to use. Having equipment and medications that no one is trained to use, or that are not regularly tested and updated, is useless and can be a liability.

TDIC's recommendations on what to include in the kits, which are aligned with ADA recommendations, can be found in the article "Well-Stocked Emergency Medical Kits Can Help Mitigate Risk" at [tdicinsurance.com/risk-management/rm-matters](http://tdicinsurance.com/risk-management/rm-matters).

## Catastrophic loss can be prevented if backup systems are checked regularly.

To streamline the inventory process, TDIC recommends creating a master supply list and reviewing it once a year. A team member should be assigned to take inventory to monitor supply levels, check expiration dates and rotate stock so older products are used first. Organizing drawers and supply cabinets can help make the inventory process easier.

## Clean out clutter

Unless that old typewriter or answering machine truly sparks joy, there's no use keeping them around to collect dust. The front desk is the first thing patients see when they walk in the door and an untidy space crammed with old equipment, papers, cords and other office clutter create a negative first impression.

Aesthetics aside, clutter can create potential liability risks. Unused equipment, old office furniture and storage boxes can present tripping hazards. Jumbled cords and wires can spark a fire. Overloaded outlets can cause an electrical shortage that can damage or destroy computer systems. Clearing a dental office of unused items and transferring long-term storage to offsite facilities can help mitigate the risk of injury, fire or loss of property.

Cleaning out clutter also applies to patient charts. Some states require dental practices to retain patient records for established periods of time. It is imperative to check state statutes prior to destroying old patient records. TDIC offers the following general recommendations:

- Active patients: Indefinitely
- Inactive patients: 10 years after the last treatment date
- Inactive minor patients: 10 years past the last treatment or seven years past the age of 18, whichever is longer

Destroying patient charts must be consistent with HIPAA regulations. Dentists are advised to hire licensed and bonded shredding companies to ensure private patient information and financial records are protected.

TDIC also recommends clearing out the personnel records of former employees. Statutory requirements for retention periods vary from state to state, but TDIC offers the following general guidelines:

**General employee file** (job description, application, licenses, attendance records and other nonconfidential documentation)

- Continuing education certificates: four years after the last date of employment

## Evaluation Checklist

### Patient charts

- Incomplete treatment plans
- Financial agreements
- Health history forms
- Missed appointments
- Noncompliant patients
- Referral follow-ups

### Employee records

- Licenses and certifications
- Job descriptions and compensation
- Goals, objectives and expectations

### Equipment inspection

- Water system
- Vacuum system
- Air compressor
- Imaging equipment

### Policies and procedures

- Employee policies
- Patient policies
- Emergency/safety policies
- Business agreements

### Computer systems

- Hardware
- Software updates
- Data backups
- Website and social media
- Outgoing messages

### Office inventory

- Emergency medical kit
- Dental instruments
- Dental supplies
- General office supplies

### Office clutter

- Unused equipment/furniture
- Files and storage items
- Inactive patient records
- Former employee records

- Hiring documentation, payroll and wage records, performance evaluation and termination/separation from employment documentation: four years after the last date of employment

### Confidential employee file

(background checks, drug test results, medical insurance records, direct deposit information and other confidential documentation)

- Background checks, drug test results, employment testing results, interview notes: five years
- Pension documents: indefinitely
- Employee exposure and health records: 30 years after the last date of employment
- Leaves of absence, including FMLA: three years
- Workers' compensation claims: 30 years after the date of injury/illness

As they do with patient information, practice owners have an obligation to protect the private information of their employees. These files must be stored securely and destroyed with privacy in mind.

Practice owners naturally prioritize the clinical responsibilities of dentistry. But running a practice also involves back-end work that needs attention. As people scour the depths of their homes in preparation for spring, it's a good reminder that dental offices need some love too. Cleaning, organizing and decluttering a dental practice has benefits far beyond appearances. It can help prevent minor annoyances from turning into major liability issues.

# Questions and Answers

*TDIC's Risk Management Advice Line helps dental professionals navigate difficult situations when dealing with potential claims from patient or employee situations. The real-world calls detailed below illustrate how analysts have helped callers this year.*

## **Q. I came across some questionable billing activities recently and suspect that my office manager, who joined our practice six months ago, may be behind it. What is the best way to handle it?**

**A.** Once you suspect or discover that billing irregularities have occurred in your office, you must act quickly. Arrange to meet with all staff involved with your practice's billing. Discuss the situation and inform them that you will conduct an audit. If computers are used for billing, let staff know that computer use will be suspended until the audit and investigation are complete. This will prevent a

suspected employee from destroying evidence of potential wrongdoing.

As a provider and business owner, you are obligated to report billing discrepancies to all insurance carriers and correct the errors. Reporting a billing error may lead to a refund request from the carrier. This may require charging a patient's account, resulting in a balance due. Send a letter with the patient's statement explaining there was

a billing error and the new balance is reflected. Advise patients contact the office if they have questions. While this is uncomfortable, it is still money that the practice is entitled to collect.

If the audit uncovers issues that can be linked to an employee, speak to him or her privately, but be sure to have a witness in the meeting. Some discrepancies may not be intentional. So, if the billing errors were due to a misunderstanding, provide the employee additional training and guidance. However, if the employee acted intentionally, act swiftly and take disciplinary action up to and including termination.

**A.** You cannot deny access to records as a means of collecting on past-due bills. Patients can request a copy for themselves or request that you forward a copy to another dentist or health care provider. While the original record is the property of the dentist, the patient is legally entitled to the information it contains. Upon receipt of a written request from the patient or the patient's representative, provide a copy of the complete dental record to the requestor. Never release any part of the original record, including radiographs or models.

Without discriminating against classes or categories of patients, establish reasonable conditions for transmitting records. Although

## **Q. I have a patient who has an outstanding balance of \$1,600 for treatment I provided her more than a year ago. Recently, I received an email from the patient requesting her records to be sent to her home. Am I obligated to comply?**

most states allow you to charge for copies, consider carefully whether charging will inflame an already difficult situation. Do not base your decision to charge upon punitive, discriminatory or retaliatory reasons. State rules vary as to what dentists can charge when providing copies of patient records; however, if the patient refuses to pay copying charges, you are still obligated to provide copies of the records. Contact your

state dental board to determine how much you can charge for copies.

If you receive a subpoena for records, understand that it is an order of the court and you must comply or risk the possibility of sanctions. Visit [tdicinsurance.com/sampleforms](http://tdicinsurance.com/sampleforms) to access state-specific Authorization for the Release of Dental Records sample forms.



# Liability Lifeline

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