

Dental Practice Insurance: The New Essentials

Minnesota Dental Association
Dental Entrepreneur Boot camp

May 18, 2019



DYSTE WILLIAMS

A Tradition of Insurance InsightSM

Goals of this presentation

- ❖ Develop understanding of the New Essential Insurance Coverages for your Dental Practice.
- ❖ Create basic level of understanding of insurance coverage language.
- ❖ Discuss opportunities to bring additional insight to your practice regarding risk management.

Why “New” Essentials?

- Economic, business, and social change
- New Climate of Litigation and Risk Transfer
- Business technology
 - Data breach
 - Privacy issues
- Social issues
 - Sexual harassment
 - Third party discrimination



The 10 New Essential Coverages

1. Professional Liability
2. Business Owners Policy
3. Business Automobile
4. Workers Compensation
5. Excess Liability
6. Management Liability
7. Flood
8. Employee Benefits
9. Business Life & Disability
10. Succession Planning

The 10 New Essential Coverages

- ★ Professional Liability
- ★ Business Owners Policy
- 3. Business Automobile
- ★ Workers Compensation
- 5. Excess Liability
- ★ Management Liability
- 7. Flood
- ★ Employee Benefits
- 9. Business Life & Disability
- 10. Succession Planning

Understanding an Insurance Policy

- I. Insuring Agreements: WHAT is covered.
- II. WHO is an insured.
- III. Limits of Coverage:
- IV. Exclusions: What is NOT covered.
- V. Conditions: Rights and duties of the policyholder and insurer.
- VI. Definitions: Defining policy terms in the contract.

1. Professional Liability

Protects Dentist from patient claims:

- Alleged malpractice.
- Treating or failing to treat a patient.
- Errors or omissions in providing treatment.
- Administrative/Board Action

Two types:

- Occurrence
- Claims-Made:
 - extended reporting form or tail

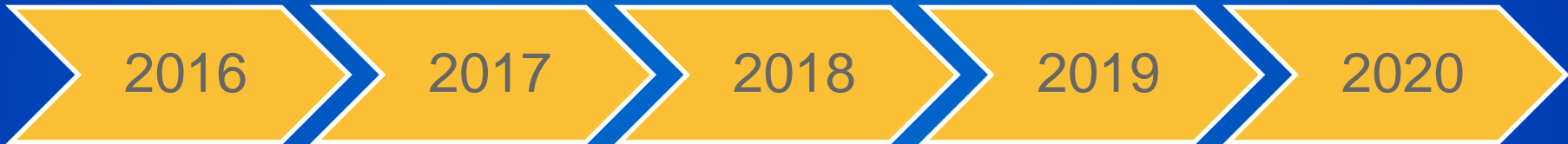
Choose Professional Liability Carefully

- ❖ Aggressive claim defense: will they take decisive action when dentist confronted with lawsuit?
- ❖ Does policy have sufficient limits?
- ❖ Consent to Settle?
- ❖ Desirable features like free tail?
- ❖ Stable and Highly rated Carrier
- ❖ Experience in your specialty



1. Professional Liability

Occurrence Form



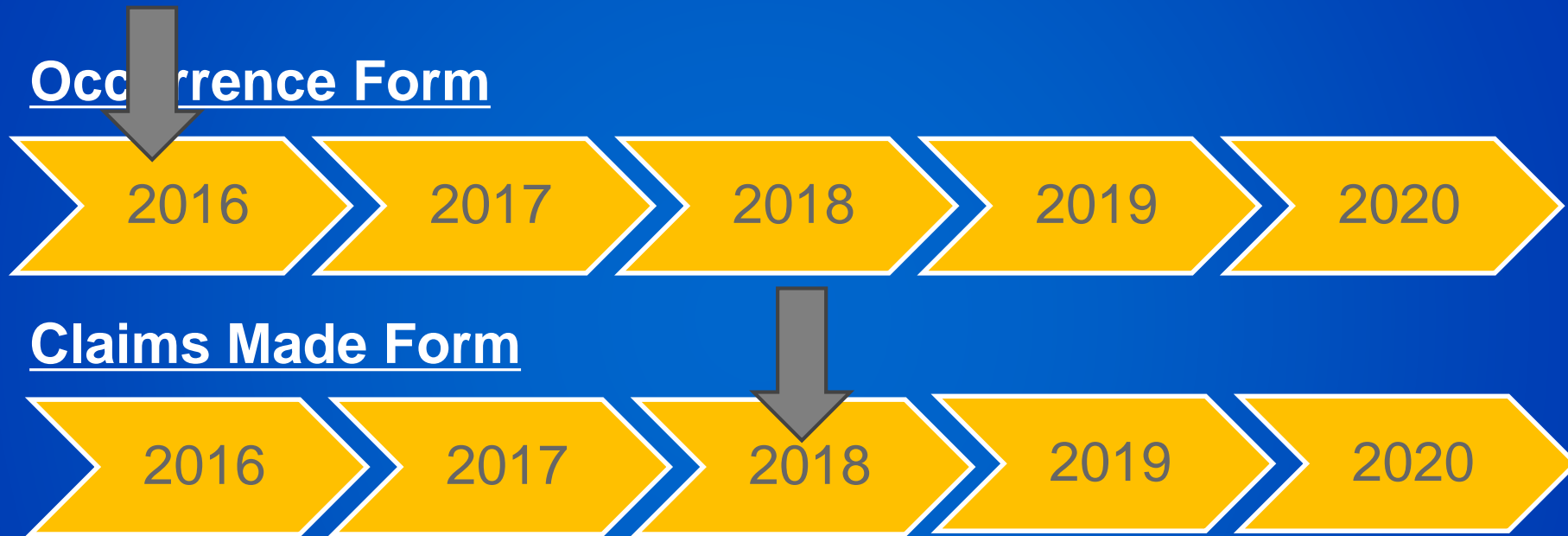
Claims Made Form



Scenario:

Dr. David Schein, who goes by “DDS,” places an implant in 2016. In 2018, “DDS” receives a request for compensation- 2 years after placing the implant.

1. Professional Liability



If “DDS” was insured with an occurrence form policy, which policy period would respond to the claim?



What about a claims-made policy?

Incident vs. Claim

Incident

Professional or bodily injury that an insured reasonably believes may result in a demand for money or services as compensation

*Reporting an incident memorializes the event for any future coverage. Doing so has no effect on premiums.



Incident vs. Claim

Claim

Demand for money or services
as compensation for a
professional or bodily injury



What to do if an Incident Occurs:

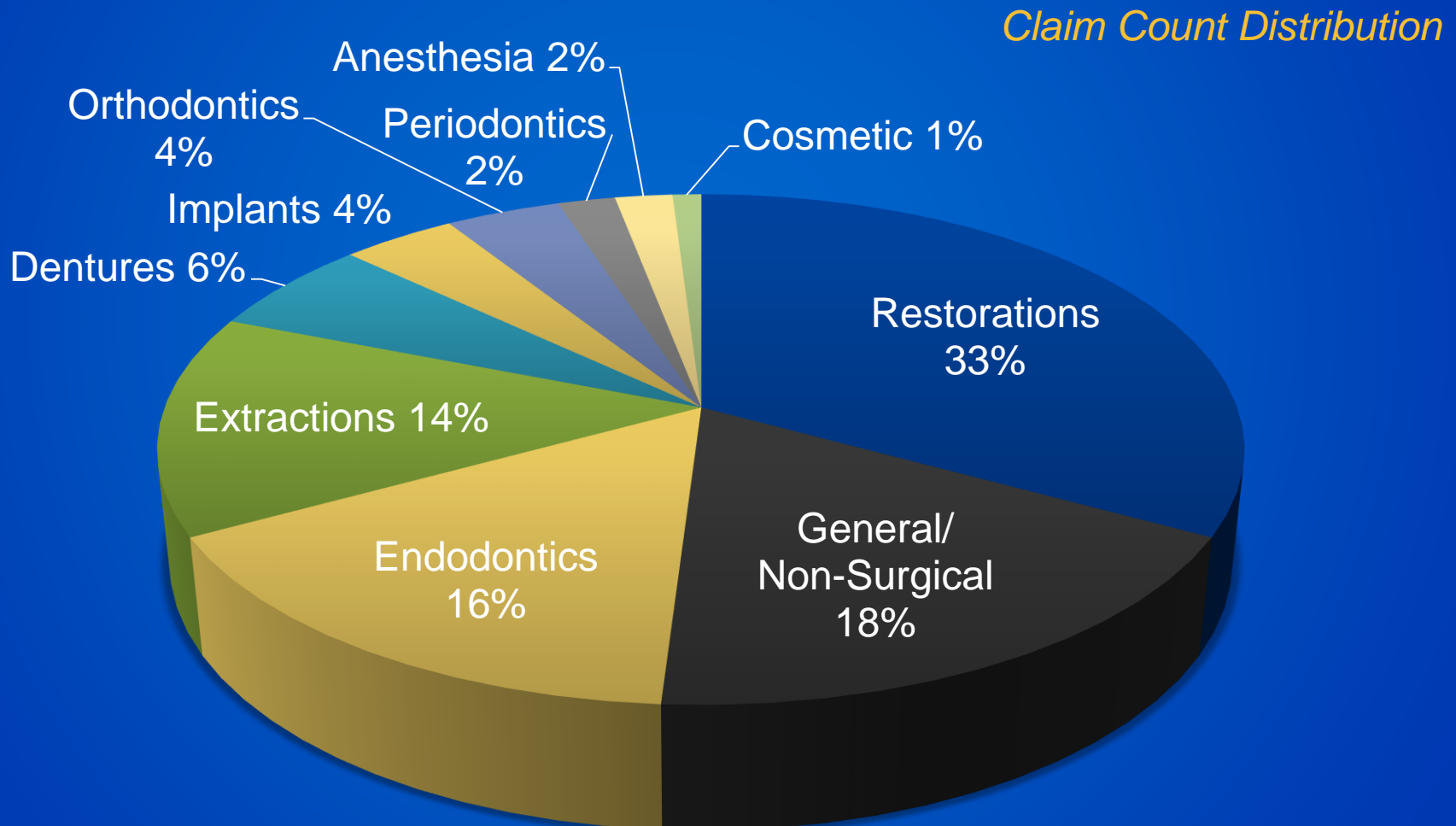
- ✓ Notify your insurer
- ✓ Take steps to maintain patient confidentiality
- ✓ Maintain and secure all pertinent records
- ✓ Secure any instruments involvement in the treatment



Considerations: Prof Liability

- Entity Coverage
- Review Employment Agreements
 - ❖ Policy Limits
 - ❖ Deductibles
 - ❖ Who is responsible for the premiums?
 - ❖ If it is a claims made policy, What happens to coverage at termination?
 - ❖ Who is responsible for purchasing the tail coverage (ERP)?

Which Procedures have more Claims?



2. Business Owners Policy (BOP)

- Property Insurance
 - Building
 - Business personal property
 - Tenant leasehold improvements/betterments
- Business Interruption and Extra Expense
 - In the event of a covered claim, protects the loss of income to the practice.
 - Extra Expense covers additional costs you incur to stay at the same level of business while your practice is restored
- Employee Dishonesty, etc.

2. Business Owners Policy cont.

Comprehensive General Liability (CGL)

- Bodily Injury and Property Damage.
- Personal and Advertising injury.



©2019 Dyste Williams. All rights reserved.

Considerations: BOP

- Adequate limits for both property and liability
 - Read your lease contract
 - Insure to Replacement Cost vs. Depreciation
 - Verify covered locations
- Review Named Insured
- Overlaps and gaps between policies

Claim Example



©2019 Dyste Williams. All rights reserved.

Claim Example

Twin Cities Practice

- failed coupler in water main
- damage to neighboring business
- extensive property damage
- business interruption loss
- \$157,000 in total losses

Takeaways:

- ❖ LEASE
- ❖ CONTRACT
- ❖ PLAN





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/10/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Sample Producer	CONTACT NAME: Mr. Account Manager PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL: ADDRESS:
INSURED Dr. David Schein 123 Molar Street Rushford, MN	INSURER(S) AFFORDING COVERAGE INSURER A: Travelers Insurance INSURER B: State Fund Mutual INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES		CERTIFICATE NUMBER:		REVISION NUMBER:	
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSR	TYPE OF INSURANCE	ADD'L SUBR INSR WVR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)
<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	BOP 123456	05/01/2019	05/01/2020
A	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:				
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	X	BOP 123456	05/01/2019	05/01/2020
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$	OCCUR CLAIMS-MADE			
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y N/A	WC 78910	05/01/2019	05/01/2020
	DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)				

CERTIFICATE HOLDER	CANCELLATION
Bank of Minnesota 54th State Capitol Way Saint Paul, MN	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

3. Business Automobile

- Owned
 - Cars, trucks, vans purchased by the practice for business.
- Hired
 - Rental autos, physical damage optional.
- Non-owned
 - Employees using their autos for your business: errands, trip to the bank, etc.
 - Employee personal coverage typically primary.

4. Workers Compensation

- All Minnesota employers and employees are subject to the MN WC Act, except those specifically excluded by statute.
- Treat employees' work-related injuries.
 - Medical bills, rehab and drug costs.
 - Reimburse for lost pay due to injury/illness
 - Premium based on payroll and verified at audit



Considerations: Workers Compensation

If you/your:

- Corporation qualifies as “closely held”
 - Total number of payroll hours are less than 22,880 per calendar year
 - Qualify as an “executive officer” and
 - Own at least 25% of corporate stock
- ...you are automatically excluded from coverage (unless an election is made) per Statute.

* If none of the criteria is met, then you are required to be covered and included in payroll calculations

5. Umbrella/Excess Liability

- Catastrophic losses that exceed limits of primary policies.
- Extends over general liability, auto, employee benefits liability and employers liability limits.
- Typically does not extend Professional Liability coverage.

6. Management Liability

Directors & Officers

- Covers defense costs/damages (awards and settlements) from:
- wrongful act allegations/lawsuits against board of directors and/or officers.

Employment Practices Liability

- Covers defense costs and damages related to employment-related claims.
- Includes allegations of Wrongful Termination, Discrimination, Workplace Harassment.
- Third Party coverage is recommended.
- Patient Molestation – Sub Limit.

6. Management Liability continued

Fiduciary Liability

- Protects the fiduciaries of employee benefits plans (can be held personally liable under ERISA law).

Crime

- Dishonest or fraudulent acts by an employee.

Kidnap Ransom

Identity Fraud Expense

CyberRisk

Data Breach / Cyber Coverage

First Party

Fines and Penalties

- ❖ Fees assessed by Payment Card Industry (PCI)
- ❖ Fees assessed by HIPAA/HITECH
- ❖ Fees assessed by state regulators

Loss to data from computer system disruption

- ❖ Restoration costs (Bitcoin?)
- ❖ Business interruption

Crime: cyber extortion, computer fraud, funds transfer fraud

Third-Party Liability

Information Security and Privacy Liability

- ❖ Legal liability, defense costs and expense reimbursement for liability from unauthorized disclosure of PHI, PII or third party corporate information

Network Security Liability

- ❖ Failure of computer security to prevent a security breach

Website Media

- ❖ Liability for online media activities
- ❖ Defamation, copyright infringement, infringement of trademark may include offline media

Judgments /Settlements

Defense Costs – Litigation

Defense Costs – Regulatory

7. Flood Insurance

- It can happen here (Duluth 2012).
- Preferred rates for Low to Moderate Risk
- High Risk – Banks will require it for loans as they are aware of the risks



©2019 Dyste Williams. All rights reserved.



8. Employee Benefits

Types of Benefits

- Group Health Insurance
- Disability Insurance
- Dental Benefits
- Life Insurance
- 401K and Profit Sharing
- Voluntary Benefit Options
- Paid Time Off



Group Benefits Considerations

Policy Requirements

- ❖ Employer must contribute *at least 50%* of the **employee only** premium
- ❖ Owner determines number of hours per week (20-40) to be eligible for coverage on the group plan
- ❖ Group must meet 75% participation requirement after eligible waivers
- ❖ Owner can not be only *employee* covered on group plan.

Administration Requirements

- ❖ Employer will be billed for full monthly premium
- ❖ Employee premiums will be deducted from payroll
- ❖ Employer COBRA responsibilities
- ❖ Timely adding new hires & employees that have qualifying events on the plan
- ❖ Renewal/Open enrollments

9. Business Life and Disability

- Loss of a key employee.
 - (disability, death, retirement, voluntary termination).
- Unpredictable loss can disrupt practice.
- Cover costs of loss and replacement.
- Policy protections:
 - Individual Life (Key Person and Buy-Sell)
 - Individual Disability (Key Person and Buy-Sell)

10. Business Succession Planning

- Transition of ownership in event of death or disability of business owner.
- Helps avoid conflicts between surviving family members and remaining owners.
- A written buy/sell document to match Life and Disability.



Thank You!



Nels Dyste
952-843-4445
ndyste@dystewilliams.com

Break