

Professional Development



An Empowering Perspective on Professional Liability Insurance

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This article summarizes the content of CDHA's webinar, "Navigating Risk & Liability in Dental Hygiene Practice," available at cdha.ca/webinars.

Registered dental hygienists must carry professional liability insurance (PLI) that meets their dental hygiene regulatory authority's requirements. By understanding why you need PLI, what your coverage includes, how complaints are handled, and key legal considerations, you can better protect yourself, lower your risk, and navigate the complaints process if it occurs. While the idea of complaints can be intimidating, knowledge is power. It's important to stay informed and view this as one of your professional responsibilities.

CDHA members are provided with CDHA Protect Professional Liability Insurance via its broker, BMS Canada Risk Services Ltd. This coverage offers essential protection against claims or complaints related to errors, omissions or malpractice. In cooperation with BMS and Gowling WLG (Canada) LLP, CDHA is also pleased to provide free summary legal assistance to all dental hygienists enrolled in the professional liability insurance program.

WHY DO YOU NEED PROFESSIONAL LIABILITY INSURANCE?

As a professional, you can be found legally liable for the damages sustained by any person arising out of malpractice, error or omission in providing or failing to provide your professional services as a dental hygienist.

WHAT DOES THE CDHA PROTECT PLI POLICY COVER?

CDHA's PLI policy covers legal defence costs, damages, patient compensation, and settlement expenses. The policy limit is \$2M per claim and \$5M annually. Higher limits of \$3M/\$5M and \$5M/\$5M are also available for purchase.

WHAT ARE OTHER KEY FEATURES OF CDHA'S PLI POLICY?

- Insurance covers the full scope of practice. There is no requirement to practise under the supervision or direction of a dentist.
- Worldwide coverage is provided and is not limited by location or scope of employment.
- Automatic additional coverage includes disciplinary (legal expense), criminal defence reimbursement, \$10,000 subpoena to appear, and \$1,000 per day of lost earnings.
- Access is provided to a pro bono legal hotline and specialist broker support.
- There is no deductible and no retroactive date.
- Extended reporting is included.

Recently, BMS and Gowling WLG collaborated on a webinar, "Navigating Risk & Liability in Dental Hygiene Practice," which examined the risks and liabilities related to professional practice. During the presentation, BMS noted that disciplinary claims are the most frequent complaints lodged against dental hygienists.

WHAT ARE SOME EXAMPLES OF DISCIPLINARY CLAIMS MADE AGAINST DENTAL HYGIENISTS?

1. Unprofessional conduct

(i.e., rude, dismissive or unprofessional behaviour)

Professionalism is a well-known ethical principle. To refresh your knowledge, review your regulatory authority's professional misconduct regulation, re-familiarize yourself with the minimum legal requirements that a dental hygienist must meet, and consider the fundamental aspects of professionalism. Then pause and reflect on your behaviour, tone, and manner when treating clients. Other resources to enhance your knowledge include CDHA's *Dental Hygienists' Code of Ethics* and the code of ethics provided by your provincial regulatory authority. Additionally, visit CDHA's Ethics Corner at cdha.ca/ethics and read the *Oh Canada!* Talking Ethics column in each issue.

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2. Inappropriate use of social media

Personal and professional boundaries can easily blur outside the clinical setting, and social media activity, even from personal accounts, can trigger or lead to a formal investigation. Regulated health care professionals are held to high standards, and how you represent yourself online can impact your reputation and how the profession is viewed by others. Issues include inappropriate or offensive posts, sharing clinic content without consent, breaches of patient confidentiality, and comments that reflect poorly on the profession. To reduce your risk of a complaint, review your regulatory authority's advertising guidelines, standards of practice, and regulations, and pause to think before posting or responding to a controversial issue online.

3. Billing for services that were not provided

Allegations of inappropriate billing, billing for services not rendered, and overbilling can have serious consequences. Procedure codes must accurately reflect the dental hygiene services performed and be properly charged and documented. Understand that units and codes may be confusing to clients, as scheduling units and procedural code units are based on different intervals. To avoid misunderstandings, use an evidence-informed approach to care, obtain informed consent, communicate honestly, be transparent, and listen actively. Adhere to your scope of practice, properly document services provided, and record the time spent (in minutes) in the client's oral health record. Ensure all your clients' questions are answered to their satisfaction before treatment begins.

4. Inadequate, incomplete or inaccurate recordkeeping

Recordkeeping is a standard part of dental hygiene practice, and it involves judgment when documenting client records. Re-familiarize yourself with your provincial regulatory authority's guidelines, best practices, and regulations for recordkeeping. Make sure financial records are also maintained. Think about your recordkeeping style for maximum clarity and understand when charting by exception, charting by reference, and the use of abbreviations are appropriate. Security, client access, correction rights, and the retention and disposal of records are essential knowledge areas for dental hygienists.

5. Improper treatment (i.e., negligent care, incomplete or improper care, provision of services outside the dental hygiene scope of practice, failure to refer, etc.)

Claims about improper treatment are vast. Complaints may include failure to remove a significant buildup under the gumline that causes serious infection, failure to refer to a specialist for needed treatment, and injury during the provision of care. Reacquaint yourself with your provincial regulatory authority's legislation, practice standards, guidelines, practice resources, code of ethics, and, if necessary, Canadian competencies for dental hygienists. Ensure your understanding of the scope of practice and controlled acts in your province or territory and know when to refer.

ARE THERE ANY OTHER POTENTIAL DISCIPLINARY CLAIMS I SHOULD KNOW ABOUT?

Other common complaints include failure to obtain informed consent, inadequate infection control practices, injuries during dental hygiene care, licensing-related issues, misdiagnosis, breach of confidentiality, boundary violations, and unprofessional conduct of a sexual nature. Although this list is not exhaustive, by understanding where risks arise and learning how to navigate them, you can protect yourself, your clients, and the integrity of the dental hygiene profession. Feel empowered and encouraged to seek additional evidence-informed sources to broaden your knowledge and reduce the risk of disciplinary or criminal complaints.

WHAT ACTIONS SHOULD I TAKE TO BETTER SAFEGUARD MYSELF?

Begin by evaluating your knowledge! If you find any gaps, watch the webinar to learn more about CDHA's PLI policy and how it protects you from complaints alleging error, omission or malpractice. Several examples of disciplinary and criminal claims are discussed, and tips are provided on how to respond to a college complaint. Other helpful resources are available online, and you can always contact a BMS broker at cdha.insurance@bmsgroup.com or 1-855-318-6557. Set your learning goals to support your professional growth, explore the resources on your provincial regulatory authority's and CDHA's websites, and start implementing risk mitigation strategies today.

Disclaimer: This information is not exhaustive and is based on insights from subject matter experts at BMS Canada and Gowling WLG. It does not constitute legal advice.

RESOURCES

Canadian Dental Hygienists Association. CDHA Protect Professional Liability Insurance [Internet]. n.d. Available from: cdha.ca/cdha/CDHA/Membership/Benefits/Insurance_-_CDHA_Protect.aspx

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