



Can I sue my dentist for medical negligence?

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Dental treatment does not always go to plan, but when a dentist's mistake/negligence causes injury, pain or ongoing complications, it may amount to medical negligence. This blog explains when you can sue a dentist for [medical negligence in Queensland](#), the legal tests that apply, and the strict time limits involved.

We also outline common examples of dental negligence and the types of compensation that may be available to injured patients.

When is a dentist legally responsible if something goes wrong during treatment?

A dentist is not automatically liable just because a treatment had a bad outcome. The law recognises that dental procedures carry inherent risks. To succeed in a medical negligence claim, a claimant must prove that the dentist failed to meet the required standard of care and that this failure caused injury or loss.

In Queensland, medical negligence claims (including dental negligence) are primarily governed by the Civil Liability Act 2003 (Qld) and the Personal Injuries Proceedings Act 2002 (Qld) ("the Act").

To establish negligence, a claimant must prove:

The dentist owed a duty of care to the claimant

This is usually straightforward in claims against a dentist by their patient regarding their treatment. Dentists generally owe a clear duty to their patients to take reasonable care in the course of providing their dental treatment and advice.

The dentist breached that duty

This requires the claimant to establish that the dentist did not act in a way that a reasonable dentist would have acted in the same circumstances (or in other words, that they were negligent). This is generally established by expert evidence from another dentist, which is a pre-proceedings requirement in medical negligence claims in Queensland.

The breach caused the harm suffered by the claimant

The claimant will then need to prove that injury and loss that the claimant suffered was caused by the dentist's breach of duty of care, not merely by an unfortunate complication or an unrelated condition.

For example, even if a dentist provided negligent treatment that breached the duty of care that they owed the patient, they are not responsible for loss that flows from a knee injury that the same patient suffers in a motor vehicle accident a week later.

Common examples of dental negligence

Not every poor experience leads to negligence or a medical negligence claim, but examples that may justify a claim include:

Incorrect tooth extraction (for example, removing the wrong tooth);

Failure to diagnose or properly treat infections, abscesses or gum disease;

Negligently performed root canal treatment leading to ongoing infection or nerve damage;

Nerve injuries caused during dental surgery due to improper technique;

Failure to obtain informed consent by not warning of material risks;

Inadequate sterilisation or infection control practices;

Each case turns on its own facts and requires expert evidence from another dentist or specialist to understand whether the dentist's duty of care has been breached.

Informed consent: a key issue in dental claims

One key consideration in dental claims, and indeed all medical negligence claims, is whether the patient provided informed consent after having been appropriately advised by their dentist of all material risks associated with a procedure.

The advice from the dentist should include all risks that a reasonable person in the patient's position would want to know about before providing their consent. If a dentist fails to properly warn a patient and that risk materialises, the dentist may be liable even if the procedure itself was performed competently.

Time limits: strict deadlines apply

Dental negligence claims are subject to the [same limitation periods as all other medical negligence claims](#).

In most cases in Queensland, the following time limitations apply to dental negligence claims:

The medical negligence claim must be commenced within 3 years from the date of the negligent treatment;

The claimant must send the dentist an initial notice of their intention to make a medical negligence claim, within 9 months of the negligent treatment; and

The claimant must then serve a Part 1 Notice of Claim and a compliant expert report within 12 months of having sent the initial notice; and

There are specific, differing time limits that apply if the injured patient is a child.

These time limits are strictly enforced but may be able to be extended in some circumstances. Delays in seeking legal advice can permanently prevent a claim, even if the negligence is clear. So, it is important that you seek expert advice as soon as possible if you have sustained an injury following dental treatment.

[FREE ADVICE FROM A PERSONAL INJURY LAWYER: 1800 001 339](#)

Further reading:

[IM Lawyers successful in medical negligence claim time limit application](#)

What compensation can be claimed?

If negligence is established, compensation may include:

general damages (compensation) for pain, suffering and loss of enjoyment of life as calculated in accordance with Queensland legislation;

past and future dental and medical expenses;

lost income and loss of future earning capacity;

costs of corrective or remedial dental treatment;

past and future care expenses (whether paid or [gratuitous care](#)).

Queensland law applies caps and thresholds on certain types of damages, so it is important that you seek advice from an expert personal injury lawyer to ensure that your damages claim is appropriately calculated in accordance with those requirements.

Do you need expert evidence?

Yes.

With dental negligence claims, like all medical negligence in Queensland, the Act requires that claimants provide expert evidence supporting their claim that there was a failure by the dentist to meet the appropriate standard of care.

Further expert evidence may then be required to support the claimant's claim for damages or other aspects of their injury and loss.

Obtaining the right expert evidence can be complex and challenging for claimants to manage on their own. An experienced personal injury lawyer understands what type of expert evidence is required, who is appropriately qualified to provide it, and how to ensure the reports meet Queensland's strict legal and procedural requirements.

Get help from a medical negligence lawyer

Dental negligence claims are legally and medically complex. Dentists and their insurers vigorously defend claims, and strict procedural requirements apply.

If you believe you have suffered harm due to negligent dental treatment, it is important to seek advice from a Queensland personal injury lawyer experienced in medical negligence as early as possible. Early advice can help preserve evidence, obtain expert opinions, and ensure critical time limits are met.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.