

Chapter 18

DESIGNING, RELOCATING OR ESTABLISHING THE PRACTICE FACILITY

Prior to establishing a practice, analyze purchasing one already in existence. Alternatively, if you are considering purchasing an existing practice, consider whether you should establish one. This is a process which should assist you in clarifying your long-term goals. Establishing a practice takes effort, money, competence and sometimes more guts than brains. In fact, one reason that I believe some doctors do not establish a practice is that the process of doing so is intimidating. However, most doctors can make a comfortable living on their own if the desire combined with proper effort is present. If you choose to establish a practice, the process may take you up to five years after graduation from dental school, but can be accomplished with proper planning. In fact, its easier to obtain financing to open a practice then it is to purchase a practice. Why? You probably won't fail.

As a reference, see Figure 18-1, which provides considerations for designing, relocating or establishing the practice facility. Figure 18-2 provides a listing of expenses which generally would be incurred within the first 90 days of opening the practice. Figure 18-3 provides a listing of practice furnishings, Figure 18-4 provides minimum room sizes for the practice facility, Figure 18-5 provides a list of equipment items for consideration, Figure 18-6 provides a listing of dental supplies, while Figure 18-7 provides a listing of supplies other than dental.

Beyond desire and effort, there are certain factors which assist the new doctor in succeeding. First, believe in yourself. Second, know your long-term game plan. Third, learn to lead by acting as a guide or showing a course of action for your staff, patients and the overall community. Next, find out what you do not know and learn it. For example, dental practices are businesses. However, you do not learn business skills in professional school(s) and you should make the effort and take the time to master those skills for use throughout your career. When learning leadership and business skills, learn by doing, studying, developing a mentor/apprentice relationship and implement what you learn. I do not believe that significant long-term changes for the benefit of your practice can be made unless you personally lead your staff to make those helpful changes. The bottom line is that the continued study and development of leadership and management skills in your practice will reward you in an increased practice value and a greater level of compensation than without the formalized study of such skills.

Initially, the lower your school loans, the better the income from the practice. This factor is not necessarily within your control. Your first concern should be to finish school and become licensed to practice your profession.

If you grew up in a geographical location where you would like to practice, you may have the potential to do very well there, relatively quickly. The same may be true of the community where your spouse grew up.

Become very active in community activities, membership in civic clubs, church/synagogue, etc. Additionally, meet and develop relationships with physicians, other doctors, pharmacists and other persons who could refer to you. Attempt to place yourself in a situation where the nearest

hospital(s) send you the evening and weekend emergencies. In order to implement these practice building strategies, it is helpful, if not imperative, to reside in the community where your practice is located.

If you are not in your practice at a give time, e.g., initially working at another practice, you must be accessible by answering service, page and/or call forwarding. If you use an answering service, the service levels between answering services differs substantially and should be routinely checked by you.

Rural practices may offer some excellent opportunities for you to establish a practice. The problem, however, is that in many instances you and/or your spouse may not desire to live in a rural area. This is particularly true of dual-income or dual-professional families.

In developing your initial business plan, strategic practice plan, project the revenues and expenses in the new practice facility, as well as for any practice which you consider acquiring. The most difficult part of a strategic practice analysis is to determine revenues per month for the first 24 months of practice, as opposed to operating expenses. The revenue projection and the corresponding expense calculations are subject to revision at any given time. Most major corporations also have more difficulty forecasting demand and revenues, as opposed to operational expenses.

When forecasting revenues, take an average number of patients per day, adjust the patients per day over time for new patient growth, multiply the flow of patients per day times either: (i) specific revenues per patient; or (ii) average revenues per patient. At a minimum, this forecast should be specifically completed each month for the first 24 months, prior to starting your practice.

Determine your fixed and variable expenses. These expenses will exist irrespective of the revenues generated by the practice. Expenses which are variable expenses include expenses which change based upon revenues, e.g., laboratory expenses, supply expenses and some staff compensation. To the extent that staff compensation is relatively constant in a particular practice, they are "quasi-fixed" expenses. Because work group members can be added or deleted at the discretion of the practice owner, they are arguably a variable cost.

Once all costs are determined by category, the costs are subtracted from projected revenues. If the projected revenues, less expenses do not allow you to earn the annual compensation you deem necessary from the practice, either find a method of increasing revenue by reducing operating expenses or locate additional employment. The other alternative is not to establish a practice.

One of the most costly situations with which you can be faced, is to rent too much space in an expensive building, purchase too much equipment and/or hire more group members than necessary at high wage rates. When you are in this situation, it can take years to control excessive overhead. These costs directly reduce your compensation.

In establishing your practice, review your location alternatives and make the "one best" choice. Effective methods of determining a suitable practice location are through; other

professionals and business members of your target communities, chambers of commerce, newspaper advertisements, driving through the communities, a review of the community layout, e.g., locations of schools, shopping areas, businesses, housing developments, etc., and through your dental dealer. Dental dealers can be of tremendous assistance in this regard in that the dealer should always maintain a listing of potential practice locations. Additionally, it is the dealer's business to be aware of dental demographics in every community where the dental dealer does business.

After locating the potential new practice facility and prior to signing the lease, talk with all other doctors nearby. You will find these discussions helpful in many ways and may find an opportunity for employment or the purchase of a practice which you were unaware of.

Next, obtain the lease and do not just accept the provisions as written. There are many provisions which can be effectively negotiated.

After the strategic practice plan is completed, site selection made, your advisory team assembled, with the assistance of your dental dealer, choose equipment and obtain all costs for improvement of the location. The dental dealer should provide sound advice to you with regard to site selection, facility design, equipment selection and providing capable and trustworthy individuals who will assist you in the establishment of your practice. Such individuals include the; architect, banker, general contractor, plumber, electrician, carpenter, interior designer and cabinet maker. Your dental dealer should know experienced persons in these areas and in your geographic location with whom the dealer has previously had experience.

The actual costs of establishing a practice should be closely monitored with the estimated costs. In essence, you are monitoring project costs. If actual costs vary with estimated or project costs, you should know why.

Obtaining financing for the new practice facility usually takes longer than you may think and you need to be prepared. Contact and meet with various bankers with a thorough strategic practice plan. Additionally, your dental dealer should also have the ability to either: (i) provide you with financing from a bank or lending institution used by such dealer; or (ii) refer you with various local banks with whom the dental dealer has had favorable experience. Attorneys and accountants should also be able to assist you in this area. You should keep in mind four issues when you are attempting to borrow funds for any reason. First, start early. Two, be prepared. You will not enjoy your loan being rejected by a loan committee if you allow a banker to second guess you. Third, look at all available lending options which you may have open to you from all sources and then compare terms and rates prior to making your decision. Finally, be prepared to provide the lending institution with security. For example, where a doctor has high school loans, no practice and no ownership of assets, home, etc., the bank will undoubtedly ask for a loan guarantee from you. The only alternative may be through family and/or friends and you should not be surprised by this issue.

Until the approval for your financing is obtained, you should not sign the proposed lease, purchase equipment, supplies, office furniture, etc. Once in place, the project can go forward according to pre-arranged timetables which you and your dental dealer will have jointly established.

Remember that the amount of funds which you borrow must be repaid with interest. Therefore, carefully review your budget and the expenditures which you are considering. Although you should strive to open and maintain an attractive facility which is clean, extravagance is economically costly and correlates inversely to your level of compensation.

The dental dealer you use should always have your economic interests in mind and should not attempt to sell you unneeded equipment and/or supplies. An alert dental dealer will understand that over the course of your career, there will be substantial purchases made. Demand excellent service levels from your dealer at competitive prices without quantity purchasing. Purchase what you need as you need it and not before. Both you and your dental dealer should understand that the discretionary items which you purchase must create a positive return on investment for you or you have wasted the purchase price of the item you purchased.

Remember to always operate your practice within your strategic practice or business plan. If your initial plan was incorrect, make adjustments, but definitely operate with a budget.

Dentistry is very hard work and can be extremely stressful. Although the successful dentists I know all seem to truly enjoy their work and thrive on it, there appears to be an increasing number of young dentists, under 45 years of age, leaving dentistry for one reason or another, which is a form of burn-out. Unfortunately, when those individuals leave dentistry, many wish to return a year or so later after they find that they have traded one set of problems for another, usually for less job security and compensation. Therefore, it is imperative to maintain your mental and physical conditioning so that you remain "fresh" throughout your career.

With regard to staff members, you should carefully hire quality individuals. Do not simply settle for staff members whom you do not believe can be developed appropriately. Finding and developing a quality work group is not easy and is time consuming. However, it is well worth the effort, as your practice will actually develop into what you make of it.

Learn to make definite financial arrangements with patients to pay you in cash or over time. Remember that dentistry must be affordable for patients to pay you without the benefit of insurance which is a strong trend in today's economic environment. The best way to avoid account receivable problems is to implement an effective account receivable policy from the first day of practice.

Making definite financial arrangements with patients is an effective method of avoiding a malpractice claim. Many times such claims or lawsuits would have been avoided if the patient: (i) understood the required procedure(s); (ii) the cost; (iii) the financial arrangements of paying for the procedure(s); (iv) the risks; and (v) the alternative options to the recommended procedure(s) as a result of a thorough case presentation. The appropriate time to discuss the financial arrangements is at the time of the case presentation. The case presentation not only provides the patient with the opportunity to receive an important and worthwhile service, but serves to keep costly misunderstandings between you and the patient at a minimum. Further, do not make the false assumption that the patient understands dentistry and the required procedures. The case presentation is your opportunity to educate the patient, perform worthwhile services, build referrals, receive a fair level of compensation for those services and build your practice.

The initial examination is a time when you have the opportunity to spend time communicating with your patient to develop the doctor/patient relationship. Take time with your patients. Make sure your diagnosis is thorough and complete and understand what benefits the patient expects from your treatment. Remember that insurance coverage for dentistry is declining and unless you are willing to accept reduced fees through reduced fee programs, you are essentially asking the patient to pay you out-of-pocket. Therefore, unless the patient sees the benefit of your treatment, he or she will probably not accept your treatment plan nor pay you with direct out-of-pocket dollars.

Prior to making a decision to accept reduced fee program(s), calculate the amount of dentistry which your practice will be required to complete to maintain your existing rate of compensation and pay all operating expenses. Also, determine the amount of time which you would have available to spend with each patient as the result of your acceptance of such programs. Remember, you will be required to increase your current revenues to maintain your current compensation.

As to referrals, develop an on-going working relationships with specialists whose abilities are competent. Not only can specialists assist you in appropriate treatment, but in some cases they can introduce you to other professionals who possess the ability to refer to you. In some instances, a specialist may refer patients to you, e.g., parents of children in an orthodontic practice.

Associate with other dentists whom you wish to emulate and learn from them. Everyone needs a mentor with regards to both clinical and business matters. Additionally, develop your technical and clinical skills to the highest degree possible through ongoing continuing education.

Dentistry is a service. If the patient is not satisfied, he or she will not return and will become a patient elsewhere. Make sure you know precisely what your patients like and dislike about your practice. Listen to and communicate with your patients.

The retirement planning should commence as soon as possible. It's exciting to occasionally see doctors working beyond age 55 because they choose to, not because they have to. However, once you establish your retirement plan(s), fund it or them annually. Additionally, stay away from the investments which carry substantial risk. I recently encountered an orthodontist on a business trip who was contemplating purchasing a restaurant franchise. He was considering this relatively risky investment without giving appropriate attention to the annual funding of his tax-qualified retirement plan, which would be protected from creditors in the event of a lawsuit or bankruptcy. In order to fund a retirement plan, it is imperative to define your personal goals and live within your means or you will not have the funds to achieve financial independence early in life.

Relocating the Practice

Practice relocations take place for several reasons many of which could be avoided through the use of an on-going strategic practice or business plan. The following is a partial list of some common circumstances which may cause a relocation of the practice:

- (1) facility is too small;
- (2) facility was improperly designed;
- (3) facility and/or building is aged and worn out;
- (4) community and/or patient demographics has changed;
- (5) facility is being downsized;
- (6) rental increases;
- (7) flood, fire or other catastrophes;
- (8) facility is too expensive as a percentage of practice revenues;
- (9) you planned to relocate the practice at a future date;
- (10) you initially established a low-cost practice facility to start your practice in order to keep your overhead low.

In certain instances, advance planning can eliminate the need to move the practice facility and thus, will reduce your out-of-pocket costs which will result in significant additional compensation to you.

Although there may be a temptation to begin practicing with an office too small for the revenues which you expect to achieve in the future, your return on investment should be calculated prior to the establishment of such a facility both with: (i) the amortization of a small facility and the increased costs associated with a future move; and (ii) with a facility in which you plan to remain for a long time. Certainly, your current available borrowing ability should be taken into consideration. However, when you calculate the numbers, you may be surprised to see the amount that the relocation will cost you at a future date when, in fact, such relocation may be unnecessary with proper planning at the present time.

There is a trend of reducing facility size and laying off some staff members. In many of these situations, the overhead had been substantially higher than it should have been and the doctor over reacts. While downsizing may have been proper, as it was hopefully based upon sound business planning. Rather than downsize, consider raising revenues. It is not advisable to take these types of actions with reviewing all financial data, both operational expenses and the generation of revenues. Remember that if you reduce the size of the facility, you may well also reduce your ability to treat patients. Therefore, you need to make a conscious decision as to whether you will treat more or less patients than you do currently in each year.

The Practice Facility

Determine the necessary square footage which you will need for the practice facility and do not compromise easily on this matter. If you do, some portion of the facility will be inadequate. In particular, the treatment area should never be compromised, as opposed to other less crucial areas.

All costs of the facility should be ascertained through the budgeting process in advance of the project. Often, the costs of establishing the practice or relocating the practice are much more than originally anticipated as a result of inappropriate financial planning.

As to the location of treatment areas within the facility, the choices should be: (i) north; (ii) east; (iii) south; and (iv) west. West is not recommended, as it would provide direct sunlight in the afternoon as the sun moves east to west.

Early in the relocation project, determine the individual who would be responsible for the design aspect of the facility. The designer may be responsible for reviewing multiple locations in order to determine which is the most feasible. Computer aided design now makes it easier than in the past for designing and making changes very quickly and effectively.

Depending on the facility, an architect may or may not be needed. If so, the architect is usually unfamiliar with dental practices and would need assistance by the dental dealer. Generally, where the dentist builds the building and owns the land, an architect would absolutely be necessary. Although the dental dealer performs all services relating to the design of the practice facility and specific dental equipment, the dealer is not generally qualified to deal with the HVAC, lighting specifications, windows and door thicknesses, etc.

When choosing the team that is responsible for the establishment or relocation of the practice facility, bear in mind that someone must be responsible for completion of the project. More specifically, several individuals will be responsible for various areas of the project. One individual as a "construction manager" or "project coordinator", and not the doctor, should be responsible for the entire project from start to completion. Therefore, prior to commencement of the project, all phases and costs of such project should be planned, inclusive of completion dates. The project commitments should be in accordance with written contracts. The completion of the project generally takes between 90 and 180 days or longer in certain instances. With construction of a new building, plan on at least two years. Delays, mistakes and cost overruns should also be considered in the contracts with the architect, general contractor, tradespeople, dental dealer, interior designer and anyone else taking responsibility in the establishment or relocation of the practice. The appropriate follow up should be completed as to all details of the project and perhaps the individuals involved should not be fully paid until all matters are resolved to your satisfaction. It is truly surprising how many people are necessary to complete a new practice facility. Figure 18-8 describes a list of those individuals.

Dental Equipment

There are three categories of delivery systems for the treatment room: over the patient, side delivery and rear delivery. When planning to purchase equipment for the treatment area, you should understand: (i) the advantages and disadvantages of each of the three delivery systems; (ii) your likes and dislikes of those systems; (iii) the square footage required in the treatment area for the delivery system of your choice; (iv) the specific location where support cabinetry, procedural tray and tub storage, x-ray, nitrous oxide unit, dental light, curing light, electrosurgery unit, view box, computer terminal and intraoral camera will be placed prior to construction; and (v) a clear idea of how both you and your work group can effectively function in treatment room, on a day to day basis. Once the treatment area is determined for planning purposes, the other areas of the practice facility would form around the remainder of the proposed facility. If you cannot effectively function in the remainder, you would be required to go to another facility. Do not comprise here.

As to the use of walls or open delivery systems in the treatment area, five factors should be considered: (i) cost; (ii) required square footage; (iii) noise level; (iv) privacy; and (v) system design.

As to cost, determine the cost of the proposed facility, both with and without walls in relation to the costs of open delivery systems versus traditional treatment room equipment. Several manufacturers have promoted that significantly less plumbing, electrical and carpentry is required where free-standing equipment and cabinetry systems are used, as opposed to utilizing the traditional treatment room with walls. You should determine: (i) the plumbing, electrical and carpentry with and without walls; and (ii) the equipment costs both with and without walls. The cost of intraoral x-rays will be half the amount as with walls. Additionally, each intraoral x-ray unit requires a 110 volt, 20 amp separate circuit. This cost will be also correspondingly less than with walls regarding required electrical work. The amortization period for all costs should also be assessed. The dental equipment would ordinarily be amortizable over 7 years, while leasehold improvements and fixtures would be amortized over a very long period of time. Therefore, the greater portion of the cost of the practice facility which can be depreciated as dental equipment, and rent, as opposed to leasehold improvements, the better.

The required square footage with open delivery systems is less than with traditional treatment rooms to the extent of the differences in cabinet width and the width of the walls, generally five inches. The length is reduced at the treatment room entrance. The fact that less square footage is required with open delivery systems than with traditional treatment rooms should not be an overriding factor in the purchase of such system, yet it seems to be. There have been situations where increased costs for open delivery systems were ignored in favor of reduced square footage.

Noise levels are higher with open delivery systems than with traditional treatment rooms. Plants suspended from the ceiling and on the top of cabinets, appropriate floor coverings, stereo systems, ceiling tiles and noise absorbent materials above the ceiling can assist in reducing, but not eliminating, the noise levels. Bear in mind that the discussion which you hold with one patient may be heard by the patient in the adjacent treatment room. Some dentists are comfortable with this and will say something which they want overheard in another treatment room. Others are unpleasantly surprised when they realize the extent of the level of noise in a new practice facility utilizing open delivery systems.

The noise factor is partially determinative of privacy, which is and should be of particular importance in the doctor/patient relationship. Depending on the nature of your practice, patients may not only be sensitive as to what can be heard, but also as to what can be seen. Although open delivery systems normally have dimensional heights about one foot below what I consider appropriate as a patient, the patient is usually in a reclining position where overall cabinet height is not an issue unless the patient is standing. What is an issue is placement of the delivery systems. If properly placed, sight problems should be minimized to the greatest extent possible.

Open delivery systems are designed as a complete package. Although certain manufacturers have great flexibility of features, certain other manufacturers have less interchangeability of design than may be appropriate. Design flexibility can add to production costs, but the more thought which is given to the overall delivery system, the less need for

flexibility. With regard to function, most manufacturers have done a commendable job in thinking through their system(s) over the last ten years. Quality is also becoming more of an issue than ever among manufacturers and this is positive. Nevertheless, irrespective of whether you purchase an open delivery system or treatment room cabinetry, you should determine how the cabinet surfaces and storage areas will specifically be utilized. Do not purchase a piece of equipment because you think it looks nice. Make certain it appropriately fits your needs. Your dental dealer will assist you here.

Regarding the decision to purchase open delivery systems, as opposed to traditional delivery systems with appropriate support cabinetry, I would weigh each of the five factors and then make my decision.

There are plenty of dental equipment manufacturers in the market. Quality and prices among those manufacturers range from very high to very low. In the evaluation of your equipment needs in light of quality and price considerations, maintain high quality standards no matter what the economic cost. There does exist equipment which is of poor quality and yet, has a high price tag. There exists equipment that is low quality/low price. The frustration and work interruption which you will find by the purchase of poor quality equipment is not worth it.

At dental meetings, all equipment works well, with exceptions, and every manufacturer will tell you that theirs is the best available. How do you get through this? Go through the dental meeting with your dental dealer. Do some homework too, before you choose equipment.

First, select your dental dealer and determine what you need. You need to know the names of the manufacturers which produce what you think you need. Next, you need to know who will install and service your equipment in the event of a breakdown. Assuming that your service technician is employed by a quality dental dealer, authorized by the manufacturer to sell you the equipment which you are considering, you do not have to concern yourself with the service technician's or service department's ability to obtain parts. If alternatively, your service technician is self-employed and not an authorized dealer, then you need assurances that the service technician can supply parts and/or rental or loaner equipment items when needed. Good luck! Further, you should know the identity of the representative employed or engaged by the manufacturer, his or her reputation, background and the length of time employed. Some manufacturer's representatives do better work than others. However, most perform at a fairly high level. The manufacturer's representative can be of great assistance to you with any problems or difficulties which you may have with your equipment, e.g., warranty problems, replacement parts, adopting new technology to existing equipment and reviewing the proper use of the equipment.

No matter how you accomplish the end result, you should select and purchase equipment that will: (i) properly operate over its useful life; (ii) that will not cause you costly down time; (iii) allow you to produce dentistry in the most effective manner possible; and (iv) be priced at a "fair" economic cost. To purchase the equipment you need, you need your dental dealer. Although you will speak with your friends and colleagues about these matters, remember that no two dentists have identical needs and you may receive confusing and wrong information.

You may consider two options for each equipment item. Thereafter, review your needs, the features of each equipment item and the associated costs. The choice between two pieces of equipment should ultimately be from one at the high feature/high price end and one from the low feature/low price end. However, quality should always be a consideration and equipment that does not meet your or your dealer's quality standards should not be purchased at any cost. The choice as to high end versus low end may be with the same manufacturer. Some manufacturers have the ability to offer equipment in the high and low price range, but not at a sacrifice of quality.

Avoid any new products from those manufacturers that have had quality and parts problems in the past. Generally, their new products are not "winners" either. Your dental dealer should know where the problems are.

Dental equipment by its nature can and does break. When it does, you need to obtain assistance in resolving the problem immediately. One way to minimize equipment breakdowns is to maintain a relationship with your dental dealer. This healthy relationship should be a win-win situation. Purchase your supplies from your dental dealer. Expect overall high quality services, competent repair personnel, knowledgeable sales representative, an approximately 98% delivery rate on stock orders. Expect competitive pricing. The end result is that you receive quality services from the dealer at competitive prices and when your equipment is down or, if you have a repair problem, it gets resolved in a timely manner. Therefore, your downtime is minimized, although not eliminated.

Some doctors think that repairs can be made through an independent repair representative. However, these companies usually have difficulty in obtaining parts if they are not authorized dealers. At a minimum, you will be required to wait substantially longer for a part from a non-dealer, the independent repair representative, than from a dealer. The dealer can have your part shipped from the manufacturer by next-day air. The non-dealer, repair representative, must send a check to the dealer who is selling the unauthorized parts. That dealer must then have the manufacturer ship the part to such dealer, which is probably located in a different state than the repair representative. The dealer then ships to the repair representative. If the repair representative has not paid its bill with the dealer, this issue must be resolved prior to your part(s) being ordered. This problem results in your equipment not being repaired when you need it repaired.

One area which is not often considered is the process of filling out and sending the warranty cards to the manufacturer after an equipment item is installed. Additionally, in many instances, neither the dealer nor the doctor recalls the date when the installation of the equipment was completed. The signing of and sending in of warranty cards and noting the dates of installation can be of importance in the event of an equipment breakdown.

On new equipment, the manufacturer's warranty used to be one year, except for handpieces. The length of warranty on equipment generally now depends on the equipment item and you should know that period. The dealer's warranty is generally 90 days for purposes of providing labor at no charge. It is very possible that you could be charged for a repair that should be under the manufacturer's warranty, dealer's warranty, or both. For example, assume you purchase a sterilizer and it does not function properly on the first day. Let's further assume that the dealer replaces the sterilizer and it too breaks down after 82 days, due to the same problem

that the manufacturer has with all sterilizers from a certain time period. Your original invoice for the purchase of the first sterilizer is older than 90 days. However, the 90-day warranty on labor is still applicable to the second sterilizer. Unless the dealer keeps good records, and good dealers keep and maintain good records, you will be charged for the second service call to repair or replace the second sterilizer. This is a problem which is more common than you may first think. However, warranty problems and the difficulty in resolving such problems can be avoided by filling out warranty cards, sending them to the manufacturer and noting the dates of installation. Over the years, I have seen lots of confusion as to whether warranties are still applicable with regard to problems with x-ray tube heads, vacuum motors, handpiece turbines, etc. Furthermore, the failure to fill out warranty cards can create a problem for a manufacturer determining your identity in the event of a recall due to a safety hazard. A few years ago, one stool manufacturer had a problem with the metal castings on the support under the seat. The problem was that the stools were breaking and doctors, assistants and hygienists were falling from the stools which resulted in some problems. Generally speaking, the dental dealers around the country kept inadequate records of the owners of the stools during the periods in question. Unless the warranty cards had been sent to the manufacturer in this case, the dealer would be required to determine by memory who purchased that manufacturer's stool in a given area to avoid potential problems.

Dental Supplies

As to the purchase of supplies, your options are to purchase your supplies from a dealer, mail order or from certain manufacturers who sell direct, a practice which has become more prevalent in recent years. In today's environment, dealers have the ability to directly compete with mail order companies. This competition exists with respect to selection, delivery time, utilization of catalogs, utilization of computer tie-ins, knowledgeable customer service personnel and pricing. Additionally, the dental dealer has the ability to provide you with a sales representative to update you on product use, show you new products, resolve product problems and locate an associate or staff member for your practice. Although I have found some dentists complain that the dealer supply representative is a nuisance, good representatives are knowledgeable about their business, responsible and can truly be of help to the dentist regarding competitive prices with mail order companies. If the representative is doing his or her job well, you should be obtaining substantial benefits. In prior years, mail order companies, at times, did provide significantly better service levels than did dealers. That is no longer the case and, in fact, mail order companies have purchased dental dealers. The purchase of supplies by mail order is a very viable option for a significant number of practices which do not feel that the supply representative provides a useful benefit. However, because equipment can and will break, it is helpful to have a dental dealer on your team and this can be accomplished at virtually no additional economic cost to the practice.

As to supply ordering, computer assisted service is very prevalent and serves to provide the doctor with the lowest possible price on a specific supply item. As computer technology increases, more services of this nature will be available. These services will probably narrow the differences between prices for supply items from various sources.

Regarding the issue of the dentist not paying for state sales on out-of-state supply and equipment purchases, most state legislatures are looking at enforcement of their use-tax statutes, as states attempt to raise revenues through taxes. A state use tax coincides with state sales taxes

and where the dentist is not charged sales tax on an out-of-state purchase, such doctor is generally required to remit such tax to the state in which that doctor practices through the use tax. Upon a state tax audit, there could be significant use taxes due on prior out-of-state purchases, as well as substantial penalties and interest. States generally have lacked sufficient personnel to enforce use tax provisions, although this may change.

With regard to direct sales, several such manufacturers have chosen this method of distribution in recent years and will attempt to develop a substantial line of products over a period of time. Some of these manufacturers have excellent products. However, purchasing direct requires you to purchase from yet another source, as opposed to limiting your sources of purchase to the greatest extent possible.

Facility Design

Figure 18-4 provides a listing of room sizes for each area of the practice facility. Although room sizes can be increased, which can create an inappropriate amount of rent, be very hesitant in reducing room sizes below a size which would fit your needs. Productivity is lost when you and the staff are uncomfortable.

As to reception area, approximately 10 foot width where seating exists on one side and approximately a 15 foot width where seating exists on two sides of the room may be appropriate. The length of the reception room would be approximately 12 to 15 feet. A restroom in the reception area is not recommended, as the receptionist should be able to see each person in the reception area at one time without moving. This would not be the case if there were a rest room in the reception area. Remember that the first impression for your patients is the reception area and the receptionist who greets them. Therefore, attempt to maintain the reception area in a way in which you will be proud of. Use fabric cushions where possible. Otherwise you can end up with holes in the seating. A children's table, if one exists, should also have the capability of seating adults where necessary. Regarding lighting in the reception room, stay away from florescent lights provided by the landlord. Some special lighting in this area should be helpful in making the reception area warm. Do not use landlord's standard carpeting unless it is of a very high grade. Fresh cut flowers also enhance the reception area. You can work out a long-term arrangement with a local florist here. As to the entrance between the reception room and the business office, do not use a door. If a door is used, consider glass. Generally, there should be approximately six seats for a one doctor practice. Additional seating would be required for specialty or multiple doctor practices. As to coat areas, maintain insurance in the event of a missing coat. Additionally, sport coats, valuable outer coats and purses should be able to be hung or placed in the treatment room. Incandescent lighting is appropriate for the reception area which should present a low fear/high trust environment. Soft music is acceptable for a reception area in that there will always be some type of low noise level in a dental office.

As to the business office, the area between the reception room and the business office should serve as an area only to greet patients. The receptionist should not generally sit with the chair pointed in the direction of the reception area, which creates sound problems and discussions with patients. Therefore, the receptionist should be looking in another direction. Assuming that the receptionist's counter is in two sections at a right angle, or curved, there should exist a 27-inch height typing area between the business office and reception room wall or divider and a 30-inch

high writing area on the perpendicular portion where the receptionist is usually seated. This section should be approximately 8 feet in length and 30 to 36 inches in depth. The 8-foot-plus section where the patient pays and is reappointed would be 42 inches in height and 10 inches in width. If a curved reception counter is utilized, the receptionist can move approximately 6 to 8 feet without moving the chair, thereby making her more effective than if necessary to move. As to the patient providing payment to the practice as services are rendered, this is an issue which should be personally discussed by the receptionist or office manager with the patient. The patient should not be expected to read and comply with signs posted relative to payment in the reception room. The hallway adjacent to the business office should be sufficiently wide, 5 to 6 feet in width, should allow patients and others can stand, while not located in the traffic flow. Patients making payments, dealing with insurance issues and are being reappointed should not be directly in the traffic area, which is the reason for a sufficiently wide hallway area here. As to the appointment book, it should be located away from the reception greeting area and should not be moved from the area whereby the patients transact business with the receptionist. Storage cabinets should not be placed below the receptionist's desk as it would then be very difficult for the receptionist to cover the distance in which she has to move her chair. If the practice employs a receptionist and an insurance coordinator, each must be able to visually communicate with each other. However, the area where financial arrangements are made should have some degree of privacy. As to files, color coded lateral files should be utilized which would also provide a numerical index to prevent misfiling. The depth of the files should be approximately 25 inches.

As to the design of the treatment room, the dimensions which should be acceptable for walled treatment rooms with walls are 9 foot, 6 inches by 10 feet. The 9 foot, 6 inches width is dependent on cabinetry width on the doctor's and/or assistant's side and whether a cuspidor, which is not recommended, is used. In the event that a cuspidor is used in the treatment room, the room should be 10 feet in width. The 10 foot width assumes that the cabinets on the doctor's and assistant's side are no wider than 18 inches, including overhang. There should exist approximately 30 inches on each side of the chair for the doctor and the assistant. While 24 inches is too restrictive, 30 inches or above requires more movement than necessary in order to reach necessary items. An 18" doctor's and assistant's cabinet depth is a standard depth, which would not require additional pricing from most cabinetmakers. However, in situations where a depth other than a standard cabinet depth of 18 inches or 24 inches is required for cabinets, the cabinetmaker would generally charge a premium. There are, of course, situations where the space is limited and, therefore, unless you are willing to compromise on space, a custom-size cabinet would be required.

As to the 10 foot length, such length is based upon 24 inches between the hallway wall and the head of the chair in order for the doctor to be seated at twelve o'clock, behind the patient. In the event that cabinetry is placed between the hallway wall and the head of the patient chair, additional length would be required, unless an uncomfortable compromise would be made.

If a junction box or utilities center will be visibly located within the treatment room, it should be properly placed. You do not need an otherwise functional treatment room with a utility center that does not allow proper chair positioning. This is the direct responsibility of the dental dealer.

It may be appropriate to mount the intraoral x-ray behind the patient, assuming no cabinetry is located in that position. The reason for mounting the x-ray in such position is that reach problems should be avoided, although the newer x-rays have significantly longer reaches than x-rays manufactured several years ago. Additionally, locating the x-ray on either the doctor's or the assistant's side will inconvenience either the doctor or assistant and will take up additional time in positioning. Further, there could be some difficulty with the x-ray in attempting to reach past the dental light. In the event that the x-ray is located on the assistant's side, the dental dealer should be aware of the x-ray and light position to avoid this problem.

It may be acceptable to place an intraoral x-ray in an x-ray area, assuming sufficient space. In this case, an x-ray should also be located in each treatment room.

As to the treatment room width, make all rooms the same, including hygiene. Otherwise, you will favor only certain rooms and this can be a problem should you hire an associate or hygienist.

The treatment room is where you will spend a substantial amount of your time during every working day. The last thing you need is a poorly designed treatment room. However, the area of a facility with the most problems is usually the treatment room.

Another area for problems is the HVAC systems. For example, in the event that the treatment room is located on the wrong side of the building, west, the treatment room may be too hot. If you attempt to solve this problem by the use of air-conditioning, other areas of the office may be too cold for the comfort of other patients and work group members.

Most buildings have substandard HVAC systems. This is an area which should be investigated prior to leasing space. Remember that you and your work group are required in the practice facility each day and neither you, your staff members or your patients should be uncomfortable.

With regard to the utility room, make sure the room is large enough to hold the air compressor and vacuum system. Keep in mind that air compressors and vacuum systems are relatively noisy and that utility rooms should be soundproofed to the greatest extent possible. In many circumstances, a noise absorbent base can be placed below the air compressor. If the air compressor and vacuum system must be stacked to conserve space, the air compressor should be on top, in that the vacuum system can only draw fluids and debris within certain heights, generally 24 inches.

Certain manufacturers have indicated that it is possible and feasible to utilize vacuum turbine systems or traditional vacuum systems, while running the vacuum lines above the ceiling. Although it is possible to do this, it is a relatively complex situation. Where complexity exists, it is easy to create problems. Therefore, I would suggest that you do not run the vacuum lines above the ceilings at any time.

As to vacuum turbine systems, they are not all that popular for dental purposes, and as a result, in my view, have never worked properly. Additionally, due to their lack of popularity in

dental practices, dental dealers do not usually carry loaner or rental turbine systems in the event that such system would breakdown, and they do.

As to oil-less compressors, I found them cleaner than traditional oil-type air compressors, but much more noise is created. Where I have heard of air compressor problems with a relatively new compressor, it is generally oil-less.

The consultation area is a should not be the treatment room, although it may be a private office. A consultation area is important to thorough case presentation.

A staff area is important, with staff lockers in place to accommodate staff members' personal belongings. Not everyone can afford to go out to eat every day and a staff area is helpful. However, if a microwave is used, which permeates the smell of food throughout the facility, place the staff area away from areas where patients will be located.

The staff area often has a private entrance. Irrespective of where a second or private entrance is located, I recommend the use of a private entrance. Otherwise, the doctor will be required to walk through the reception area.

As to restrooms, it is important that the practice is in compliance with the Americans With Disabilities Act if the rest room(s) is within the practice facility. Many times, however, it is sufficient to utilize the rest room facilities within the building where the practice is located.

As to the dental laboratory, a length of 10 feet to 12 feet may be appropriate. Regarding width, consider a work surface with lower and upper cabinetry with the work surface 2 foot in depth. The walk or passing area should be approximately 4 feet 6 inches deep so that two people can pass by one another. In the event that a cabinet and work surface exist on each side of the laboratory, add an additional 2 feet for the work surface on the opposite side and an additional 6 inches for the walkway. However, rather than placing cabinets and counters on both side of the dental laboratory, you may wish to utilization less square footage on the dental laboratory area and utilize what would have been laboratory space for the separate sterilization area.

The current OSHA requirements and the requirements of the dental boards on the state level require more space than ever dedicated to the sterilization area, as it should be.

Additionally, consider installing a washer and dryer in practice facility, assuming space is available. The length of the sterilization area should be 14 feet to 16 feet and the width should be the same as the dental laboratory, unless a laboratory technician works in the practice.

Contracts

Too often, contracts are not in writing. A situation occurred where the doctor, who was new in practice, purchased and paid cash for office furniture without a written contract. The furniture was never obtained and the seller ultimately went out of business. This situation could have been avoided by not paying cash in advance for this purchase. Other times, I have seen contractors fully paid for work which was not properly completed. There have been cabinet makers who were fully paid where the cabinets should have been remade. Another time an

interior designer did very poor quality work with a lower grade of wall covering than should have been used. Had there been a signed contract with the grade of the wall covering clearly specified, there would not have been a dispute. Additionally, the dentist in this instance paid cash in advance prior to the wall covering being installed. There are three rules to resolving these problems. First, do not pay cash in advance for anything. The people who you deal with most, your dental dealer and laboratory, do not require cash in advance and neither should other types of suppliers. Second, reduce contracts to writing. This minimizes the potential for misunderstandings and disputes. Third, be very careful about personally guaranteeing any contract, as opposed to signing on behalf of your professional corporation or limited liability company.

Certain types of contracts must be in writing in order to be enforceable. However, irrespective of whether a particular contract must be in writing to ensure its enforceability, a written agreement which sets forth the full terms and conditions of the particular transaction can resolve disputes and avoids costly litigation.

Lease Versus Purchase

The different tax and non-tax consequences associated with the decision to lease or purchase equipment requires you to give special attention to this common, and recurring, decision.

There are three (3) key non-tax advantages associated with the leasing of equipment. First, unlike a purchase of equipment, a lease requires a minimal or no down payment. However, a lease usually requires an initial cash outlay representing the first and last payments as security.

Second, if it is difficult to obtain financing because of your financial position, e.g., providing a college education for your children, a lease may be the most appropriate method of obtaining the use of equipment.

Third, the lease instrument provides a great deal of flexibility. Individual situations can be effectively handled through the use of varying rental payments and lease renewal options.

There are, of course, certain non-tax disadvantages to leasing equipment. First, a lessee does not obtain title at the end of the a true lease and, therefore, does not own the equipment after paying for its use. As a result, the absence of ownership rights in the equipment upon the expiration of the lease may make leasing more costly than purchasing, in that the purchaser of equipment will have the fair market value of the equipment as an asset when the loan is fully paid.

Another difficulty with leasing is that since the lessee does not "own" the equipment, the lessee may not sell the equipment prior to the expiration of the lease. Even where the lessee pays out the balance in one lump sum, the equipment is still owned by the lessor.

The 1986 Tax Reform Act revised the depreciation rules for the purchase of equipment. In general, the cost of property, other than residential rental property and nonresidential real property, is recovered over a 3, 5, 7, 10, 15, or 20-year period, depending on the type of property. Ironically, it takes one year more than the recovery period to depreciate the property

for Federal income tax purposes, due to a mechanism called the "half year" convention. The IRS provides tables for the depreciation allowed to be taken each year and the length of time it takes to depreciate each class of property.

Under a lease, rental payments are generally deductible over its term. The rental is deductible by a cash basis taxpayer in the year paid and by an accrual taxpayer in the year the liability is incurred. If more than ten percent of the annual rent is above or below the annual yearly rental average, the IRS may consider the rental payments as "advance rent" and the deduction would be denied.

A portion of the cost of purchased equipment is immediately tax deductible. This deduction is referred to as "Section 179 expensing." Where the purchaser elects Section 179 expensing, the adjusted tax basis of the purchased equipment must be reduced by the allowable amount prior to computing the tax depreciation. The Section 179 expense limitation may be allocated among asset classifications purchased. In addition, the amount of the Section 179 expensing deduction cannot exceed the taxpayer's taxable income which is derived from the active conduct of a trade or business. Any part of the deduction that cannot be taken because of the taxable income rule can be carried indefinitely into future tax years. If the purchase price of an asset is less than Section 179 amount, the maximum deduction is the cost of the asset. For doctors new in practice, however, you may choose not to use the Section 179 deduction and depreciate the equipment over 7 years or 5 years for computer systems. The rationale is that you do not need the deductions until later when revenues are high.

Another lease-related tax consideration relates to "options to purchase" which may be granted in connection with the lease. In this regard, leasing companies will frequently offer a purchase option thereby allowing the lessee to obtain ownership of the equipment at the end of the lease for a predetermined value. A lessee should be cautious of such purchase options. If certain requirements are not met, the IRS may characterize the lease as a "conditional sale." If this occurs, lease rental payments would not be deductible over the term of the lease. Rather, such payments would be depreciated over the appropriate recovery period. This period may be significantly longer than the lease term. In order to avoid characterization as a "conditional sale," the lessor must maintain a twenty percent minimum cost investment in the leased property throughout the entire term of the lease, the equipment must be purchased for fair market value and the purchase option must be truly an "option" and not a disguised obligation of the lessee.

To decide whether it is more advantageous to lease or purchase equipment, the following steps should be taken.

Examine your overall financial position and future capital needs with both your accountant and attorney. Every practice is different and unique in this respect.

Determine the net equipment cost with your dealer prior to discussing financing. It is important to know whether the dealer is basing the lease or loan payments on the retail price or on what he or she could actually sell the equipment for.

Ask for quotes on a lease and a purchase. Your dental dealer should be willing to provide both if asked to do so.

Americans With Disabilities Act

The Americans with Disabilities Act, the "Act", is a Federal law which prohibits discrimination in access to services and employment against persons who are disabled because your practice facility is a place of "public accommodation". Under the Act, you are required to remove architectural barriers in your space within control which impede accessibility when removal of those barriers is "readily achievable."

If you rent, rather than own the building in which your practice is located, you are responsible only for removing barriers within the facility that are readily achievable. If permission of the landlord is required to make certain changes, e.g., widening doorways, you should request such permission. The landlord is responsible for removing barriers under his or her control, e.g., parking lots and public restrooms.

The rules under the Act state that allocation of responsibility for complying with the requirements of the Act may be determined by lease or other contract. Your lease should specify your responsibilities and those of the landlord for complying with the Act.

Under IRC Section 44, dental practices having 30 or fewer full-time employees and annual gross receipts under \$1,000,000.00 are eligible for a credit of up to 50 percent of the cost of removing architectural, physical and communications barriers under the Act, which exceed \$250.00 but do not exceed \$10,250.00. Therefore, the maximum credit in a tax year is \$5,000.00. Additionally, the taxpayer may deduct up to \$15,000.00 per year for the cost of removing architectural and transportation barriers under IRC Section 190. If you plan to use this credit and/or deduction, document its legitimacy relative to disabled patients and/or staff members.

Assuming that the practice has 15 or more employees, the Act prohibits the doctor from discriminating against a "qualified person" with a disability in hiring, or promoting or other decisions affecting employment. However, a practice is not required to give special preference to persons with disabilities. The purpose of the Act is to remove barriers to employment for disabled persons based on prejudice or lack of understanding. It does not require that the practice hire or promote a disabled person in preference to a better qualified person who is not disabled. In any event, hiring and personnel policies must be reviewed to ensure compliance with the Act.

Malpractice

Malpractice issues should be of concern to you given the number of lawsuits filed each year. A claim for malpractice can arise out of any area of professional practice. At times, cause of such an action is a mistake made by the practitioner. However, two other causes are generally recognized as giving rise to the filing of malpractice actions. The first is where the result obtained was not the product of practitioner negligence, but is not an acceptable result to the patient. The second, when, for one reason or another, a patient finds himself or herself in a position of not being able to pay for a service and pressure is exerted by the practice owed for payment.

As to the former, it is an unfortunate fact of life that at times an unsatisfactory result, not due to negligence, is the product of a dental procedure. Consequently, it is beneficial and important for the doctor to clearly advise the patient prior to any procedure of the range of probable and/or recognized results and risks, including, the unsatisfactory as well as the satisfactory. Further, if an unsatisfactory result is obtained it is likewise important to the doctor/patient relationship to take time afterwards to explain to the patient that the result, although not desired did occur. At this point, the doctor should use his or her communication skills to resolve the patient's concerns. Again, forthrightness should be the cornerstone of any discussions so that the patient is not misled as to his or her condition or the consequences of treatment.

In this regard, if the result is more cosmetic than health threatening, the patient should be so informed, and if follow-up corrective action is available, such should be discussed with the patient. On the other hand, where the result will have a negative impact on the dental health of the patient, immediate discussion should take place with regard to a corrective course of action, whether that be through the continuing treatment by the practitioner or a specialist. Openness on this subject, if handled properly, will tend to generate confidence and trust in the patient vis-a-vis his or her relationship with the doctor. Conversely, failure to advise of corrective treatment and or a referral for the same could, in and of itself, establish a separate ground for malpractice and unnecessarily exacerbate the situation.

In handling the treatment of any patient, but especially those undergoing procedures anticipated to be difficult or with a probability of an unsatisfactory result, the doctor should adequately document all discussions, advice and disclosures made to the patient during the course of treatment. A well documented, forthright medical record is crucial to the defense of any claim of malpractice. The medical record, because it is a contemporaneously prepared record, carries with it an indicia of credibility which allows legal counsel, experts, the court and eventually, if necessary, the jury to access the quality of the dental care provided. Contrast the case where the patient records reflect a recurrent theme of accuracy, completeness and forthrightness, with a case involving a dental record where mysteriously no entries or comments are made regarding to the patient's condition. Simply put, it is highly advisable to make a practice of keeping properly documented patient records.

A portion of malpractice claims arise from patients who are not necessarily dissatisfied with the services provided, but are not capable of paying for their cost. As health costs have risen and as dental coverage has become more restrictive, the probability of treating a patient who cannot afford to pay for services performed has increased. Further, this area is affected by the socioeconomic demographics of the particular dental practice. Simply put, those without dental insurance who are in need of, but cannot afford to pay for extensive dental care, may use a claim of malpractice as leverage for avoiding the payment of a bill. In such circumstances, it is imperative, that prior to pursuing collection in such instances, that the dentist assures himself or herself, to the greatest extent possible, that there is no foundation for a claim of malpractice. It may at times be advisable to forego the fee and thereby, hopefully, avoid the time consuming and costly occurrence of even an unfounded lawsuit. On the other hand, where the patient's file is well documented and reveals no lapse in the standard of care, then the decision is purely a business one with regards incurring the costs of collection.

One last note with regards to the keeping of patient records as it concerns documenting a patient's dissatisfaction with services rendered. Depending upon the particular state in which you practice, the statute of limitations for a dental claim is one year after the cause of action accrued, excepting therefrom, persons who are under the age of majority, are of unsound mind or are imprisoned. Regarding those individuals, the statute of limitations does not run until they are alleviated of their particular disability. In any event, a cause of action is said to accrue and the statute of limitation commences to run generally when a patient discovers, or in the exercise of reasonable care and diligence should have discovered, the claimed malpractice. Accordingly, if during the course of a conversation with a patient, the patient indicates that he or she believes malpractice was committed or the service was improperly performed such communication should be documented in the patient's record. Although not conclusive, such will provide an argument that the one year statute of limitations commenced running on that date, assuming termination of dentist/patient relationship. This information could be valuable in defending against any claim filed as a result of the service.

In lieu of a "reasonable cause affidavit" plaintiff or plaintiff's counsel may attach an affidavit which indicates that he or she was unable to obtain a consultation with a qualified expert but will within 90 days after the filing of the complaint file a reasonable cause affidavit. Another affidavit is the "unavailability of medical records affidavit." As the title indicates, the plaintiff or the plaintiff's counsel files an affidavit indicating that the reason a reasonable cause affidavit cannot be filed is that appropriate dental records could not be obtained. However, once they are obtained, the plaintiff or counsel must file a "reasonable cause affidavit" within 90 days. Finally, where a dental claim is based upon "res ipsa loquitur", i.e., claims such as the failure to remove a foreign object, or other claims which do not require medical expert testimony, the plaintiff or the attorney can indicate that the claim involved is of such a nature that a dental expert is not necessary.

In any event, it can be seen that new statutory sections, although they extend the time period within which the dental claim may be brought, establish procedural requirements which are likely to reduce the number of complaints filed, or weed out those complaints which are not medically justified.

If a claim for dental malpractice is brought against you, you will most likely be served by certified mail. Although other forms of service are available, e.g., sheriff service, and under certain circumstances regular mail service, certified mail is the service method of choice for most lawyers. Accordingly, your staff should understand that any certified mail received at your practice is to be brought to your immediate attention. Understand, that once served you must respond to the complaint with 28 days and in some instances less time, otherwise a judgement could automatically be entered against you. Accordingly, once you determined that you have been sued you should immediately do the following things:

1. Determine what insurance policy, if you have any, provides coverage for the claim;
2. Review the policy to determine the requirements upon you with regard to notification of the insurance company;

3. Precisely follow the notification requirements of your insurance policy;
4. Call the agent who issued you the insurance policy and inquire as to what steps you should take;
5. Follow precisely the instructions given to you by your insurance agent; and
6. As additional protection, immediately mail to your insurance company, by certified mail a copy of the complaint along with a cover letter indicating your receipt of the same and your request that the insurance company protect your interests. Issue a copy of that letter to your insurance agent.

Following these basic steps should effectively get you past the first "hurdle" in a malpractice case, which is putting your insurance carrier on notice and obtaining a defense of the claim from your insurance company.

Once the claim has been received by your insurance company, it most often will select the legal counsel who will represent your interests. Generally, the insurance company will inform you of who will represent you. Shortly after notification of the appointment of legal counsel, the attorney appointed by the insurance company will make contact with you to prepare your defense. It is imperative that you fully cooperate with all requests of the insurance company and the legal counsel appointed by it, as failure to cooperate can be a bases for denial of coverage. This will usually require you to provide a copy of your patient file as well as some of your time to be interviewed by counsel. Thereafter, how a case will proceed will be determined by the facts of that case. In any event, continued cooperation with the insurance company and legal counsel appointed by the insurance company cannot be over emphasized.

In some instances, the insurance company may believe that the claim asserted in the complaint is not within the coverage of its policy. This can occur for several reasons. First, the particular type of claim may not be within your professional liability coverage. For example, you receive a lawsuit from a patient who slipped and fell on the stairs leading to your office. While *you are a defendant in the action, the coverage for such a claim would be under your premises liability policy and not your professional liability policy. Accordingly, the insurance company will return the claim to you as being outside the scope of their coverage.

Second, it may be that the nature of the claim, although arising out of a claim of malpractice is such that it goes beyond the coverage of the policy. For example, a practitioner is sued by a patient who while sitting in the dental chair awaiting a procedure, informs the dentist that on the way to the dentist's office he or she ran over the dentist's pedigree dog, whereupon the dentist grabs a hammer and smashes the patient's teeth out. While it is plainly malpractice to remove teeth with a hammer, the fact that the dentist's actions were the result of an intention to harm the patient may take the case out of insurance coverage. In such instances, the insurance company will most likely provide an attorney to defend the dentist under what is known as a "reservation of rights" letter. In such a circumstance the insurance company essentially informs the dentist that while it does not believe there is coverage under the policy, it will provide an attorney to defend, but does not promise to cover any resulting judgment for the patient. Usually in such a letter, the insurance company will advise the dentist to obtain private legal counsel to

protect his or her interests, to the extent that they are not covered under the policy. In such circumstances, the dentist should immediately retain his or her own counsel to evaluate the case.

Another situation in which the circumstances may take the case beyond the coverage of the applicable insurance policy is where the claimed damages exceed the coverage available under the policy. For example, if the insurance policy provides coverage up to one half million dollars, and the claimed damages exceeds that limit, then the insurance company again will issue a "reservation of rights" letter to the dentist advising him or her that the claim is beyond the limits of the policy, and that it is advisable for the dentist to retain private counsel. Once again, the dentist should immediately retain private counsel to evaluate the case.

With regard to the issue of the amount of coverage which a dentist should carry, it can generally be stated that the policies issued for dental professional liability are for the most part uniform. Accordingly, the dentist's primary concern usually revolves around the yearly cost, or premium, for the coverage. In this regard, it should be understood that the cost of insurance is directly proportional to the degree of coverage, that is the scope of matters covered by the policy, as well as the insured limits of the policy. In recent years, due to the skyrocketing costs of professional liability insurance, insurance companies have attempted to devise various mechanisms for containing costs. These include deductibles and varying coverage limits. With respect to the issue of professional liability insurance, it is highly advisable to develop a good working relationship with your insurance agent, and, in turn, to spend time with him or her to evaluate your insurance and concerns. An extended business lunch with your insurance agent could prove to be most beneficial, as it is very important that you are appropriately insured.

Whether designing, relocating or establishing the practice facility, you benefit by doing your "homework" and obtaining competent advice, which is available. Mistakes cost much more than proper advice.