



## Précis Paper

### Risk and Dental Practice

This is the second discussion with Dr Ironside, well known Sydney specialist dentist. The discussion is useful for lawyers considering risk management in a dental surgery.

#### **Discussion Includes**

- Issues on warranties
- Ethics in practice
- Structure of dental practices
- Working with dental assistants
- Infection control procedures in dental practices
- Insurance in dental practices
- Compulsory professional development
- Internships for graduate dentists
- Registration of dentists
- Pre fluoride v post fluoride
- Dispute resolution procedures

# Précis Paper

## Risk and Dental Practice

1. In this edition of BenchTV, Dr Jim Ironside, prosthodontist at Ironside Advanced Dental and Associate Professor at Charles Sturt University, is interviewed by Louise Blase on various aspects in the field of dentistry, including a dentist's departure from a practice, structures of dental practices, working with other dental staff, infection control, insurance, continuing dental education, the effects of fluoride and dispute resolution.

### What Happens When a Dentist Leaves a Practice?

2. The biggest issue when a dentist leaves a practice is following up on warranties where there is dental work that needs to be corrected. If there is a problem with the work done by a previous dentist, the best strategy is to be upfront about it to the patient and deal with it for no cost to the patient. If a patient decides that they do not want to remain with the practice to deal with the problem, then it is necessary for the practice to obtain legal advice, obtain a deed of release, send a patient's money back, make sure the patient is safe and refer the work on to another dentist who can cope with the problem.
3. When an employee dentist leaves a practice, the practice needs to inform their patients that the dentist is no longer with the practice and get those patients in for a follow-up appointment so they can be reappointed to another dentist at the practice. In most cases, when there is a staged exit of a dentist from the practice, most of the dental work will have already been completed. However, Dr Ironside has had the experience of a dentist leaving his practice for personal reasons with 4 hours' notice, leaving a full schedule of patients waiting to be treated. In that scenario, Dr Ironside had to fit in patients into his schedule where he could for the next few weeks. Some patients might also follow the leaving dentist to the practice that they are going to.
4. It is important for dentists to remember the normal rules of ethical behaviour towards patients so that dentists respect patients above the practice, regardless of the fact that they are an employee. If that is done, there should be no issues for the practice when a dentist leaves. This should be made clear to employees when they start working at the practice.
5. Dr Ironside believes it is wrong for employee dentists to take patients with them when they leave a practice. In Dr Ironside's experience, most employees are respectful of this. However, he believes that if a patient wishes to follow a dentist to another practice due to their personal connection with that dentist, it is the more pragmatic and better approach to let them.

6. If a dentist leaves a practice and the work they have done has failed where there has been work done by an outside laboratory such as for a bridge, crown or veneer, and that work needs to be remade, a discussion with the leaving dentist over who will cover the laboratory costs is warranted. However, money should only be asked for in cases where there is a significant amount of money owing and the practice knows the dentist can pay. Otherwise, it costs too much time and stress.
7. In Dr Ironside's practice there is no retention of money in case a dentist leaves the practice, however other practices may use this policy. Dentists usually just agree to be paid a certain amount, generally on a commission basis after lab fees have been removed. If an employee dentist is covering the warranty work of another dentist that has left the practice, the owners of the practice need to pay that employee dentist.
8. In termination clauses, Dr Ironside would include that dentists are liable for warranties. However, in practice this might be difficult to rely on and in the end the burden will fall on the practice to pay. Dr Ironside would also ask for at least 4 weeks' notice before a dentist leaves a practice.

#### Structure of Dental Practices

9. There are a range of structures employed in dental practices in NSW. Dr Ironside believes honest partnerships are a great way to operate, since partners are generally responsible for their own work and liabilities unless there is some other special arrangement within the practice. It is also possible to have a structure with one principle and several associates that have their own practices within the one practice. The associates are responsible for their own work and their own patients, so when they leave the practice they can take their patients with them. There can also be employee relationships, which leaves open the possibility for issues to arise when employees leave the practice and take clients with them. However, restraint of trade clauses are generally incorporated in employment contracts, which can help address these issues. Corporations have also been taking over dentistry practices, however, after five or so years working for the corporation, it is common for dentists to retire or set up close by, taking all their patients with them.

#### Dentists Finishing Other Dentist's Work

10. There are certain circumstances where a dentist can finish another dentist's work both ethically and correctly, as long as it is clearly explained to the patient. Another dentist might complete the simple routine work of a more senior dentist in cases where the senior dentist does not have as much time and the other dentist or hygienist can complete the work usually faster and possibly better. In a practice, you might also have people who have more expertise

or more practice at certain aspects of dentistry. For example, Dr Ironside does not do any root canal work but rather specialises in prosthodontics.

#### Working with Dental Assistants

11. Dr Ironside believes that dentists should work with chairside assistants all the time as it allows for better dentistry. In his practice, they have dental assistants which ensure that the dentist knows what procedure he is doing and scout nurses to get instruments from inside and outside the surgery for the dentist. Some dentists in other practices, however, work without dental assistants, but Dr Ironside believes that if this is the case there are lots of areas where dentists can make mistakes in terms of infection control. Additionally, the dentist is not accountable to anyone as no one is watching the procedure.

#### Infection Control Procedures in Dental Practices

12. There are several rules and procedures in place in order to ensure infection control of certain diseases including HIV, Hepatitis B and Hepatitis C. Dr Ironside believes that practices must know the status of their employees when it comes to these diseases, and their statuses should be checked routinely and recorded confidentially. If a dentist has HIV or Hepatitis B it is their duty to report it to their patients.
13. Dr Ironside believes a great practice builder is being able to inform patients of the policies of infection control and to be able to track instruments through their cycles of cleaning in autoclaves.

#### Insurance in Dental Practices

14. Professional Indemnity Insurance is a compulsory aspect of registration as a dentist and dentists need to be able to produce evidence of insurance to the Australian Dental Council and Board should they ask for it. There is a choice of insurance companies. The Australian Dental Association also provides an insurance company of their choice. Employee dentists still need to be registered and they need to cover their own insurance in private practice. In hospitals however, Dr Ironside believes that hospitals become liable. From Dr Ironside's understanding, there is no excess on insurance.

#### Compulsory Professional Development

15. The Dental Council and Board require compulsory professional education for dentists and offer a number of avenues in which dentists can obtain 60 points over a three year period including seminars, lectures and online material. There are also random audits in which

dentists need to be able to present certificates and proof of activities. Dr Ironside, along with other dentists, believes the scheme needs to be reviewed such that there is a mechanism to ensure online material is actually read in order to be accountable. Dr Ironside believes dentists can learn far more by attending courses and lectures as practitioners are then able to talk to colleagues and cross-reference the information provided, which further reinforces the information. Dr Ironside believes online material needs to be worth less points in the scheme or have an appropriate monitoring mechanism.

### Specialisation

16. Generally it is regarded by the Dental Board that if you have specialised in a particular area, that is the area that needs to be maintained. Dr Ironside thinks that if someone calls themselves a specialist, then that area is what they must practice in.
17. General practitioners are licensed to practice dentistry and it is a fairly loose license. Dr Ironside believes recent graduates should not launch themselves into certain invasive technical work such as orthodontics, multi root canal endodontics, the removal of wisdom teeth and full mouth rehabilitation, even though they technically can once registered by the Dental Board.
18. The Dental Council and Universities are trying to work out a way where Dentistry has an internship like Medicine does, so that graduates have the opportunity to be supervised and focus on some areas rather than others. This would help graduates specialise in certain areas. The biggest obstacle however is funding.

### Affordability of Dentists

19. There is cultural awareness of the need to visit the dentist and there are a significant number of people who ensure they have enough money to visit their dentist as a personal choice. These people recognise the importance of dentistry and the need to get long-lasting quality work done on their teeth.
20. Financially struggling individuals can be in a bind when it comes to dentistry. Generally, children do not cost a lot of money at an ethical practice, as good oral hygiene does not lead to a need for much dentistry. This should be the same for young adults, unless they have been negligent in looking after their teeth, for example due to drug use.

## Registration of Dentists

21. Dental registration is Australia-wide. There are State Dental Councils, which all come under the National Registration Authority. This also occurs for all medical and paramedical disciplines such as medicine, physiotherapy and occupational therapy.

## Fluoride

22. The pre-fluoride generation neatly fall into the "builders" pre-1945 group and the baby boomers post-1945 group up until 1960. The majority of that generation did not benefit from fluoride and have teeth that have been heavily restored. While you can restore the structure of teeth, you cannot restore strength. Consequently, a lot of the teeth of this generation are starting to fall apart through mechanical failure and there is also a resurgence of decay later in life due to medical influences such as blood pressure tablets and anti-depressants. Auto-immune diseases are also starting to cause issues as people live longer. As a result, the pre-fluoride generation will require a lot of dentistry for the rest of their lives and it will get more and more complicated. The biggest issue is when patients start to develop dementia and need to be in full care and possibly won't allow someone else to brush their teeth.
23. The people who were post-fluoride generally will not need the same level of care unless they are negligent with their oral hygiene. However, the same issue with dementia and behavioural issues later in life still applies.
24. Dr Ironside does not believe there is an argument against the use of fluoride in controlled measures where the local water authority has put a regulated amount in tap water. There are lots of children who do not have access to regular dental care and will benefit from fluoride being present in water. It is important to explain the pros and cons of fluoride to parents that want their children to avoid fluoride as well as explaining the negative consequences removing fluoride would have on underprivileged children.

## Dispute Resolution Procedures

25. Dispute resolution has two avenues. If a dentist has a dispute with a patient, the dentist can offer to have it mediated by the Australian Dental Association or their insurance company. Alternatively, the patient can simply take it to the Health Care Complaint Committee (HCCC) who will then deal with it, normally with the assistance of the insurance company, or take it to the Dental Board who will have a more formal hearing on the issue.

## **BIOGRAPHY**

### Dr Jim Ironside

Dr Jim Ironside graduated B.D.S. University of Adelaide in May 1978, received his M.D.S. in Prosthodontics in 1989 and received his PhD in Dental Ceramics/Fracture Mechanics in 2001. He has conducted over 30 graduate courses relating to the use of ceramics, posset resins and clinical photography. Dr Ironside has lectured at both the University of Sydney and the University of Adelaide as well as speaking at numerous international events. Dr Ironside is an Adjunct Associate Professor at Charles Sturt University.

### Louise Blase

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