



## Medical treatment – is it always necessary?

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Health providers have a duty to exercise reasonable care and skill when providing advice and treatment to patients. The duty of care extends to the examination, diagnosis and treatment of the patient.

### So what treatment should be provided to a patient?

It depends on the individual circumstances of each case. For example, treatment provided in an emergency situation would be different to the treatment recommended to a patient who has to undergo elective cosmetic surgery.

### NSW dentist found to have performed unnecessary treatment

In the New South Wales decision of *Dean v Phung* [2012] NSW CA 223, the Court of Appeal considered what damages were to be awarded against a dentist who was found to have performed unnecessary treatment.

In that case, the plaintiff patient sustained what was described as minor injuries to his front teeth when a piece of timber struck him in the chin. The defendant dentist provided extensive treatment which included root canal therapy and placing crowns on each tooth at a cost in the vicinity of \$74,000. The treatment was irreversible. Despite undergoing the extensive treatment, there was evidence that the patient would require ongoing expensive dental treatment including further root canal therapies which had been performed inadequately.

### Action was taken against the dentist

The patient sued the dentist claiming that the treatment was unnecessary and unreasonable.

At trial, one of the issues considered was whether the dental treatment was reasonably necessary to treat the patient's condition or whether the dentist performed damaging procedures to healthy teeth.

Expert evidence from a consultant dentist described the treatment as being '*inexcusably bad and completely outside the bounds of what any reputable dental practitioner might prescribe or perform. The treatment was obviously unnecessary and improper...*'.

A specialist prosthodontist opined that the patient's mouth '*was very healthy and there was nothing to suggest the need for the amount of treatment*' provided by the dentist.

The dental treatment was unnecessary and ineffective and the patient was successful in his claim.

Not only can unnecessary treatment hurt your back pocket, it can be detrimental to your health.

You have rights as both a consumer, and as a patient. You have the right to ask questions about proposed medical treatment. Do I really need this treatment? Are there other options? Importantly, as a patient you have the right to seek a second opinion.

If you have had problems following a medical procedure you should speak to one of our lawyers so that you know your rights.

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