Risk Management

Melissa Moore Sanchez, CIC

NORDIC
**Three Basic Components of Risk Management**
- Communication
- Documentation
- Informed Consent

**Communication Responsibilities**
- Create a favorable first impression
- Demonstrate respect and empathy
- Be sensitive to patient dissatisfaction
  - Report it to the dentist
  - Create a favorable last impression

**Patient Perception of You**
- Makes me feel comfortable?
- Cares about me and my well-being?
- Experienced and competent?
- Open to patient input and questions?
- Good listener and personal?
- Informed consent
- Respectful of time and money?

**Patient-Dental Provider Relationship**
- Developed at first appointment
- Based on mutual trust and respect
- Built through verbal and nonverbal communication
- Communication is irreversible
- Communication is credible and empathetic

**Why is Communication Important to the Patient?**
- Satisfaction is based on quality and effectiveness of communication
- Assessment of clinical treatment largely based on communication
- Good communication promotes healthy doctor-patient relationship
- Patients tend to be more compliant
**Why Is Communication Important to You?**

- Obtain necessary information
- Promotes patient confidence
- Increase patient satisfaction
- Build rapport and establish trust
- Provide informed consent and promote patient compliance

---

**Communication Is Key**

- Keep the patient informed
- Fully document diagnosis and treatment
- Fully document patient non-compliance
- Know when to refer or dismiss patient

---

**Patient Non-Compliance**

- Patient declines clinical care necessary to ensure success of treatment
- Declines X-Rays
- Prophys

---

**Common Reasons for Claims**

- Failure to diagnose
- Failure to educate patient
- Failure to refer or properly treat condition

---

**Patient Non-Compliance**

- Subsequent provider may be critical
- Patient will have limited memory
- Noncompliant patients are the least reliable and the most litigious

---

**Failure to Refer**

The dentist has an obligation to refer the patient if treatment is beyond his/her experience and expertise.
**Standard of Care**

What a reasonably prudent dentist would have done under similar circumstances

**Communication**

- Sometimes a lawsuit does not get started in a lawyer's office. It often gets started in another dentist's office.
- Quite common for a claim to be filed after patient has left the practice and is being treated by another dentist.

**Standard of Care**

A general dentist is held to the specialist's standard of care when:

1. A procedure is attempted and the available or known evidence suggests that it should only have been performed by a specialist
2. He/she insists on completing a procedure where:
   - Complications arise which are best handled by a specialist
   - Continue the procedure (when circumstances allow the work to be stopped without serious complications to the patient) and not refer patient to the specialist to complete

**Is This You?!**

- Some dentists are critical of prior work and actively encourage the patient to file a complaint with the State Board.
- Better options:
  - Call the other dentist to discuss your concerns
  - Call NORDIC to discuss options

**Do You Really Want to be a Plaintiff's Expert?**

Sometimes you won't know that you're being cited as an expert in briefing! (i.e. subsequent treater)
When Could You Be Used as an Expert Without Knowing It?

- You report something to the State Board
- You tell a patient that their prior dentist made a mistake
- You tell a patient that they need retreatment, and you aren’t extremely clear with them that you are not being critical of the prior dentist who did the work
- You agree to talk to a patient’s attorney and don’t make it very clear, IN WRITING, that you have no intention, EVER, of testifying
- You prepare a letter for your patient explaining the problem and not being clear that you are not being critical of the prior treater
- You put something in your chart that is negative about past treatment done by others

If You Want to be a Plaintiff’s Expert, Consider the Following:

1. Do you really know all the facts?
   - Have you talked to the prior treater to find out if you understand the decisions they made and the reasons for those decisions?
   - Do you know what warnings were given to the patient?
   - Do you know whether the patient tried to dictate poor treatment choices?
   - Have you seen the prior dentist’s chart notes?
   - Do you know whether the prior treater has been provided an opportunity to fix the problem?

2. Your way is not the only way

3. Perfection is not required to meet the standard of care

4. You may be asked if this has ever happened to you:
   - Have you ever perforated a root while doing a root canal?
   - Have you ever had a short fill on a root canal?
   - Have you ever unknowingly left an open margin?
   - Have you ever missed a root fracture?
   - Have you ever missed an infection?
   - Have you ever left a bone fragment in an extraction site?
   - Have you ever done a treatment you thought might not last on a patient?
   - Have you ever failed to chart something significant?
   - Have you ever had a patient, that you told to return, fail to follow-up?

5. If it is something that could happen to you sometime in your career, even if it is not perfect, it is not negligence or a breach of the standard of care.
Defusing Difficult Patients

- Office procedures and policies upfront
  - Patient informational brochure/website
  - Deal with "issues" immediately
- Educate staff/appoint a point of contact
- Take patient to a "neutral" corner
- Remain calm, allow patient to vent
- Confirm and validate w/o admitting guilt
- Follow through on promises made
- Create Dental Care Agreement

Terminating the Patient Relationship

- Be aware of the Americans with Disabilities Act (ADA) requirements
  - The ADA protects the person with a disability, not the conduct of the disabled person
  - A disabled person whose behavior is unacceptable and inappropriate can be refused treatment

Terminating the Patient Relationship

- Trouble signs
  - Patient is rude to staff
  - Patient tells you what treatment they need
  - Patient wants special handling
  - Patient terminated by prior dentist
  - Patient wants care you do not provide
  - Patient wants special appointment
  - Patient wants special billing arrangements
  - Something just does not feel right

Sample Dental Patient Termination Letter

Dear [Patient],

I would like to thank you for selecting me to provide your dental care. Always open with a pleasant statement. However, if the situation seems to be escalating, it is important to be clear that your dental needs would be better met elsewhere and that we will be unable to see you at your next visit. Always be honest about the reasons missed appointments, as you may be left to provide a specific answer to the Board.

In the event that [name] has not been able to complete any issues, please consider referring your patient elsewhere for treatment. This is important if the situation involves issues such as non-payment or non-compliance.

A copy of this letter will be provided in your patient’s medical record and to that dentist with a signed release. Be sure to include the patient’s telephone number and their address.

Again, it was my pleasure serving you and we wish you well. (You may begin with a pleasantries, and will continue)

Sincerely,

[Your Name, DDS/DMD]
**Refunds**
- Are not an admission of guilt
- Are not reportable to the NPDB
- Deflect a potential claim or Board complaint
- Patient should sign a release form
  - Negotiated amount
  - Confidential

**Collections**
- Frequently lead to Board complaints
- Doctor SHOULD be notified beforehand
  - May consider personally discussing with patient
- Avoid letting balances become large

**Documentation**

**Essential Elements of a Dental Chart**
- Medical/dental history
- Radiographs
- Hard and soft tissue examinations
  - Notation on patient's hygiene condition and habits
  - Supporting clinical examinations
    - Periodontal probing
    - Treatment plan
    - Treatment progress notes

**Charting in the Daily Record**
- The purpose of charting is to tell your story in the patient record. The story ought not to be a full length novel, but the essentials have to be there
  - The story should be told the same way every time (consistency and credibility)
**Charting in the Daily Record**

- Connect the dots
  - Make sure that what is noted during the examination and review of the radiographs gets documented
  - This documentation should then be followed by a diagnosis which correlates to treatment

**Chart Should Clearly Show the Six X's**

- **HX:** History
- **EX:** Examination
- **DX:** Diagnosis
- **TX:** Treatment
- **RX:** Prescription and OTC recommendations
- **NEXT:** What happens next?

**General Guidelines to Ensure Good Charting**

- Quotation Marks
  - Juries absolutely believe entries in quotation marks
  - Quoted portions are complete
  - If it isn't in the record, it didn't happen!

- Use appropriate language and avoid making disparaging remarks

**Patient Non-Compliance**

- Extra documentation when patient is not taking your advice
  - Examples
  - Patient declines films
  - Patient declines perio care
  - Patient declines referral to specialist
  - The patient will shift blame to you and your staff

**General Guidelines to Ensure Good Charting**

- Establish uniform abbreviations with staff
- Dentist should chart last (after hygienist and assistant)
  - Check for accuracy, consistency and thoroughness of staff member charting
  - Consistent nomenclature for procedures
  - Initial each entry
  - Appointment book and chart dates must conform
  - Do not mark in margins

**Patient Non-Compliance**

- Extra Documentation
  - At some point you will stop giving into the patient's demands/treatment refusal and your parting will not be amicable
  - The patient will not remember your warning when your predictions come true
**Guidelines for Thorough Documentation**

- Chart cancellations
- Chart who is responsible for rescheduling appointments
- Chart all no shows
  - Proof that the patient was uncooperative could greatly add to the defense

**Discarding Records**

- On-site
  - Crosscut shredder
  - Keep log
    - Name of chart
    - Name of employee
    - Date chart shredded
- Off-site
  - Keep receipts from shredding service
  - Keep log of charts

**Record Retention**

- Six/Ten/Twenty-one Rules
  - Six years from the date of patient’s death
  - Ten years from the date of last visit of inactive patient
  - Twenty-one years from date of birth of child or care to pregnant woman
  - Indefinitely for potentially litigious patient

**Informed Consent**

- A dentist has the responsibility to inform and educate a patient of proposed treatment and obtain consent from the patient for that treatment

**Request for Records**

- Recommended copying charges in WA
  - $1.04 per page for the first 30 pages
  - 79 cents thereafter
  - $23 clerical fee
  - X-Rays ... “reasonable fee”
    WAC 246-08-400  effective July 1, 2003

You cannot hold medical records hostage

**Informed Consent**
**Procedure to be performed**
- Procedure to be performed
- Alternatives to the procedure including no treatment at all
- Risks involved with the treatment, and/or delaying or avoiding treatment
- Questions – opportunity to answer any that a patient may have

**Simplify Whenever Possible**
- Patients generally do not understand dental nomenclature
- Use dialogue in understandable terms
- Along with PARQ
  - Identify problem
  - Proposed solution
  - Expected result
- Use educational materials
  - Brochures
  - Videos
  - Diagrams
- Take time needed for the patient to be comfortable
- DOCUMENT!

**Informed Consent**
- Explains proposed treatment in understandable terms
- Reviews risks of treatment and risks of declining or delaying treatment
- Allows the patient ample time to ask questions and make a decision

**Informed Consent New Includes Informed Refusal**
- The dentist has an obligation to advise the patient of the ideal treatment plan, not just the ones the patient can afford or is covered by insurance or managed care contract
- If patient rejects treatment plan because of cost, chart it with quotation if possible

**Informed Consent**
- Performed by the dentist (other than hygiene)
- Staff can be present
- Encourages patient to participate in their dental care and keeps expectations realistic
- Crucial for defense in malpractice claim

**Informed Refusal**
- Inform patient of risks and complications of treatment they are refusing
- Thoroughly document chart
- Consider using a refusal of treatment form
**The Last Word**

- Don’t confuse informed consent with the importance of building patient rapport and meeting patient expectations
- Aside from legal requirements, informed consent promotes good practice management and quality of care

---

**And Finally....**

- Good communication
- Good documentation
- Obtaining informed consent
- Good Risk Management

---

**Contacts**

Northwest Dentists Insurance Company
19515 North Creek Parkway, Suite 214
Bothell, WA 98011

Melissa Moore Sanchez
sanchez@nordicins.com
Direct: (903) 765-3545
Fax: (425) 481-8604
www.nordicins.com