



Risk Management

NORDIC
NORTHWEST DENTISTS
INSURANCE COMPANY

Four Pearls of Wisdom

- Communication is the key
- It's always about the money
- If treatment is not documented in the chart, it didn't happen
- Informed consent/PARQ

Communication

Patient Calls

- Patients are quick to complain to DQAC if they cannot promptly speak to the dentist or ***think*** they cannot speak to the dentist.

Patient Calls

- Practice tip: “Welcome to practice” letter and in that letter let the patient know that you are available by phone.
- Practice tip: Your patients will understand that you are usually in the middle of a procedure. Have your staff arrange for a convenient time for you to call the patient back.

Patient Communication

- Patient declines clinical care necessary to ensure success of treatment.
- Declines X-Rays
- Oral Exams
- Perio Treatment

Common Reasons for Perio Claims

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

- Statistically – Most perio claims are filed against general dentists.

Failure to Refer

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

Patient Communication

Red Flag

- Patient is quick to tell you how unhappy they have been with prior dentists.
- Staff tells you this patient is extraordinarily unpleasant and should not be accepted into practice.

Communication

Your Colleagues as a Source of Complaints

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

Complaints Caused by Colleagues

- Some dentists are critical of prior work and actively encourage the patient to file a complaint with DQAC.
- Better options:
 - Suggest the patient call the prior dentist to discuss and review concerns
 - You call the other dentist to discuss the concerns (diagnosis of perio disease)
 - Call NORDIC to discuss options

Communication is the Solution

- Keep patient informed of perio condition.
- Fully document diagnosis and treatment.
- Fully document patient non-compliance.
- Know when to refer or dismiss patient.

Communication is the Solution

- Discuss fees and financial arrangements before treatment.
- The dentist – not the staff – should deal with a patient's dissatisfaction with treatment.
- Handle patient problems and concerns immediately.
- Seek help from NORDIC.

Patient Communication

- Patient control issues and non-compliance are common with newer practitioners, but every one of you has someone in your practice you should dismiss for risk management reasons.

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Examples

- The patient who cannot afford treatment and is having it done piecemeal.
- The patient who only comes in on an emergent basis.
- The patient who won't get films, oral exams and scaling and root planing.

Collections

- Nothing causes a patient to call DQAC quicker than a bill they can't or won't pay.
- Patients frequently later claim they were told that insurance would cover all of the work.

Collections

- Practice tip: Have the patient sign a terms sheet acknowledging that **the patient** is responsible for payment and that insurance coverage is not guaranteed.

Collections

- Practice tip: Only send patients to collections with the specific approval of the practice owner and any treating doctor.

Collections

- Wallet biopsy
 - If you know they have no dough, why bother and try to collect.
 - A simple DQAC complaint will take several hours of your time that could be better spent doing almost anything else.

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Why should my charting standards be higher than what I think is necessary?

- Juries and DQAC find documentation the most reliable and persuasive basis upon which to form their decisions.

Standard of Care

- What a reasonably prudent dentist would have done under similar circumstances

Standard of Care

- A general dentist is held to the specialist's standard of care when:
 - A procedure is attempted and the available or known evidence suggests that it should only have been performed by a specialist
 - He/she insists on completing a procedure where:
 - Complications arise which are best handled by a specialist
 - Continuing the procedure (when circumstances allow the work to be stopped without serious complications to the patient) and not referring patient to the specialist to complete.

Standard of Care

- Examination and documentation of hard and soft tissue
- Diagnosis including perio diagnosis with appropriate treatment plan (may be more than one treatment option)

Perio Diagnosis

- Chart:
 - Inflammation/bleeding
 - Probing depths/pockets
 - Bone loss
 - Tooth mobility
 - Any malocclusion
- Support your diagnosis with thorough clinical charting

Essential Elements of a Dental Chart

- Medical/dental history
- Radiographs
- Hard and soft tissue examinations
 - Notation on patients hygiene condition and habits
- Supporting clinical examinations
 - Periodontal probing
- Treatment plan
- **Treatment progress notes**

Essential Elements of a Dental Chart (cont.)

- Post treatment records
- Diagnostic models
- Treatment models
- Radiographs
- Pre and post-operative photos

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

- Establish uniform abbreviations with Staff
- Dentist should chart last (after Hygienist & Assistant)
 - Check for 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 (juries wonder why text is not formatted in lines, and whether the extraneous marks were added later)

General Guidelines to Ensure Good Charting (cont.)

- Quotation marks
 - Juries absolutely believe entries in quotation marks
 - Quoted portions are complete
 - Use appropriate language and avoid making disparaging remarks

Common Charting Omissions

- No record of care to staff/family
- No health history
- No PARQ/informed consent
- No diagnosis
- No record of Rx
- Altering the records

Common Charting Omissions (cont.)

- No dental nexus for Rx
- No documentation of declined treatment
- No documentation of patient's choice of less than optimal treatment
- No documentation of anesthesia

Altering or Losing Records

DON'T DO IT!

Patient Non-Compliance

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

Patient Non-Compliance (cont.)

- Extra Documentation:
 - At some point you will stop giving into patient 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 (cont.)

- Chart cancellations
- Chart who is responsible for re-scheduling appointment
- Chart all no shows
 - Proof that the patient was uncooperative could greatly add in the defense

Documenting Errors

- If a patient swallows any dental restoration, instrument or dental procedure debris, transport them to the ER for a chest radiograph

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- **Informed consent/PARQ**

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.

PARQ

- 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

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

- Performed by the dentist (do not delegate)
- Staff can be present
- Encourages patient to participate in their dental care and keeps expectations realistic
- Crucial for defense in malpractice claim

Informed Consent Now 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 TX plan because of cost, chart it with quotation if possible.

Informed Refusal

- Inform patient of risks and complications of treatment they are refusing
- Thoroughly document chart
- Consider using a refusal of treatment form

Simplify Informed Consent Process

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

Discussing Potential Risks

- Be calm and patient
- Be compassionate
- Be confident and assuring, but do not guarantee outcome
- Remember: the review of risks is not meant to overly frighten a patient
- When in doubt: know when to refer

Watch out for Band-Aids

- If you choose to patch and repair (especially on the non-compliant patient), document ad nauseum that they are not receiving definitive care. There is a need to document that they have opted for a Band-Aid, and why. Otherwise, they will put the blame back on us for not making the correct recommendation when the Band-Aid fails.
- Document the need for follow-up after the Band-Aid.

Less than Optimal Results Covered in the PARQ discussion

- This is where documentation of PARQ is important.
- Document that you discussed the problem with the patient when it occurred, such as in the case of file separation.

Staff Tips

- Develop formal process in writing/office manual
- Be consistent
- Use consent form **AFTER** consent discussion with patient
- Mandatory for referred patients

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

Frequently Asked Questions

Red Flag Characteristics of Patients

- Uses dental terminology
- Parent makes treatment and or financial decisions for adult children
- Dental office shopper (multiple dentists)
- Refuses to pay for new x-rays, comprehensive exam, etc.
- Only wants temporary treatment or treatment to get out of pain
- Takes notes or keeps a diary
- Rude to staff
- Dictate care

What Should You Do?

- **Document, Document, Document**
 - Failure to proceed with recommended treatment
 - Risks of lesser treatment
 - PARQ
 - Patient initial/signature

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 charge”

You cannot hold medical records hostage

Discarding Records

- On-site
 - Crosscut shredder
 - Keep log
 - Name of chart
 - Name of employee
 - Date shredded chart
- Off-site (contractor)
 - Keep receipt from shredding service
 - Keep log of charts

Releasing a Sedated Patient

- Chart notes reflect
 - Patient was conscious and coherent
 - Assisted to the car
 - Escort [name] properly instructed
 - Copy of instructions

Crown and Bridge Replacement

- Common malpractice issue
- Better communication/patient expectations via informed consent process
- Patients should be told a crown expectancy is 7 years
- Do not guarantee.....but do have a replacement policy

Sample Replacement Crown Policy

During Years

Replaced At

One and two

No charge to patient

Three thru five

Patient charged 50% of crown fee

Six and seven

Patient charged 75% of crown fee

After seven years

Patient charged full price

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

- Sometimes you won't know that you are being cited as an expert in briefing!! (i.e. subsequent treater)

When Might You Be Used As An Expert Without Knowing It?

- You report something to DQAC
- 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 Do Want to Be a Plaintiff's Expert, Please 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 the patient
 - Do you know whether patient tried to dictate poor treatment choices
 - Have you seen the prior dentist's chart notes?
 - Do you know whether prior treater has been provided opportunity to fix the problem?

If You Do Want to Be a Plaintiff's Expert, Please Consider the Following (cont.)

2. Your way is not the only way.

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

If You Do Want to Be a Plaintiff's Expert, Please Consider the Following (cont.)

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 treatment on a patient you thought might not last?
 - Have you ever failed to chart something significant?
 - Have you ever had a patient that you told to return fail to follow-up?

If You Do Want to Be a Plaintiff's Expert, Please Consider the Following (cont.)

- 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 in the standard of care

Terminating the Patient Relationship

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

Terminating the Patient Relationship (cont.)

- Reasons to terminate:
 - Failure to follow the treatment plan
 - Failure to keep appointments
 - Failure to comply with referrals
 - Failure to follow hygiene recommendations
 - Failure to cooperate with the staff
 - When the patient sues you

Terminating the Patient Relationship (cont.)

- 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 (cont.)

- How to terminate a patient:
 - In writing
 - Chart the reasons why
 - Tell the staff
 - Offer to make chart copy and radiographs available
 - Insist on follow-up care
 - Do not take back the patient

Saying Goodbye

- Provide warning
- Termination letter
 - Certified mail with return receipt requested
 - Emergent care for certain period
 - Transfer of records to next provider
- Place copy in patient chart

Sample Dental Patient Termination Letter

Dear [Patient]

I would like to thank you for selecting me **[or insert the name of your business]** to provide your dental care. **[always open with a pleasant statement]** However, it has become apparent due to a breakdown in the doctor/patient trust relationship that your dental needs would be better met elsewhere and therefore we will have to discontinue your patient care here. **[never anything personal; best to be vague unless the reason is missed appointments...or you may be left to provide a specific answer to the Board]**

In the meantime, **[here, remind them to complete any known dental needs and include a reminder for regular exams & cleanings. This is important! It prevents abandonment issues].**

A free copy of each of your dental records will be provided to your next doctor upon request by that doctor with a signed Release. **[You can add that you will provide emergency treatment for 30 days, but it isn't mandatory.]**

Again, it was a pleasure serving you and we wish you well. **[As you started with a pleasantry, so end with one.]**

Respectfully,

[your name], DMD/DDS



Contact:
Christopher Verbiest
verbiec@odscompanies.com
503-765-3512

