Solving Disputes with Peer Review

For Dr. Elaine deRoode, the concerns started with one unhappy patient. “The patient was complaining to my team about the dental care, and it was pretty clear that the real problem was going on in their personal life. But the complaints meant that their problems had the potential to become my problems,” Dr. deRoode, who sees orthodontic patients in her Miami practice, began collecting notes and records in anticipation that this case might go into peer review.

The peer review system is a voluntary process for resolving disputes between a patient and a dentist outside of a legal venue or the “court of public opinion.” The ADA promotes peer review as an option to the public at MouthHealthy.org, and dentists may encourage dissatisfied patients to consider initiating the process as a way of settling a disagreement.

“It’s pretty much inevitable at some point in a dental career you are going to run into a dispute with a patient,” explains Ms. Grace DeShaw-Wilner, managing vice president of professional affairs for the Michigan Dental Association. “Maybe it’s an unreasonable patient, but at some point, that individual is going to go somewhere with his or her dispute. Could be the Better Business Bureau, it could be the state dental board, it could be an attorney’s office. But both the dentist and patient can benefit from utilizing the peer review system.”

Peer review is a two-stage process. The first phase is mediation with volunteer dentists serving as mediators. “Both patients and dentists want to feel like they have had their points of view heard, and they want the process to be free—peer review delivers in both respects,” notes DeShaw-Wilner. “The dentist and patient don’t have to negotiate with each other, and that removes a great deal of emotion from the situation.” In general, the process of mediation is not about determining who is right or wrong but rather to arrive at a solution that is mutually agreeable to both parties in an effort to resolve the dispute. In many cases, the parties come to an agreement through mediation.

If mediation alone does not resolve the dispute, the process moves to the second stage where a committee meets to discuss the case. The peer review committee may examine clinical records, talk to both the patient and the dentist, and may arrange for a clinical examination of the patient by members of the committee.

If the peer review decision is in favor of the patient, the dentist may be asked to refund or waive a fee. If the patient and dentist have an otherwise positive relationship, the remedy may have the dentist redo the dental work. The peer review committee’s recommendation may include asking the dentist to improve his or her knowledge and skills, perhaps by attending a continuing education course.

If the peer review committee decides in favor of the dentist, the patient may be requested to pay any outstanding fees. Sometimes patients have been asked to return a dental appliance or other device to the dentist as part of the agreement. Regardless of whether the committee finds in favor of the patient or the dentist, most state societies request the two parties to consider the findings of the peer review committee and the subsequent agreement to be final.

“Peer review creates the chance for a win-win opportunity,” explains Dr. Chris Salierno, chair of the ADA New Dentist Committee, and a general dentist in private practice on Long Island. “Patients win because they avoid the hassle and expense of an attorney, and still tell their side of the story with the opportunity for an expert evaluation of their situation. And dentists win because they too can avoid the expense and complication of hiring an attorney, and the confidential process means they can preserve their reputation in the community.

Because every state has different laws and guidelines regulating dental practice, peer review is conducted at the state or local level. The ADA establishes guidelines for best practices. However, each state dental society is the highest authority for peer review cases in that state. Peer review is not a court of law, and does not award damages or impose punishments. A case in litigation generally won’t be accepted by a peer review committee, although cases where there has been a consultation with an attorney or a case has been referred to a collection agency are usually eligible.

Many state societies offer peer review as a member-only benefit, or charge a fee to non-member dentists who want to refer a patient to peer review. “From a dollars and cents perspective, if you had even a single dispute to resolve, it would be much less expensive to be a member and utilize the peer review process, than to try and resolve it outside of ADA membership,” explains Seattle general dentist Dr. Kal Klass, who serves as chair of the peer review board for the Seattle-King County Dental Society.

Perhaps the biggest benefit of peer review is in the name of the process. “If there is a complaint about standard of care, do you want an attorney or an investigator to be assessing your treatment?” asks DeShaw-Wilner of the Michigan Dental Association, “or wouldn’t you prefer to have your peers examine the treatment and come to an independent, fully-informed decision?”

ADA New Dentist News is prepared by the ADA New Dentist Committee
Drug Seeking Behavior—Know the Signs

Many dental diseases and treatments are the unfortunate source of significant discomfort. As a result, many dental patients experience pain at some time or another. A few people, however, take advantage and abuse the drugs prescribed to alleviate these symptoms. Some will abuse for their own use, others will sell to third-party abusers.

According to the latest data from the National Institute on Drug Abuse, approximately seven million Americans used psychotherapeutic drugs non-medically in 2010. Of those, pain relievers were the most commonly abused, with approximately 5.1 million patients abusing prescription analgesics. While stereotypes from popular culture might suggest that a drug seeker would be easy to recognize, the truth is that regardless of income, race, gender, or employment status, a potential abuser or “doctor shopper” may be difficult to identify. As a dentist, a health care provider, what is the best way to guard against this behavior?

“You should never prescribe medication for someone who is not a patient—at record in your practice,” says Dr. Harold Crossley, DDS, PhD, who has been a consultant to the United States Drug Enforcement Administration (DEA) since 1974. “It’s better to refer that stranger to an emergency room rather than risk the well-being of the patient and those with whom they come into contact. This action also protects your dental license and your staff. Prescribing controlled medications to someone who is not a patient of record opens up the possibility of abuse or re-sale of those medications.”

Of course, patients in your own practice may also abuse or re-sell prescription drugs. The following is a partial list of “red flag” behaviors that Dr. Crossley associates with drug-seeking behavior:

- The patient waits until late afternoon or early evening to seek relief for pain that has lasted all day, often on a Friday or before a holiday.
- The patient requests a specific drug, rather than requesting relief from symptoms.
- The patient refuses to be evaluated.
- The patient categorically refuses over-the-counter medications as being ineffective or causing an allergic reaction, instead requesting a controlled substance medication.
- The patient states that a previous prescription was lost or stolen, and needs to be replaced.
- The patient asserts that his or her insurance company will not pay for a prescription smaller than 50 pills, or that they will not pay for a prescription that cannot be renewed.
- The patient becomes manipulative, attempting to use guilt or threats to receive a prescription.

“If you are suspicious that a patient of record is seeking drugs, it is your responsibility to perform an exam that is appropriate for the symptoms the patient describes,” Dr. Crossley points out. “As with all patients, carefully document the exam results and the questions you asked. And most importantly, only prescribe medications according to established protocols.”

Dr. Harold Crossley will present the CE course Medical and Dental Implications of the Most Prescribed Medications on Saturday, July 20, 2013 at the 27th New Dentist Conference in Denver, CO. Learn more at ADA.org/newdentistconf.

Everything you need to know about patients with medical conditions—at your fingertips.

The new ADA Practical Guide to Patients with Medical Conditions provides new dentists an overview of specific medical conditions and how they may affect a medically complex patient’s treatment plan—all in one easy-to-use resource. Written by a team of over 25 of today’s leading dental professionals and clinicians, this valuable guide includes over 200 color images, more than 75 tables, and countless quick reference points to assist in providing the safest and most comprehensive dental care possible.

From cardiovascular diseases to substance abuse disorders, each condition has been covered concisely, giving the most important information. Chapters contain a description of the disease, pathogenesis, and coordination of care between the dentist and patient. As an additional resource, the accompanying companion website offers downloadable images and case studies.

As a special offer save 15% on all ADA catalog products with campaign code 12246 through 2/15/2013. To view the complete table of contents or place an order visit adacatalog.org or call 800.947.4746.

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**Save the Date:**
EJB Champions Conference,
April 25–27, 2013

Registration for the 2013 EJB Champions Conference in Chicago will be open in mid-January at ADA.org/ebcdconference. This conference, limited to 100 applicants, will help you find evidence online and evaluate what is the best evidence. We’re seeking forward-thinking dentists to learn basic EBD principles and mentor their colleagues. Registration costs $150 and includes the opportunity to earn up to 14 hours of CE.

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Dr. Randazzo also took advantage of the ability to customize her coverage by purchasing optional plan features that further enhance protection. The testimonial reproduced in this article were obtained in response to questions posed by Great-West. The article does not constitute tax, legal, or financial advice. Please seek professional input as appropriate to your situation.

Renew your ADA Membership for 2013

With more than 157,000 dentist members, you're part of a dynamic community and your membership is what enables the ADA to deliver the high-quality resources and services you value. Maintain your ADA membership in 2013 with uninterrupted access to the many professional and practice resources from the ADA, and your state and local dental societies. Watch your mail for renewal information.
Professional Ethics—a Great Study Club Topic

Every day, dentists face questions that may not have a simple solution. There’s one aspect of decision-making that should be kept in mind while making a decision: professional ethics. Addressing thorny issues in an ethical way can be easier when you share and learn from others.

“It’s important to keep ethics as an active conversation,” explains Dr. Dan Hammer, a staff dentist currently serving with the Second Dental Battalion at Marine Corps Base Camp Lejeune in North Carolina. “If you take a proactive approach, such as discussing ethics in a study club format, dentists become more familiar with the options available to help them navigate a tough decision. This familiarity makes it easier to make the right choice under pressure because you have practiced being in this situation before by discussing it among colleagues in a study club setting.”

A study club can be an ideal setting to discuss professional ethics in a friendly environment with peers who may be facing similar challenges. Mr. Jay Dziewlik, assistant executive director of the Indiana Dental Association, makes about 35 ethics presentations each year to study clubs in his state. “It’s easier for all of us to be our best when we spend time systematically thinking about what it means to make the best choice, especially when the best choice isn’t necessarily the easiest choice. These study clubs aren’t bringing ethics to dentistry, dentistry is already ethical. But they can serve as a course-correction.”

An ethics study club can tackle any number of topics, such as advertising the dental practice, reporting suspected substance abuse, and balancing patient autonomy with diagnosis and treatment planning. Mr. Dziewlik suggests asking other dentists and dental team members for their pressing concerns, or asking the state board of dentistry what topics have been generating large numbers of complaints.

The ADA Council on Ethics, Bylaws and Judicial Affairs has developed materials intended to help dentists with ethical decision-making. One of the resources is a rubric that can assist dentists with navigating an ethical dilemma. Your study club can approach the dilemma with these six steps:

- Evaluate the facts
- Think about the conflict presented
- How many principles apply?
- Identify applicable codes and code sections
- Compare different options
- Select the best options under the circumstances

If you’d like to explore ethics with your study club, here are some suggestions for making the event a success:

- Ask your state or local dental society for a speaker recommendation. If the society has an ethics council or committee, that is a good place to start.
- Do a search at ADA.org for ADA Ethics Resources. You’ll find a number of materials, including a PDF of the Code and links to ethical scenarios that can serve as springboards to discussion.
- Consider using note cards for questions as a way for participants to raise questions discreetly and anonymously.

“It’s important for new dentists to serve as a resource for each other and for current students,” notes Dr. Hammer, who speaks to dental student audiences on ethics topics. “We had dentists who were two to four years out of school come and talk to us at University of the Pacific, and it was a real eye-opener. It was the discussions we had following these presentations that made individuals realize they were not alone, and gave us practice navigating the dilemmas in a safe environment. And practice in discussing these topics with our colleagues makes us better clinicians, better colleagues, and better at serving patients.”

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