



Dismissing a patient is never easy, and more importantly, it often includes significant risk. There are, however, a number of ways to handle such a delicate situation.

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Withdrawing From Care

Case studies and recommendations in patient dismissal

TDIC's Risk Management Advice Line is always buzzing with questions from smart dentists who want to limit their liability risk and make the best decisions in their practices. A wide variety of topics are discussed every day on the Advice Line, but one subject currently getting a lot of attention is withdrawal from care or patient dismissal. Risk Management analysts reported nearly 200 calls on this topic in the past six months.

"Some dentists are more comfortable with withdrawing from care, while others are unsure when, how and under what circumstances they should dismiss a patient," said Risk Management analyst Jaime Welcher. "When it comes to this issue, there is a right way and a wrong way to withdraw from providing dental care."

Let's look at some recent real-life situations dentists encountered and what Risk Management analysts recommended.

Case No. 1

A patient exhibited odd behavior in the dental office lobby and yelled loudly about not having her "morning snack" after being told she was too late for her cleaning

appointment and could not be seen that day. (No, the patient was not a toddler.) She left the office shortly thereafter. The patient was also late for her initial consultation the previous month. The next day, the patient sent an email saying she expected another appointment since they had refused to see her.

The dentist called the patient to explain how being late affected the schedule and why there was not enough time to perform the cleaning. She became agitated during the conversation and hung up. The dentist documented the conversation in the patient's chart. The patient had no outstanding dental concerns or issues, and this dentist had not yet rendered any

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treatment. Based on the patient's outbursts, he wanted to dismiss the patient from his practice.

Recommendation: In this situation, TDIC recommended the dentist formally dismiss the patient by sending a withdrawal-from-care letter.

Risk Management analysts say there are some common warning signs alerting dentists that they should consider withdrawing from care. One indicator is an abrasive patient who yells or makes inappropriate comments to the dentist or staff. (For other warning signs, see *Common Indicators on page 5*).

This patient was upset over a minor situation for which she was ultimately responsible — being late. How would this patient act if unhappy about dental treatment or billing? Any factor that could compromise a successful doctor-patient relationship may be considered sufficient ground for dismissal.

Even though the dentist in this situation had not provided any treatment or formulated a treatment plan, there was reasonable cause for the patient to believe she was a patient of record. Risk Management analysts say case-by-case evaluation is necessary to determine if a doctor-patient relationship exists. Some practical questions to ask include:

- Would a reasonable patient expect the dentist to provide care under the circumstances?
- What would you expect in this situation if you were the patient?
- What actions have transpired that would lead the person to believe he or she is a patient? Patients may perceive a relationship is established when the doctor conducts the initial history and exam. Some could say they become a patient of record when they present for an initial exam.

If a relationship is established, dentists have the absolute right to withdraw from care, however, appropriate steps must be taken and documented to avoid liability and keep patients free from harm. Doctors may withdraw from treatment if the patient is given appropriate notice, usually 30

days, of the dentist's intent to withdraw from care and an opportunity to find another practitioner. There are exceptions. If you are concerned for your safety or the safety of your staff, withdraw from care immediately.

Withdrawing from care must be done in writing and only after the patient's treatment is complete to avoid claims of abandonment. Before withdrawing from care, first consider the patient's condition. If the patient is midtreatment, dentists are advised to finish any treatment in progress such as a root canal or provisional restoration. The entire treatment plan does not have to be completed, but any procedure in progress should be finished so the patient is not at risk.

If proper notice to end a doctor-patient relationship is not given, or if the relationship ends before a dental problem is resolved, the dentist risks an abandonment allegation. While the legal definition of abandonment may vary from state to state, it generally means termination of the doctor-patient relationship without reasonable notice or opportunity for the patient to make other arrangements for dental care, which could result in harm to the patient.

In this case, there was no treatment in progress, and the dentist worked with a Risk Management analyst to write an appropriate letter and successfully dismiss the patient.

(For *Essential Elements of Patient Withdrawal*, see page 6).



Case No. 2

After an initial consultation, radiographs and cleaning, the dentist diagnosed recession and several areas with pocket depths exceeding 7 mm. During the second appointment to discuss the treatment plan and recommendations, the patient said he did not want any restorative work or surgeries. In fact, he just wanted to come in for cleanings.

The dentist called the Risk Management Advice Line to discuss the situation because she was concerned the patient would not follow her planned treatment recommendations since he already expressed a resistance to treatment.

Recommendation: In this situation, TDIC advised the dentist to go through the normal process of referral to a specialist and openly communicate with the patient about the risks of allowing periodontal disease to go untreated. Make sure to document the conversation in the patient chart. Patients can be inspired to follow through when they fully understand a situation and trust the dentist to act in their best interest. The Risk Management analyst emphasized the importance of the dentist setting an expectation of when the patient should see the periodontist. Follow up to ensure the patient does indeed go to the specialist.

If the patient does not follow through, find out why. There may be a legitimate reason for not going. However, if there is no reason provided, or he reiterates that he does not intend to go, inform the patient that you will dismiss him from the practice for noncompliance. Document the conversation. If the patient must be dismissed from the practice, follow up with a withdrawal-from-care letter.

Dentists can put themselves at risk for allegations of supervised neglect when they allow patients to stay in the practice and act in a noncompliant manner. Had this dentist agreed to provide cleanings only, supervised neglect is one of several allegations a patient could make if the dental condition deteriorates.

Case No. 3

A young patient continually refused treatment recommendations after several attempts to educate the patient during a two-year timeframe. The dentist dismissed the patient from the office once he realized the patient would only come in when there was an emergency. A few years later, the patient returned and asked for another chance.

The dentist met with the patient and discussed the importance of committing to treatment. After that discussion, he called the Risk Management Advice Line to discuss whether it would be a good idea to take the patient back.

Recommendation: While all decisions are ultimately the policyholder's to make, TDIC advised against allowing this patient to return to the practice. The dentist took considerable time previously to educate the patient, and he did not change his behavior. Why would things be different now?

There are circumstances, such as when a patient moves out of town and then returns, when it is appropriate to accept him or her back into your practice. However, noncompliance is not an acceptable circumstance and puts the dentist at risk. Once a dentist formally dismisses a patient from a practice, it is rarely advisable to accept him or her back.

Case No. 4

A patient returned to a practice after a 12-year absence. The dentist previously completed a root canal and crown for the patient. Treatment notes indicated this was a difficult patient. The patient had been out of the country for more than a decade and received a considerable amount of dental treatment during that time. After an exam and radiographs, the dentist noted defective crowns, inadequate margins, extensive decay and areas of bone loss. Based on this exam and previous experience with the patient, he was not comfortable accepting him back into his practice. The dentist wanted to explain this to the patient and dismiss him from the practice.

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Recommendation: Trust your instincts. Risk Management analysts always advise dentists to pay attention to any instinct or feeling they may have about a situation. Ignoring such indicators can lead to trouble. Given the extent of dentistry required and previous history with the patient, the general dentist in this case did not feel comfortable starting treatment. Knowing how difficult this person can be, the dentist wanted to exit gracefully without causing a scene. It is fine to explain the results of the examination. Given the amount of dentistry involved, he is more comfortable not accepting the patient back into his practice. Then suggest the patient either go to another general dentist or perhaps a specialist.

Follow up the decision with a letter documenting withdrawal from care.

Case No. 5

A patient called for an appointment after his current dentist retired. The patient did not show up for the first scheduled appointment but rescheduled later in the month. He showed up, and the dentist completed a new patient exam including radiographs and a cleaning. The dentist and patient discussed recommendations and formulated a treatment plan. The patient missed the next two appointments — scheduled within two months from the initial exam. The dentist sent the patient a withdrawal-from-care letter, stating he would be available for emergency treatment only for the next 30 days. He noted the specific date for termination of dental care.

The patient left a voice message saying he had been in pain for nine months and expected an appointment. He began camping out in the office lobby. The patient wanted to remain with the practice.

Recommendation: The dentist, not staff, needs to calmly and clearly address the patient and tell him the dentist is available only for emergency care and reiterate the date he will no longer be available. If an emergency arises, stabilize the patient and then provide contact numbers for the local dental society, dental school or dental clinic. If the patient has insurance, also provide that number.

The dentist is obligated to make reasonable arrangements for the emergency care of his patients of record. However, in this case, if the patient in the lobby becomes aggressive or threatening, call the police and have him removed.

Case No. 6

A dentist placed a routine restoration on a patient who was fairly new to the office. During that appointment, the patient told the dentist she had seen four or five different dentists during the past few years. The patient returned once for an occlusal adjustment. Everything seemed fine. The dental office sent a bill for \$48 to cover the amount the patient's insurance did not cover. This set off a series of events in which the patient became angry and claimed she has been in pain since the dentist placed the restoration. The patient did not call the office to report any pain during the two-month period following the restoration. The patient said she went to another dental office and claimed the new dentist was able to take her out of pain and felt the new office was responsive to her needs and valued her as a patient. She demanded the dentist write off the balance owed.

Recommendation: TDIC advised the dentist to follow up with the patient's new dentist. Verify the patient actually went to another dentist and confirm that the patient and both dentists are talking about the same tooth and restoration that caused the patient pain. If there is an issue with the dentistry provided, the new dentist should be able to show exactly where the issue is and what was done to address it.

If the patient is reluctant to disclose the name of the new dentist, explain the necessity of following up to make sure dental care is consistent. If the patient has clear intentions and wants the situation resolved, there is no reason to withhold information. If the patient still refuses to release the name, advise the patient that she is preventing you from conducting the investigation. Call the Risk Management Advice Line for further strategy.

Once the new dentist is contacted, treatment is verified and the patient's balance is written off, close the loop by sending a letter acknowledging the patient's choice to go to another dentist.

Additional Considerations in Withdrawal From Care

Managed care patients: If the patient is with a managed care plan, be sure to follow the outlined protocol before dismissing a patient. If notification of patients is not addressed in the contract, use the guidelines in *Essential Elements of Patient Withdrawal*, page 6.

Dentists sometimes choose to discontinue participation with a particular insurance plan. Once this decision is made, some dentists assume patients with that plan will no longer be able to afford treatment in their office. According to Risk Management analysts, dentists can unknowingly abandon patients by automatically dismissing them because the practice no longer accept the patient's insurance plan. Beware of assuming patients cannot afford your regular rates or will not pay them. Give at least 30 days' written notice that you no longer accept their insurance plan.

TDIC's *Risk Management Reference Guide* states: "Explain that you will be happy to continue seeing the patient; however, the rates will reflect a different billing structure. Refer patients to their insurance carrier so they can choose a new dentist within the network, or give them the name and phone number of the local dental society for names of other dentists in the community. Discuss new billing with patients in understandable terms and the necessity of finding a new dentist and risks involved if they do not continue treatment. End the letter with an invitation to call the office with any questions. This notification informs patients of the change, offers continued care and provides adequate time for them to find a dentist who accepts their insurance."

TDIC's *Risk Management Reference Guide* is a free publication available to policyholders online at thedentists.com.

HIV/AIDS patients, discrimination: Dentists may not discharge an HIV/AIDS patient whose condition is within the dentist's current realm of competence. Additionally, dentists may not end patient relationships based on age, race, sex, religion or ethnic origin.

Patient-terminated relationships: Patients decide to change dentists for a variety of reasons. If the request to transfer dental care comes as a surprise, the dentist might consider phoning the patient to discuss the reasons. A misunderstanding or minor challenge might be resolved with a simple phone call.

Alternatively, a letter should be sent to acknowledge the patient's decision and inquire about the reason for changing dentists.

If the patient is changing dentists because of a complaint about dental care, call the Risk Management Advice Line.

Common Indicators That a Dentist May Need to Consider Withdrawal From Care

- The patient is only interested in pain medication and does not schedule an appointment to address the pain or receive treatment.
- The patient dictates treatment.
- The patient is noncompliant with treatment recommendations.
- The patient is inactive. Consider dismissal if the patient has not been seen in 24 months.
- The patient is abrasive and yells or makes inappropriate comments to the dentist or staff.
- The patient attempts to take dental care into their own hands through actions such as attempting to adjust restorations.

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Essential Elements of Patient Withdrawal

■ Dentists must provide patients with written notice of intent to withdraw from dental care. It is best to discuss the situation with the patient and follow up with a letter. No matter what the reason might be for discharging a patient, the process should be handled cordially and after the dentist has tried to resolve any disputes.

■ Send the patient a withdrawal-from-care letter via certified mail, with a return receipt requested, and also by regular first-class mail.

■ Allow a reasonable amount of time for the patient to find another dentist, e.g., 30, 60 or 90 days. (Circumstances for each patient will vary considering treatment status, access to care and availability of other dentists in the area.) The certified letter should clearly alert the patient who requires specific dental attention, such as continued monitoring of periodontal disease.

■ Indicate the exact termination date that you will no longer be available for emergency care.

■ Give two viable referrals, such as the local dental society, local dental school or a managed care plan.

■ Enclose an *Authorization to Release Dental Records Form* with instructions for the patient to sign and return it to the dental office.

The *Authorization to Release Dental Records Form* is available to policyholders online at thedentists.com on the Recordkeeping page under the Risk Management tab.

■ Remember that withdrawing from care should be done in writing and only after the patient's treatment is complete to avoid claims of abandonment.

■ Alert office staff that a withdrawal letter has been sent to the patient, so that if the discharged patient calls after the effective termination date, the staff does not schedule a new appointment.

■ A dentist who is withdrawing from care should never refuse to provide a subsequent dentist with a copy of a dental record because the patient has not paid for dental services. Such withholding of the records or dental information exposes the dentist to liability should the patient suffer an injury because another doctor did not have access to the dental record.

■ Risk Management analysts will review drafts of a withdrawal-from-care letter and provide advice regarding your specific situation.

TDIC recommends that dentists call the Risk Management Advice Line at 800.733.0634 with any questions about withdrawal from care. Analysts will review letters and offer information about what to include, and not include, in a patient withdrawal letter. ■



Question and Answer

Q: I live and practice in an area where there are a lot of “snow birds.” This is what we call patients who are only here during part of the year while on vacation. The rest of the year, the patients return to their “home” state. I don’t mind treating snow birds, but I am getting concerned about my liability. Is it OK to have these kinds of patients? What should I do to protect my practice and myself?

A: This question comes through the Risk Management Advice Line from time to time. Typically, callers are dentists who live in “vacation destination” areas, but some are dentists who treat college students while they are in school. The advice is similar for both scenarios. Approach this situation as you would a regular patient. Regular cleanings, exams and radiographs are just as important with this patient as they are with other patients. Complete an initial exam to benchmark when your treatment starts and to determine existing dental status. If you discover this patient is in your area on limited basis (the summer months or during the school year) and has a regular dentist “back home,” make sure you:

- Explain the importance of continuity of care, and get the regular dentist’s name and contact information.
- Contact the regular treating dentist to establish a working relationship to ensure the patient receives appropriate dental care. (It is

OK to do this as you are treating a patient in common. If the patient refuses to give you the contact information, reconsider whether you want this patient in your practice as you are still responsible for delivering appropriate dental care. Contact the Risk Management Advice Line for further assistance.)

- Discuss findings and any recommended treatment. It is OK to use radiographs from the regular dentist if they were just taken.
- Consider coordination of insurance benefits with the other office.

Treating patients who live in your area part of the year is not a bad thing. But it does require additional effort and communication with the patient and the regular treating dentist to ensure the patient receives appropriate dental care. ■

TDIC Risk Management Advice Line:
800.733.0634



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