



The Dentists Insurance Company



Beyond the Science: Patient emotions in dentistry

Seminar Objectives

- Develop patient-selection criteria
- Recognize when, and how, to dismiss patients without placing them at risk
- Establish trust in the doctor-patient relationship to encourage treatment compliance

Case 1

Bailey v. Griffin, DDS

Case Summary

- In March, Inga Bailey traveled from Hawaii to become a patient of California general dentist, Dr. Griffin
- Both parties agreed to an accelerated treatment plan for laser gingival treatment, 20 restorations and a three-unit bridge for \$45,000
- At the end of the preparation appointment, Dr. Griffin referred Mrs. Bailey to an endodontist for tooth No. 7 and evaluation of three additional teeth

5

Case Summary

(continued)

- Mr. Bailey called multiple times from Hawaii very upset reporting his wife was in pain
- In May, Ms. Bailey had three root canals, and final delivery on all restorations but the veneers on teeth Nos. 6-11
- Mr. Bailey requested records in June; however, Ms. Bailey returned for an exam and cleanings in July and October

6



Before and after treatment photos of Mrs. Bailey.

Allegations and Demand

Dr. Griffin received a letter from Ms. Bailey's attorney alleging professional negligence and pain and suffering. She claimed:

- Aggressive tooth reduction
- Over contoured restorations resulted in 8 root canals
- Gingival irritation and occlusal issues

Mr. Bailey claimed loss of consortium.

The Bailey's demanded \$205,000.

Discovery: Ms. Bailey

Ms. Bailey:

- Claimed sensitivity and she was in terrible pain
- Acknowledged receiving informed consent forms, but only recalled a discussion about a potential root canal tooth No. 7
- Denied ever apologizing for her husband's behavior

9

Discovery: Mr. Bailey

Mr. Bailey maintained:

- His wife suffered pain, anxiety and inability to sleep
- His wife could not eat or smile due to sensitivity
- Dr. Griffin assured them that she had several patients in other states and could handle this case
- Dr. Griffin attempted to shift blame to the endodontist

10

Discovery: Dr. Griffin

During her deposition, Dr. Griffin:

- Testified she thought the former dentist's aggressive tooth reduction and over contoured restorations resulted in 8 root canals
- Admitted to rushing the case, but believed she delivered clinically sound treatment
- Appeared frustrated by the questioning and continually checked her text messages and her Facebook page on her iPad

11

Discovery: TDIC Experts

Experts opined:

- Ms. Bailey had very little tooth structure prior to her treatment and any preparation would have prompted root canal therapy
- The patient's complaints did not match the extent of severity as described by Mr. Bailey

12

TDIC Experts

(continued)

Experts were critical of Dr. Griffin for:

- Prepping 22 teeth and performing gingival contouring in one appointment
- Lack of follow up with endodontic referrals
- Accepting an out-of-state patient without an emergency plan in place

13

Contributing Factors: Patient Selection

Your patient base should be people with whom you can form a healthy dentist/patient relationship:

- Investigate why a patient complains about a former dentist
- Reconsider accepting a patient into your practice who refuses to disclose former treating dentists
- Secure the patient's permission to discuss treatment related issues with anyone other than the patient
- Review and document treatment goals and expectations

14

Patient Selection

(continued)

Consider refusing patients who:

- Are angry, hostile or demanding
- Harbor unrealistic expectations
- Have family or a significant other who unreasonably dictates treatment
- Are abusive towards staff
- Make you feel uncomfortable

15

Contributing Factor

Dismissing Angry Patients

Consider dismissal if a patient or family member is threatening violence, making abusive comments or yelling at you or your staff.

- Document the confrontation in the patient chart
- Send certified dismissal letter
- Inform staff of the dismissal and train how to respond to a request for records or attempts to schedule an appointment

16

Case Outcome

Case 2

Ellis v. Seals, DDS

Case Summary

- Sabrina Ellis called general dentist Dr. Seals' office reporting pain
- Dr. Seals diagnosed pericoronitis and recommended extraction of tooth No. 17
- Ms. Ellis refused antibiotics and pain medication
- She returned three days post extraction with pain and swelling
- Three weeks later, Dr. Seals received a letter from Ms. Ellis' attorney

19

Allegations and Demand

Ms. Ellis' attorney sent a letter alleging professional negligence which caused:

- Injury to her health
- Diminished strength and limited activities
- Severe emotional apprehension to further dental treatment

20

Discovery: Ms. Ellis

During her deposition, Ms. Ellis:

- Denied being offered or refusing antibiotics or pain medication at the time of extraction
- Claimed had she been offered the antibiotics, she would have taken them
- Testified Dr. Seals refused to see her when she went to his office in pain

21

Discovery: Dr. Seals

Dr. Seals testified he:

- Remembered recommending antibiotics
- Could not recall why Ms. Ellis refused the prescription
- Could not explain why his records did not reflect a reference to a discussion regarding antibiotics and what could happen if she did not take them

22

Discovery: Consultant Review

The consultant:

- Would have supported Dr. Seals if his records reflected what he said he discussed
- Noted the only reference in this area was, "Pt. refuses Rx." It is unclear whether this entry pertains to the antibiotic, pain medication or both
- Was critical of Dr. Seals for not following up with the patient over the weekend

23

Contributing Factor Informed Refusal

All states impose a duty on dentists to obtain a patient's informed refusal whenever refusal holds potentially serious complications.

- If infection is present, explain what can happen if left untreated
- Document the refusal in the patient's chart along with its consequences
- Follow up with a letter reiterating your discussion, recommendations, and the patient's refusal

24

Informed Refusal

Patient Name: _____

Diagnosis: _____

Dr. _____ has advised me that the following treatment
(describe the treatment) _____

test, or evaluation needs to be performed on (name of patient) _____

I have discussed with Dr. _____ the risks, benefits, and alternatives of this treatment, test or evaluation. The consequences of no treatment, test or evaluation could lead to, but are not limited to: _____. I have had the opportunity to ask any questions I have regarding the treatment, test or evaluation. All of my questions have been answered to my satisfaction, and I hereby confirm that I do **not** want the treatment, test or evaluation.

I also understand that if refusing this treatment, test or evaluation could lead to a departure in the standard of care. Dr. _____ may dismiss me from the practice.

Patient's or Legal Guardian's/Representative's Signature _____ Date _____

Witness' Signature _____ Relationship _____ Date _____

I have explained the nature, purpose, benefits, and alternatives of the proposed treatment, test or evaluation, as well as the risks and consequences of proceeding or not proceeding with the treatment, test or evaluation. I have answered all of the patient's questions, and I believe the patient/guardian/representative fully understands my answers and explanations.

Dentist's Signature _____ Date _____

PLACE A COPY IN THE PATIENT'S CHART

7/12

25

Contributing Factor

Establish the Patient Experience

It is important for both the dentist and staff to:

- Observe and identify barriers or fears
- Listen, address and educate the patient
- Ensure the patient leaves the office with confidence and understanding regarding dental treatment

26

Establish the Patient Experience

(continued)

UCSF Medical Center reports decreased patient anxiety and an increase in patient compliance with physicians orders after using the AIDET protocol, developed by The Studer Group.

- **A**cknowledge the patient
- **I**ntroduce yourself and explain your role
- **D**uration of the procedure
- **E**xplain what is about to happen
- **T**hank the patient for selecting you as healthcare provider

27

Case Outcome

28

Advice Line 800.733.0634

Case 3

Harris v. Crews, DDS

Case Summary

- Lisa Harris became a patient of Dr. John Crews in 2008
- Dr. Crews referred Ms. Harris to an oral surgeon for an extraction and implant placement
- In 2012, Dr. Crews extracted the tooth and placed an immediate implant
- Dr. Crews did not respond to Ms. Harris' calls to his emergency line
- Dr. Crews referred her to an oral surgeon for implant removal

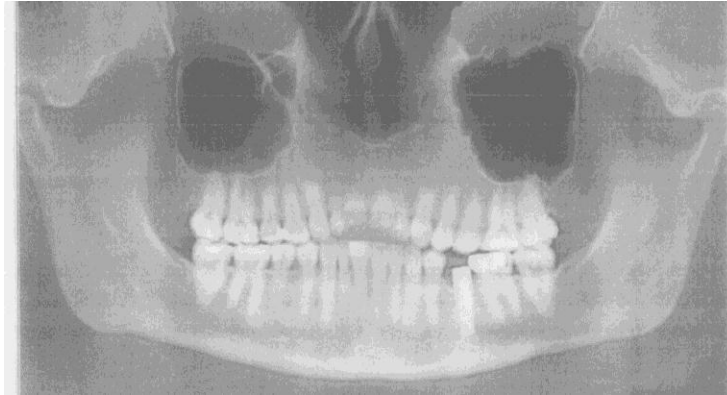
31

Allegations and Demand

Ms. Harris' attorney sent a letter alleging professional negligence and lack of informed consent. Ms. Harris claimed to suffer from:

- Paresthesia
- Hyperesthesia of the lower lip, chin, lower left teeth and gums
- Sadness, crying, fear, stress and anxiety

32



Discovery: Ms. Harris

Ms. Harris' testimony focused on Dr. Crews' failure to explain the risks, benefits and alternatives to the recommended procedure. She was:

- Angry that Dr. Crews did not keep her informed during the implant placement and allowed the sales representative in the operatory without her permission
- Upset with Dr. Crews' failure to return her calls she became frustrated and angry when he made excuses and would not listen to her

Discovery: Dr. Crews

During his deposition, Dr. Crews:

- Admitted he never reviewed the CT scan he ordered from the radiology lab
- Felt Ms. Harris understood the risks of the procedure because they discussed it several times
- Felt badly that he did not respond to her calls to his emergency line. He acknowledged he needed a better protocol for responding to emergency calls

35

Discovery: Consultant Review

The consultants' concerns included:

- Dr. Crews' failure to review the CT scan he ordered
- Asking the sales representative for advice made Dr. Crews appear unskilled
- Consulting with a non-dentist about an invasive procedure was inappropriate, unprofessional and a violation of the patient's privacy

36

Contributing Factor

Patient/Dentist Involvement

Patient involvement starts from the initial patient exam and builds with each interaction.

- Including the patient in the decision-making process is crucial to building trust, solving issues and preserving the relationship
- Reassure the patient you are just as involved postoperatively as you are when you diagnose and perform the treatment

37

Contributing Factor

Protocol

Established protocols ensures patients receive the best possible care and give staff confidence knowing what to do if an untoward event occurs.

Invasive procedures:

- Utilize both verbal and written informed consent
- Contact patients after performing the procedure
- Respond to messages left on the emergency/after-hours line

38

Contributing Factor

Mentoring

Dentists often take courses in various procedures to improve their knowledge and skill base.

- Have a mentor or study club to consult if a difficult situation emerges
- Recognize the potential for complication
- Seeking advice from a mentor or colleague is a good way to ensure your treatment approach and plan are on track

Case Outcome

Case 4

Evans v. Drs. Brooks and Nelson

Case Summary

- Becky Evans presented as a new patient to Dr. Brooks multispecialty practice in March 2005
- Her chief complaint was pain on tooth No. 14 and had a goal of having “straight teeth”
- Dr. Brooks noted poor oral hygiene, diagnosed potential root canal and crown on tooth No. 14, and recommended Invisalign treatment
- Ms. Evans saw the endodontist and periodontist, and began Invisalign treatment in June

Case Summary

(continued)

- June 2007, the periodontist performed four quadrant root planing and scaling in one visit
- Dissatisfied with the shape of her teeth and the Invisalign outcome, Ms. Evans accepted Dr. Brooks' recommendation for crowns or veneers on 19 teeth
- General dentist Dr. Nelson welcomed the opportunity to complete such a large restorative case as it helped her reach her production goals

43

Allegations and Demand

Drs. Brooks and Nelson received a letter from Ms. Evans' attorney claiming:

- Dental malpractice
- Lack of informed consent
- Negligent orthodontic treatment
- Negligence in the preparation and delivery of multiple crowns and Lumineers

Ms. Ellis demanded \$285,000 for cost of retreatment and pain and suffering.

44

Discovery: Ms. Evans

During her deposition, Ms. Evans testified she:

- Chose this practice because she could get all of her dental treatment at one place
- Trusted the dentists to have her best interest at heart
- Lost confidence in the practice and was very thankful for her new dentist

45

Discovery: Dr. Brooks

Dr. Brooks:

- Took no responsibility for the problems that arose during Ms. Evans' treatment
- Said Dr. Nelson provided dentistry below the standard of care
- Blamed the results on Ms. Evans' poor home care

46

Discovery: Dr. Nelson

Dr. Nelson was visibly nervous during the deposition. She testified she:

- Felt she had to follow Dr. Brooks' treatment plan or she would lose her job
- Had little confidence preparing Lumineers, but was too afraid to ask for help
- Felt guilty that Ms. Evans was so unhappy

47

Contributing Factor Becoming an Associate

Where you practice should foster an environment where you can develop your confidence and skills as a dentist. Before joining a practice, find out:

- Are there production expectations, and what happens if you do not meet them?
- Is there high staff turnover?
- What is the practice owners' treatment philosophy?
- What are the offices' ethical standards?

48

Contributing Factor

Production Pressures

Every dentist is responsible for the work that he or she does regardless of the production pressures dictated by the practice owner. Prior to rendering care, the treating dentist should:

- Determine if the patient understands the treatment about to be performed
- Look for evidence of an informed consent
- Review the chart for an appropriate and detailed plan
- Stop treatment and reschedule if questions exist surrounding the care of the patient.

49

Contributing Factor

Patient Perception

Ms. Evans trusted Drs. Brooks and Nelson's professional skills and motives. After four years, she felt misled and taken advantage of.

Take the time to:

- Talk to your patients
- Explain treatment changes and reasons for the change
- Include the patient in the decision-making process

50

Case Outcome

Case 5

McIntire v. Drs. Mandrell and Jennings

Case Summary

- Dr. Mandrell, a general dentist, and Dr. Jennings, an orthodontist, have worked together successfully for several years
- Dr. Jennings provided orthodontic treatment on Sally McIntire for 18 months
- The treatment met all of the goals and stayed within the estimated timeframe
- Appliance removal was uneventful. Dr. Jennings delivered the retainers two weeks later

53

Allegations and Demand

The practice received a letter from Ms. McIntire's attorney alleging:

- Ms. McIntire did not know about striation marks and several teeth were sensitive due to enamel loss
 - Dr. Jennings fractured teeth when she removed some bands
 - The interaction with the practice caused PTSD
- Ms. McIntire demanded \$2 million for future care, pain and suffering.

54

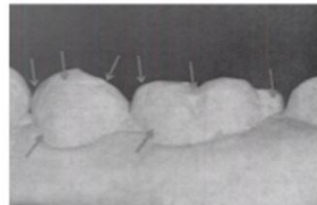
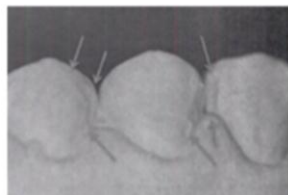
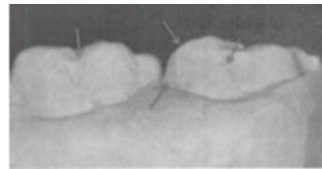
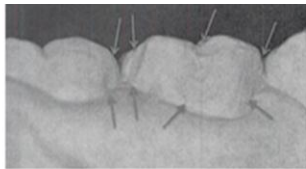
Discovery: Expert Review

The orthodontic expert supported Dr. Jennings treatment. The investigation revealed:

- Striation marks consistent with appliance removal
- Dr. Gayle's photographs reveals significantly worse marks than Dr. Jennings photos.
- Teeth with striation marks that were not part of orthodontic treatment

The expert opined Ms. McIntire had teeth prepped for veneers post appliance removal.

55



56

Expert Review

(continued)

A retained psychologist/pain expert believed Ms. McIntire over exaggerated the amount of pain she experienced. Events she described did not qualify as PTSD.

He believed the patient had a number of psychological issues unrelated to the dental treatment.

57

Expert Review

(continued)

Working together, attorneys for the dentists discovered:

- Dr. Gayle and the patient's attorney were siblings
- Ms. McIntire's expert psychologist diagnosed PTSD, was currently treating her and had future appointments scheduled
- Ms. McIntire's cousin was an RDA at Dr. Gayle's office. The defense suspected she began treatment with Dr. Gayle's office for cosmetic restorations after removal of her braces.

58

Case Outcome

Thank you.

Advice Line 800.733.0634