



## Managing Patients With HIV

By TDIC Risk Management Staff

In the early days of dentistry, not much was known about the spread of disease. Dentists performed their work without the protection of gloves, sterilization or even hand-washing, giving little thought to infection control. As knowledge of bacteria and viruses expanded, so did the protocols for preventing their transmission in health care settings.

Unfortunately, there is still a great misunderstanding about the spread of one of the most feared diseases in U.S. history — HIV. Unlike the flu or common cold, there is little, if any, risk of spreading the HIV virus in the dental setting as long as appropriate precautions are taken.

In California, patients with HIV are protected under the Unruh Civil Rights Act, which prohibits discrimination on the basis of medical condition, race, religion, sexual orientation or disability, among other factors. The federal Americans With Disabilities Act offers similar protections by considering people with HIV, whether symptomatic or asymptomatic, to have a disability that impairs or substantially limits one or more life activities.

According to The Dentists Insurance Company, refusing to treat a patient due to HIV status or perceived HIV status can be grounds for a discrimination claim. In a case reported to TDIC's Risk Management Advice Line, a dentist called to confirm whether he followed the right protocol when refusing to treat a patient with HIV. In this case, a new patient presented to his office for an emergency visit, requesting an extraction. The patient revealed he was HIV positive. The dentist told the patient that he should consult with his physician prior to receiving treatment to discuss whether the extraction would impact the patient's overall physical health.

The patient informed the dentist that he was not under the care of a physician and he did not agree with the dentist's requirement to contact a physician. He remained adamant about having the tooth extracted and refused to move forward with the exam and X-ray.

The dentist explained that he could not complete the extraction without the necessary diagnostic information. The patient became upset and stated he felt he was being discriminated against because of his HIV status. He left the office and warned that the dentist would be hearing from his attorney.

Luckily, the case went nowhere, as the dentist followed the appropriate protocol of requiring an exam and X-ray, a standard procedure regardless of HIV status. Consulting a patient's physician is also a standard protocol if the patient is under the care of a physician or is taking medication that may potentially impact dental treatment, said senior TDIC Risk Management analyst Taiba Solaiman.

It should be noted that patients are not required by law to disclose HIV status, nor are practitioners prohibited from asking. However, dentists should remind patients that various medicines, including those used to manage HIV, can affect oral health and cause negative interactions. Therefore, consulting with the patient's physician may be required and failing to ask the question may be considered practicing below the standard of care. The TDIC form "Consultation Request for Dental Treatment" can make quick work of scheduling a meeting with a patient's physician. TDIC policyholders can download the form and explore other helpful risk management documents at [tdicinsurance.com/risk-management/sample-forms](http://tdicinsurance.com/risk-management/sample-forms).

Whether a patient is HIV positive, dentists are reminded to use standard infection control precautions at all times. In some cases, the patient may not be aware that he or she is HIV positive; and in others, the patient chooses not to mark it on the medical history form out of fear of discrimination.

"Standard precaution assumes all patients are infectious and protocols should be in place at all times," Solaiman says.

The federal Centers for Disease Control and Prevention details the minimum infection prevention practices that apply to patient care, both for blood-borne and airborne pathogens. Educating staff on these pathogens and providing training on preventing their transmission is critical. The standard precautions include the following:

- Hand hygiene.
- Personal protective equipment, including gloves, masks and eyewear.
- Respiratory hygiene/cough etiquette.
- Sharps safety.
- Safe injection practices.
- Sterile instruments and devices.
- Clean and disinfected environmental surfaces.

In some cases, staff may be hesitant or may refuse to treat patients with HIV. If this is the case, TDIC recommends attending trainings and classes that address both the issue of HIV transmission and the proper barrier procedures. Staff refusal to treat an HIV-positive patient is no defense in a discrimination claim against an employer. If staff members continue to resist after being educated, consider taking disciplinary action.

A patient's HIV status bears special confidentiality. Be sure not to release this information unless you have express written permission from the patient or the patient's legal representative. In some states, including California, a general release or records form is not valid for release of HIV status unless the release specifically states "including HIV status." Review and remind your staff of the office's privacy protocol so that they do not release this information without your permission.

"In order to ensure optimum care, a dentist must know about a patient's health," Solaiman said. "Reassure the patient that his or her status will remain confidential and it will not affect your willingness to provide treatment. Patients should trust that their dental practice is a safe environment where they can be truthful about their medical condition without ramification or judgement."

Practice owners should be aware that they are obligated to follow antidiscrimination policies as outlined in state and federal law. Misunderstanding is no excuse for a discrimination claim, so brushing up on the requirements can go a long way in managing risk. Assuming all patients are infectious and employing standard infection precautions can avert a possible liability claim.

*TDIC's Risk Management Advice Line is a benefit of CDA membership. To schedule a confidential consultation with an experienced risk management analyst, visit [tdicinsurance.com/RM](http://tdicinsurance.com/RM) consult or call 800.733.0633.*

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