AN INTRODUCTION TO DENTAL ETHICS AND LAW

WHY BOTHER WITH ETHICS AND LAW?

CONFIDENTIALITY IN PRACTICE;
KNOWING WHEN TO KEEP A SECRET

CONSENT IN PRACTICE; A QUESTION
OF CONSENT

PROFESSIONALISM IN PRACTICE; THE
CHALLENGE OF ETHICAL TEAMWORK

Why bother with ethics and law?

This article is the first instalment in a brand new four-part ethics series by **Mark G. Brennan***.

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Are you confident that you know the latest GDC guidance on consent, confidentiality, handling complaints and other ethical and legal issues? If not, then this new series of articles is designed to help.

Some say there is no need for ethics and law to be taught to dentists and dental care professionals (DCPs); it is all a matter of common sense and conscience, they suggest. The evidence, however, points to a different conclusion: common sense may not be all that common, and conscience may not be enough to prevent DCPs getting into ethical and legal difficulties. There is a distinct need for standardisation so that everyone working in dental practice is aware of their ethical responsibilities towards patients, themselves and each other. In the next articles in this new series, we will look at some of the various ways in which the principles of dental ethics, law and professionalism can be applied to the whole dental team.

When patients present at a dental practice, clinic or dental hospital we can be sure of one thing; they almost always trust that the dentists and DCPs present will always act in their best interests, will not deliberately do anything which could harm them, and will take good care of both them and the

information they provide to us regarding their general health. In the vast majority of cases, this trust is justified. However, when patients and colleagues are treated unethically, illegally or unprofessionally, it is right that a dentist or DCP, dental practice or clinic should be held to account. But what is meant by dental ethics and law, and how can you find out what is expected by your own profession, patients, society in general, and the General Dental Council (GDC)?

What does the word 'ethics' mean to you?

In the American TV sitcom, 'Frasier', the radio psychiatrist Dr Frasier Crane provided an excellent definition of ethics. In a disagreement with his father Martin, a retired policeman, he says:

'Dad, you taught me about ethics. You said that ethics is what you do when no-one else is looking.'

That definition works particularly for ethics in dental practice, because – other than perhaps the DCPs present in a surgery or clinic – nobody else, not even the patient, may be fully aware of what is going on, and what members of the dental team might be doing behind their back. This means that the whole dental team has a responsibility to ensure that patients are protected and that their trust in dentists and DCPs is fully justified.

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Ethical principles and codes

Dentistry shares a common foundation with medicine, and the earliest ethical code is the Hippocratic Oath which dates back to 500 BC. The original oath requires that the ‘physician’ should display purity and holiness, which might seem an unreasonable expectation in dentistry! However, it is true that society expects a high standard of integrity and behaviour by all health professionals. Much of what is expected of DCPs in terms of ethical behaviour is not that complicated; the ‘rules’ are actually quite simple. In fact, we could describe them as the ‘Kindergarten Rules’ because in many cases we learnt them as children. These include the following:

Don’t tell fibs – Tell the truth, be trustworthy.

Don’t hurt each other – Take care that your actions or inactions do not harm others, do not be reckless and know your own limitations.

Don’t tell someone else’s secrets – If patients entrust their secrets in dental professionals, it is because they believe that those secrets will be protected and treated with care.

Don’t take things without permission – If, as a dentist or DCP, you intend to extract part of a patient, eg a tooth, make sure you have the patient’s consent.

Be kind to each other – Treat others with at least the same care and consideration with which you would expect them to treat you (the so-called ‘Golden Rule’) or, wherever possible, treat others as they would wish to be treated (what has been called the ‘Platinum Rule’).

These Kindergarten Rules, out of context, could appear very simplistic but in fact, and

on further investigation, they underpin much of the advice which follows, in the GDC standards and other ethical guidance.

Four principles of healthcare ethics

As a starting point for ethical discussion, you might find it helpful to consider what are known as the ‘Four Principles’. These were coined by the American philosophers Tom Beauchamp and James Childress in their book *Principles of biomedical ethics* (OUP, 2009 – now in its sixth edition). These are:

Autonomy:

- Self-determination; the right to decide what happens or does not happen to us
- The right to information about a condition, its diagnosis and prognosis, and possible treatment
- The right to say ‘No’ as well as ‘Yes’ to a proposed course of action (informed consent)
- As autonomous people, we have a right to have our privacy respected and our medical or dental secrets restricted to those with a need to know.

Beneficence:

- Doing good, acting in the best interests of others, treating patients and colleagues with consideration and courtesy.

Non-maleficence:

- The central message of the Hippocratic teaching, ‘Do no harm’ eg a DCP choosing not to undertake a procedure without the patient’s consent or for which he or she was not adequately trained or competent.

Justice:

- This principle encompasses treating people fairly and equally
- Being accountable for one’s actions as a DCP
- The just provision of healthcare where DCPs and dentists do not discriminate unfairly against those who present seeking dental treatment and advice
- The requirement to be accountable for one’s actions as a DCP.

So how does all of this apply to members of the dental team?

The GDC

What does the GDC actually do?

You might have wondered just this when you registered for the first time with the GDC. The answer is – quite a lot! The GDC is responsible for ensuring the quality of education, for the registration, and the regulation of dentists and DCPs practising in the UK. The GDC is not a government department or agency

but is comprised of dentists, DCPs and lay people representing the public; members of the council are elected by fellow registrants – both dentists and DCPs, and in addition lay members are also elected by the Council.

The GDC and self-regulation

One of the hallmarks of a profession in the UK is that it is self-regulated; if a professional person behaves in an unprofessional way, it is usually a panel of their fellow professionals which decides whether or not that person should be allowed to continue practising. The recent challenges to self-regulation for the health professions in the UK – including changes to the structure of the GDC – bring with them an increased need for DCPs and dentists to be aware of their ethical, legal and professional responsibilities and duties. This privilege of self-regulation implies that the people of the UK trust DCPs and dentists to behave in an ethical way, and that it is often DCPs and dentists themselves who will ensure that action is taken against those who do not behave in this way. In serious cases, where a practitioner is alleged to have acted illegally, the law may also become involved, and the practitioner will have to account for their actions before a civil or criminal court. In civil cases, this may lead to compensation being paid to the injured party; in criminal cases, this may lead to a conviction involving a fine or prison sentence.

What guidance does the GDC provide for dentists and DCPs?

You might want to look at the GDC website – www.gdc-uk.org. Much of what follows in this series will refer to the GDC’s guidance as every registered DCP needs not only to be fully aware of this but also to ensure that it is applied to their everyday practice; the guidance is contained in a set of publications. The first of these is called *Standards for dental professionals*. These standards apply equally to every member of the dental team and can be found on the GDC website (see above) or in the publications provided to every registrant (see below).

What are my responsibilities as a DCP?

The GDC *Standards for dental professionals* set out six key principles of ethical practice:

‘Putting patients’ interest first and acting to protect them
- *dental professionals’ responsibility to protect patients by, for example, maintaining GDC registration, working only within the scope of their knowledge and keeping accurate patient records*

Respecting patients' dignity and choices
- the importance of treating patients with dignity and respect, being non-discriminatory and recognising the patient's responsibility for making decisions, giving them all the information they need to make decisions

Protecting patients' confidential information
- the need to treat information about patients as confidential, using it only for the purposes for which it was given.

Dental professionals should also take steps to prevent accidental disclosure or unauthorised access to confidential information by keeping information secure at all times
- in some limited circumstances disclosure of confidential patient information without consent may be justified in the public interest (for example to assist in the prevention or detection of a serious crime) or may be required by law or by Court order
- dental professionals should seek appropriate advice before disclosing information on this basis

Co-operating with other members of the dental team and other healthcare colleagues in the interests of the patients
- dental professionals should work co-operatively with colleagues and respect their role in the care of patients
- dental professionals should also treat colleagues fairly and without discrimination and communicate effectively and share knowledge and skills as necessary, in the interest of the patient

Maintaining your professional knowledge and competence
- dental professionals should make sure that they keep their knowledge, skills and professional performance under continuous review and identify and understand their

limitations as well strengths
- dental professionals should make themselves aware of best practice in the fields that they work and provide a good standard of care based on available contemporary evidence and authoritative guidance
- they should also make themselves aware of laws and regulations, which affect their work, premises, equipment and businesses, and comply with them

Being trustworthy
- dental professionals should make sure that they justify the trust placed in them by their patients, the public and colleagues by acting honestly and fairly in all their professional and personal dealings.'

These standards are supplemented by six more booklets also available from directly the GDC and included on the website:

- Principles of patient consent
- Principles of patient confidentiality
- Principles of dental team working
- Principles of handling complaints
- Principles of raising concerns
- Scope of practice (the most recent release – 2009).

In the rest of this series we will look at each of these issues in greater depth, using a variety of cases to illustrate how the principles apply in practice. In the next two articles we will discuss two key areas, consent and confidentiality. Knowledge and understanding of the principles and practice of dental ethics and law will provide reassurance that you always practise in a professional way, and will help to ensure that you can avoid some of the pitfalls which exist in practice.

Further reading

Brennan M G, Oliver R G, Harvey B D, Jones G. *Ethics and law for the dental team*. Pastest, 2006.

General Dental Council. *Standards Guidance comprising Standards for dental professionals; Principles of patient consent; Principles of patient confidentiality; Principles of dental team working*; Principles of complaints handling*; Principles of raising concerns*, Scope of practice+.* GDC, 2005, *2006 and +2009.

D'Cruz L. *Legal aspects of dental practice*. Churchill Livingstone, 2006.

Lambden P (ed). *Dental law and ethics*. Radcliffe Medical Press, 2002.

All GDC-registered DCPs who work in a clinical or laboratory environment are advised to carry out CPD in legal and ethical issues. To take part in Vital verifiable CPD and complete the questions based on this article, turn to page 55 for instructions on how to subscribe.

HOTSPOT

Name: Alex(andra) Stephanie Kremer
Age: 22
Town: London
Loves: Having fun, working (sad I know!) and cooking
Hates: Spiders and bad teeth!
Job: Dental Recruitment Consultant for Dental Angels

How did you get your job?

I went to meet Kelly Haggett to help get me back into practice management after the backing was pulled from the company I was setting up and she had some fantastic ideas for Dental Angels and I couldn't help but get involved.

How did you end up working in dentistry?

I lived on my own from a very young age and needed to support myself and becoming a dental nurse gave me a career path as well as continual learning that I otherwise may not have received. I also realised early on how much I enjoyed it.

What do you enjoy most about your job?

Meeting lots of different people and weirdly I love doing all the back office admin and also the marketing.

What is the most challenging part of your job?

Dealing with unrealistic clients (but don't tell them that!)

Would you recommend a career in dentistry?

Definitely, there are so many directions you can take within the industry and despite what many may think it is hard work and hugely rewarding.

What three things could you not live without?

Music, a comfortable bed and my toothbrush.

'Dental professionals should make sure that they justify the trust placed in them by their patients.'