

Making the RIGHT decision



Neeta Udhian, Practice Management Consultant, BDA, looks at some common ethical dilemmas in the dental practice and discusses the best way to deal with them.

Dental practices are faced with ethical dilemmas on a daily basis, requiring members of the dental team to make on the spot decisions. Every dental team may come across the following scenarios at some stage during their careers. How would you react?

SCENARIO 1

You're in the middle of a busy day when your receptionist receives a phone call from the police asking for the records of one of your patients. The police want to establish an address for a 'suspect' so have asked you to see his records.

What should you do?

You have been notified of this request by phone so the first thing you need to do is to establish if the caller is who they say they are. You then

need to ascertain why the police need to see this patient's record. The police may have a court order or statutory right for disclosure. If this is the case, it would not be a breach of the dentist's professional or common law duty to maintain confidentiality. If, however, a request is made without any legal proceedings, you are not compelled to disclose any information at all. Doing so would put you at risk of breaching confidentiality and subsequent action being taken against you by 'the suspect' or his/her representatives. With or without a court order, before any information is disclosed to the police it is imperative for your practice to contact your defence organisation and seek their advice.

The police may also contact you for the records of a missing person. Disclosure in these circumstances can be resisted if there is nobody to compare the records to. Similarly, you may be contacted for records to identify a person who has been killed; in these circumstances

you may be put under additional pressure to release the records within a particular time frame as these investigations are time sensitive. Clearly you will not be able to contact the patient to ask for consent in these scenarios but you should consider whether you can anonymise the disclosure and limit it to the extent necessary – providing only minimal information. Again, advice should be sought from your defence organisation before any disclosures are made.

The general rule when disclosing records to the police is that if a patient has not consented to disclosure and in the absence of a court order, any disclosure is likely to be unreasonable and therefore puts the dentist and/or practice at risk to possible claims against them.

SCENARIO 2

A patient attends your practice with toothache. An extraction is his/her best option, but the

patient demands a filling. The patient informs you that s/he is willing to sign their records to state that they have opted for a filling.

How would you deal with this situation?

Patients have the right to decide what treatment they feel is best for them. For a patient to be able to make this decision, they must be provided with all the relevant facts. This is what is meant by 'informed consent'.

Upon hearing all of the treatment options, the patient may still disagree with your proposed course of action, for instance, having an extraction.

You cannot pressurise the patient into accepting your advice, regardless of whether it is in their best interests or not. You should have a flexible approach and explore why the patient prefers a filling as opposed to an extraction. Perhaps when you find out the reasoning behind the patient's preferred option you will be better able to address their concerns.

You may also wish to apply a different approach to explaining the treatment options so you are certain that the patient fully understands the risks involved and why you feel that an extraction is their best option. You could ask the patient to repeat back to you, in their own words what they understand to be the options available to them and the reasons why.

If you cannot reach agreement, you should respect the patient's decision and make arrangements for them to seek a second opinion.

Although the patient has stated that they are willing to sign their records to confirm that they have insisted on having a filling, you must always act in the patient's best interest. If, for example, you were to agree to this and carry out a filling and then several months later, the filling fails – are you liable?

The patient may have signed their records to state that they insisted on a filling but if you cannot justify your actions, you will be liable for a refund and may be at risk for possible claims of negligence.

You must always be able to justify your actions. Simply stating that the patient insisted on a filling will not be enough to justify your actions. The General Dental Council (GDC) guidelines require you to always act in the best interest of the patient. This must

be your overriding concern above all else.

SCENARIO 3

It is your first week at a new practice. The practice is running behind on its appointment schedule when you overhear the receptionist being rude to a patient who has turned up in pain. It appears the patient is being turned away.

What do you do?

There are a number of ethical considerations in this scenario. A patient has arrived at the practice in pain so should they be seen? Although a patient attending in severe pain is an urgent matter, it is not considered a dental emergency. A dental emergency is defined as uncontrollable bleeding, large facial swelling or a tooth being knocked out.

If a patient presents at the practice with a dental emergency, they should be seen as soon as possible. They should be asked to sit and wait for the next available appointment and the practice should attempt to shift appointments around so the patient can be seen without delay. This should be the case even if the patient is not a patient of your practice. You have an ethical obligation to act in the case of dental emergency.

If the patient is not suffering with a dental emergency but is in severe pain, you should still attempt to follow the guidelines above but the matter will be less urgent than in the case of an actual dental emergency.

Future dates for the BDA Training essentials course on Law, ethics and record keeping are 8 February 2013 in London, 8 March 2013 in Glasgow, and 5 July 2013 in London. Call 020 7563 4590 to book a place or visit www.bda.org/training.

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