ETHICAL CONDUCT

Tracy Winter gives an overview of ethics in the dental practice.

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In the United Kingdom, there is no formalised code of ethics; the guidelines by which the profession is governed have evolved over the years and are summarised in *Maintaining Standards*, The General Dental Council's essential guidance that dentists must follow throughout their practising lives. *Maintaining Standards* will shortly be replaced by the Council's new core statement on standards, *Standards for Dental Professionals*, expected to be published in January 2005.

It is particularly important to be aware of the many pitfalls that everyday practice offers and the BDA advice sheet *Ethics in dentistry* draws attention to situations that may arise, but it is not to be regarded as a legal textbook. The BDA advice sheet *B2 – Data protection* is also useful and contains further ethical guidance.

The FDI World Dental Federation and the EU Dental Liaison Committee have published some ethical principles, which bring together common principles of ethics at an international level and drawn up some guidelines that contain aspects of professional conduct that operate in member states.

The general understanding of the subject gained from all these sources should, however, provide the basis of sound judgement. The basic principles of ethics described apply across all spheres of dental practice.

It is essential that all dentists comply with certain fundamental principles, which are the basis of sound ethical practice.

These are:

- Acting in the patient's best interests
- Communicating with patients and listening to their concerns
- Obtaining consent to treatment and keeping personal health information confidential
- Complying with the rules and regulations that apply to dentists and PCDs
- Providing patients with the best possible clinical outcomes
- Providing appropriate emergency care.

Patient treatment

Generally dentists should seek to maintain a continuing professional relationship with their patients. However, the dentist has the right not to accept patients for treatment provided that there is no unlawful discrimination (for example rejection on the grounds of race or disability). There is no obligation to provide reasons for a decision not to accept or to cease to provide NHS care (provided that NHS regulations regarding notice are complied with), but it is good practice to do so.

Dentists must not mislead their patients. Some of the ways that patients may be misled stems from the dentist failing to communicate properly with the patient in the first place. The patient may also misunderstand certain statements in practice literature or other advertising material they read. Information provided must be accurate and truthful and must not make claims that cannot be substantiated, for example relating to the quality, longevity or cost of treatment.

Unsatisfactory treatment or failure to provide treatment without adequate skill and

care can lead to civil cases of negligence, disciplinary proceedings by Health Authorities/Health Boards, referral to an NHS Tribunal or allegations before the GDC of serious professional misconduct. Where dentists encounter colleagues in this situation they have a professional duty to inform a senior colleague.

Dentists, hygienists and therapists are expected to undertake continuous postgraduate education by attending relevant courses, reading professional journals and making use of other educational resources such as videos and CD-ROMs. This activity will generally ensure that they are kept up-to date with changes in clinical matters. Following the registration of the whole clinical team next year, the GDC will extend the requirement for continuing professional development to dental nurses, technicians, orthodontic therapists and clinical dental technicians.

Consent

For consent for treatment to be valid it must be specific, informed and normally be given by the patient or a parent or guardian to the dentist treating the patient (if the patient is under 16 and is unable to give informed consent). It is essential that the PCD makes sure that the patient has consented and fully understands before they commence treatment.

Patient notes

Good record keeping is central to good dental practice. Records can be held on paper and on computer. Where written records are

kept, legible handwriting is essential and pencil must not be used. Removing agents such as tippex should not be used; alterations, where necessary, should be made with a single line. Records should always be signed and dated with the recorder's name printed underneath or a central record of signatures kept at the practice. Accurate dating of entries can greatly assist with the defence of later claims, ensuring that a claim cannot be made that the record has been subsequently altered. Abbreviations used should be uniform throughout the practice so that they can be universally understood.

Computerised record systems must contain robust audit trails so that subsequent alterations will be recorded. The Dental Practice Board issues advice on requirements for dental systems and, before purchasing a system, dentists must ensure that the manufacturer complies with the guidance.

In view of the fact that patients have the right of access to their records, derogatory comments about the patient or relatives should be avoided. Sensitive information (such as a patient's HIV status or termination of pregnancy) should only be recorded if it is necessary to ensure that the patient is treated properly and safely and the patient has consented.

Ideally, for medico-legal purposes, dental records (including radiographs and study models) should be retained indefinitely. For the purposes of the Consumer Protection Act 1987 they should be kept for at least eleven years for adults, and, for children, for eleven years or up to age 25, whichever is the longer.

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Disposal of patient records should be by incineration or shredding.

Under the Provisions of the 1998 Data Protection Act, a data subject has the right of access to personal data about him or her. For computer-held records the maximum fee is £10 including photocopying and administration. The Act also requires that patients are given information about the processing of their personal data.

Confidentiality

Dentists have a professional and common law duty to keep confidential all personal information gained about patients in the course of their professional relationship. The patient-dentist relationship is built on the premise that a patient who gives information to a dentist or member of the dental team is normally entitled to assume that the information will not be disclosed without the patient's consent to anyone for any purposes other than the provision of health care. This principle is included in *Maintaining Standards*. All members of the dental team should be made aware of the serious implications should they breach patient confidentiality.

Clinical dental records and other items of personal information are held by individual dentists and dental practices as well as by health service bodies such as Trusts, private hospitals, dental hospitals and Government payment agencies such as the Dental Practice Board. In general dental practice, responsibility for disclosing information without patient consent rests with the patient's den-

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tist (unless the dentist is a deputy or an assistant). In the salaried dental services and personal dental services, responsibility rests with the particular health service body, although the dentist who is treating the patient should be consulted if a request for disclosure is made.

Essentially the fact that an individual is a patient at the practice is confidential and cannot, under normal circumstances, be disclosed without the patient's consent. Nor can:

- Clinical notes and medical histories (manual and computerised)
- Radiographs and study models
- Personal information about the patient or identifiable third parties
- Information held in appointment books/systems
- Financial payment records/NHS forms relating to the patient
- Daybooks
- Receipt books with patients' names
- Exemption status
- Video, audio tapes, photographs and other medical illustrations

- Information that is held in the dentist's (or other team members') minds.

Removal of obvious identifying features from the information may not necessarily remove the need to maintain confidentiality. The patient's condition or circumstances may be very unusual or unique so that disclosure of the information might make it possible to deduce or speculate on the patient's identity.

- Records must be kept secure and in a location where it is not possible for other patients or individuals to read them.
- Identifiable information about patients should not be discussed with anyone outside of the practice including relatives or friends.
- A school should not be given information about whether a child attended for an appointment on a particular day. It should be suggested that the child is asked to obtain the dentist's signature on his or her appointment card to signify attendance.
- Demonstrations of the practice's administrative/computer systems should

- not involve actual patient information.
- When talking to a patient on the telephone or in person in a public area, care should be taken that sensitive information is not overheard by other patients.
- Do not provide information about a patient's appointment record to a patient's employer.
- Messages about a patient's care should not be left with third parties or left on answering machines. A message to call the practice is all that can be left.
- Recall cards and other personal information must be sent in an envelope.
- Disclosure of appointment books, record cards or other information should not be made to police officers or Inland Revenue officials unless upon the instructions of the dentist.
- Patients should not be able to see information contained in appointment books, day sheets or computer screens.
- Discussions about patients should not take place in the practice's public areas.

Patient payment

A reasonable charge can be made to patients who fail to attend an appointment or cancel an appointment without reasonable notice. Patients should be aware in advance of any cancellation charges that may be levied, and commonly such information is contained in the practice's information leaflet or an appointment card. If patients are not aware that there is a cancellation charge in advance, it is unlikely a patient would be successfully pursued in court for non-payment. Where NHS patients are exempt from charges, a cancellation charge for a failed appointment may still be made. However, they must not be asked to pay a refundable deposit in case an appointment is broken.

There is no obligation to embark on or continue with a course of treatment if an NHS patient is in debt to the practice. Where such a patient attends in pain or with another dental emergency, however, emergency care must be given and then, if appropriate, the patient deregistered.

As a last resort, dentists may pursue patients for debts in the civil courts, or employ debt collectors. Prior to taking such action, however, the practice should make every effort to recover debts by sending suitable worded written reminders.

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Handling complaints

Dentists are required under GDS regulations and by the GDC to have in place a procedure to handle complaints from patients swiftly and satisfactorily. Both NHS and private patients may complain to the practice about the treatment or service that they have received and have their complaint considered by their dentist and, if necessary, action taken. Most complaints arise from a breakdown in communication and many patients are happy with an apology and/or a refund. Sometimes the patient wants a sincere commitment by the practice that the matter will be put right in order to avoid the situation occurring to another patient. Where damage is alleged to have been caused, the patient may refer the matter to court rather than using the complaints procedure or take legal action after the complaint has been made to the practice.

Child abuse

Dentists have an important role to play in the team that is responsible for identifying and reporting child abuse and neglect. The aim is to ensure the protection of the child and the provision of any help that the family may require. Care should be taken to avoid any suggestion to the patient or the parent that abuse is suspected. Equally important is the need to say nothing that may alarm the parent in such a way that the child is unable to obtain urgent care and attention. There are specific guidelines for dealing with this and

further information can be obtained from the British Dental Association.

Commercial interests

The GDC lays down general rules about how dentists should advertise and market their practices. Dental practices have to operate using sound business methods to ensure that sufficient income is generated to facilitate a high standard of care and treatment for patients. Commercial business methods can be at variance with caring professional practice and in certain areas dentists must be careful about breaching ethical rules.

PCDs

The dentist is responsible for checking the GDC enrolment of dental hygienists and dental therapists and must ensure that they perform only that treatment which they are legally permitted to carry out under the 1986 Dental Auxiliaries Regulations (as amended). Failure to do so may lead to a charge of covering the illegal practice of dentistry. From the expansion of the register, later in 2005, the dentist will also be responsible for checking that the registration or enrolment of their dental nurses and also any dental technician that they use.

Dental hygienists may work without a dentist being on the premises except when a local anaesthetic is to be provided. Hygienists must be given a written prescription stating the treatment to be provided and the intervals at which the patient should be seen. Presently, where a patient is referred to a dental hygienist for a course of treatment or oral hygiene instruction, the dentist must re-examine the patient within twelve months and, where necessary, issue another prescription. The dentist must always examine the patient before referral to the dental hygienist for the first time.

Dental hygienists and dental therapists should have their own indemnity cover to protect them in the case of proceedings by the GDC and action by a patient. Dental defence organisations accept dental hygienists and dental therapists into membership, and will extend membership to other clinical team members once the PCD register opens in 2005.

See our **Model Practice Confidentiality Policy** on page 40.