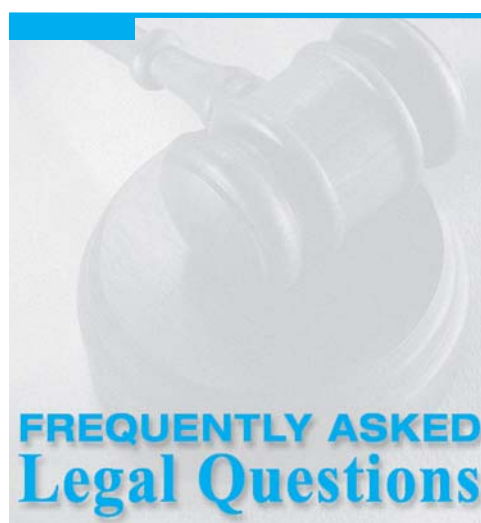


Preventive Action

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What is the appropriate way to make charting corrections?

Errors or mistakes in charting should be corrected by drawing a single line through the incorrect portion, initialing, and dating the correction. Additions to the chart should be dated contemporaneously with the entry and when appropriate, an explanation given for the addition.

What procedures should be followed when actual or suspected biological/chemical exposure is encountered?

Dentists should follow current guidelines issued by the Department of Health, Centers for Disease Control, and county medical societies. Carefully document in the patient's chart the severity of symptoms, your clinical examination and findings, and adhere to current guidelines.

Does state law pertain to sample medications?

Yes. Most state laws view the distribution of sample medications as dispensing medications. The sample medication should be dispensed in the original manufacturer's labeled package with the practitioner's name, patient's name, and date dispensed.

Is a dentist responsible for the negligent acts of an employee?

Most employers are responsible for the acts of their employees. While specific statutory provisions may hold the employee directly responsible, it is the dentist who is primarily responsible for all delegated procedures. Depending on the allegations made, a dentist may also be held vicariously liable for the acts of others, including the dental practice or professional association.

Does a dentist have the right to have legal counsel present when being deposed?

Yes. A deponent has the right to legal counsel at the time of deposition. Always contact FPIC's Claim Department or Risk Management Department before providing a deposition in order to determine if legal counsel is necessary and if an attorney will be assigned to represent you at the deposition.

EFFECTIVE RISK MANAGEMENT: Adherence TO A Follow-Up System

By Cliff Rapp, L.H.R.M., Vice President, Risk Management

The most costly dental malpractice claims entail diagnostic error and are often the most difficult to defend. Recent claim data from the Physician Insurers Association of America (PIAA) indicates that the average indemnity per paid claim involving errors in diagnosis has risen to \$67,447. Over 62% of claims alleging an error in diagnosis – which includes failure to diagnose, delay in diagnosis, and misdiagnosis – result in an indemnity payment to the claimant. The majority of these claims has little to do with a dentist's competence, but rather attributed to system failures often traced to inadequate follow-up procedures. In terms of loss prevention, a follow-up system serves as a check and balance for procedures and lab results that warrant careful monitoring.

Laboratory Reports

Special attention should be given to laboratory, x-ray, pathology reports, and consultation letters from other dentists and physicians. Procedures should be developed and uniformly followed to ensure that such reports are properly reviewed, initialed, and dated by the dentist prior to filing. Similar procedures should be developed pertaining to specific comments and charting entries relating to the report, correspondence, or clinical information. Develop and utilize a tickler, computer printout, or log book with a diary system for all lab tests, diagnostic testing, biopsies, and consultations. A suspense-type of file should be maintained and brought to the dentist's attention on a daily basis. Patient non-compliance and staff callbacks should be noted and documented in the patient's dental record.

Rationale For Follow-Up Systems

Courts have held that it is the dentist's responsibility to follow-up on pending diagnostic studies, treatment, and patient non-compliance under the rationale that a healthcare professional's appreciation of the seriousness and potential ramifications exceeds that of the patient. Although a patient may be held "comparatively negligent," it is the dentist who must ultimately defend the failure to diagnose claim. Few juries look with favor upon a dentist who was totally unaware of a condition that worsened over time and could have been prevented had the lab report not been filed indiscriminately or the patient lost to follow-up.

Developing A Follow-Up System

Reduce your exposure to claims entailing diagnostic error by using a follow-up or tickler system in tandem with a policy and procedure that compliments your office setting. Consider using a *Diagnostic Log Sheet* as well as a diary system for missed or cancelled appointments. Always document the dental record and send written confirmation to the patient of their non-compliance with diagnostic studies, follow-up care, and treatment.

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National Dental Malpractice Claims Most Prevalent Misadventures 2001		
	Percent Paid	Average Indemnity Paid
Improper Performance	44.64%	\$24,470
Errors In Diagnosis	62.34%	\$67,447
Failure to Perform	55.56%	\$38,441
No Medical Misadventure	8.89%	\$51,259
Wrong Patient or Body Part	57.14%	\$11,438

