

Risk management strategies in orthodontics.

Part 2: Administrative considerations

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Orthodontic practice results in relatively few patient challenges and litigations. This often leads to a false sense of security and encourages orthodontists to optimize practice management techniques that may be at odds with risk management considerations. Examples include excessive duty delegation to dental auxiliaries, office designs that invade patient privacy, and 1-visit consultations that have the potential to compromise the diagnosis and treatment planning process.

Practitioners need to consciously balance risk management techniques against practice management initiatives. The strategies and opinions expressed do not necessarily represent the opinions of the *American Journal of Orthodontics and Dentofacial Orthopedics*, the American Association of Orthodontists, the American Board of Orthodontics, or the College of Diplomates of the American Board of Orthodontics.

1. Develop strong, professional, and friendly doctor-patient relationships

A key strategy is to develop strong doctor-patient relationships by blending professionalism and ethics with friendliness. Errors and accidents occur in orthodontics, and patients are more forgiving if they like their doctor. Having a warm and friendly attitude goes a long way. However, friendliness has its limits. It is thus critical to avoid flirting, playful teasing, sexual innuendos, romantic gestures, and unnecessary texting, which can be misinterpreted as taking an inappropriate personal interest in either a patient or an employee. When these relationships fail, and most do, the results can be dreadful, including the possibility of the permanent loss of one's dental license, or worse.

Once a doctor-patient relationship is formally established, it gives rise to each party having certain responsibilities to the other. One-visit initial consultations

may expose a doctor to potential liability, since the doctor has examined the patient and offered a recommendation on which he expects that patient to rely based on the clinical observation only, with the potential that the patient may suffer an injury as a result of acting on that recommendation. Prudent risk management dictates that a comprehensive examination should be performed before making definitive clinical recommendations.

2. Inform patients of their responsibilities before any treatment

Orthodontic patients need to know their responsibilities before contracting for treatment. They must cooperate and follow instructions, keep appointments, pay for services, be truthful and responsive about clinical and administrative inquiries, and conform to accepted modes of behavior and office protocols. If the patient breaches any of these duties, the doctor has the right to terminate the doctor-patient relationship.

3. Accommodate patients with special needs

Orthodontic offices are places of public accommodation, and accommodations come in all sizes and forms. Dealing with special needs can be inconvenient, but it is important to provide any required accommodations at no expense to the patient. For example, it can be inconvenient and expensive to furnish a professional interpreter for a family that does not speak English. However, an orthodontist cannot refuse to treat patients because of their inability to speak English. Failure to furnish an interpreter can result in a language comprehension barrier, a compromised doctor-patient relationship, and a misunderstanding of the treatment to be rendered. Neglecting to provide certain legally required accommodations will subject practitioners to administrative and civil sanctions.

4. Assume that the patient may not cooperate

It is important to assume that the patient may not follow instructions or not show up for appointments. Serious problems can occur when patients do not

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come for scheduled visits. For example, an active anterior root torque auxiliary can continue to move teeth, causing root fenestration and serious damage. Mechanotherapy correcting Class II or Class III malocclusions or closing spaces that does not depend on the patient's compliance may cause unwanted tooth movement if these mechanotherapies are unattended. Moreover, patients referred to another specialist may not follow instructions or may even lie about their visit. From a risk management perspective, assume that patients will not cooperate and follow instructions. Put in place office policies and procedures to deal with this occurrence. If your worst fears are never realized, there is no problem to deal with.

5. Handle unhappy patients with care

Most orthodontic patients or parents are appreciative; however, a few are demanding, overprotective, or naturally unhappy. Giving a fee refund can ameliorate the problem if the issue concerns money. With each refund, it is important to obtain a fee refund release stating that the refund is not an admission of liability and should be kept confidential. If the patient's dissatisfaction is related to treatment progress or outcome, be responsive and empathetic, complete the treatment with the best possible attitude, and document that this was done. In some cases, it may be valuable to offer the patient the option of completing treatment with another orthodontist. These practices can improve the situation and reduce the likelihood of public disparagement. If a patient becomes physically or verbally abusive against any staff member, the authorities should be notified and the patient dismissed from the practice.

6. Terminate treatment only with justification, appropriate notice, and protocol

Early termination of treatment can arise if the patient does not carry out his or her duties under the doctor-patient relationship or if the patient desires to terminate treatment against the doctor's advice. If patients do not carry out their responsibilities, the orthodontist may (but is not required to) formally dismiss them. The most important thing to remember during the process is that money has absolutely nothing to do with treatment or standards of care. Patient welfare is the most important thing to consider, regardless of account status. For example, patients in extremis who need immediate attention because of pain should not be abandoned because they are behind in their financial obligations. Whether to refund the treatment fee, or part of it, to settle patient disputes is a matter of much debate. Orthodontists who never offer refunds may be at a higher

risk of retaliatory legal action, whereas those who always offer refunds may develop a reputation of tending toward this course of action. When patient dismissal is contemplated, proper notice should be given. Mail a dismissal letter with a return receipt requested. The letter should include the reason for treatment termination and that continued professional care is recommended as soon as possible, that you bear no responsibility if care is not continued, that records will be made available upon request, that you will help find the patient another orthodontist if requested, and that you will be available for questions, appliance removal, or emergencies for a reasonable period of time. Appropriate protocol for treatment termination ensures the patient's welfare and minimizes claims of patient abandonment.

7. Work efficiently with the best available health care providers

Although the doctor is only liable for procedures that he or she renders, while working with other health care providers, joint liability can occasionally become a reality if something goes wrong. Therefore, ask the other health care providers for a consultation about a condition or a proposed procedure as opposed to requesting that a specific procedure be performed. For example, ask the surgeon for a consultation on third molar extraction rather than prescribing the extraction. It is important to work with the best health care providers for 2 reasons. First, they acknowledge that the best outcome for patients is achieved through teamwork, whereas poor clinicians refer less frequently and believe that they can do it all. Second, they take responsibility if things go wrong and know how to manage these types of challenges effectively.

8. Do not criticize the opinions or the treatment of other orthodontists

Finicky or overprotective patients frequently seek second opinions for alternative treatment plans or evaluations of the current treatment outcome. When patients seek a second opinion, provide it without asking what the previous doctor said. Do not evaluate treatment progress or the outcome of a colleague's case against the perfect outcome. It is unfair to evaluate the work of a colleague without having a full understanding of the case before treatment, the patient's cooperation during treatment, the progression of treatment, and the treatment plan embarked upon, since it may reflect a limited treatment alternative. The only exception is when a clinician consistently displays poor work that is clearly below the standards of care. In this case, it is the orthodontist's duty to report this clinician to protect the public.

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