



## CNA HealthPro

### The Importance of Follow-up – Claim Handling Issues

The quality of patient records always affects the defensibility of a malpractice claim. A good dental record speaks for itself and is often the key to a successful defense. In the case of Dr. Taylor, less than adequate records may hurt his attempt to prove that he gave Mr. Carroll sufficient follow-up instructions, which Mr. Carroll apparently chose to ignore.

Should a claim progress to trial, the relevant dental records will probably be enlarged so that so that the jury may view the information as the defendant and expert witnesses discuss the treatment. If the written record is not clear, it can be clarified by oral explanation during testimony.

If the dental record appears disorganized or if it omits key treatment issues (in this case, Dr. Taylor's instruction to Mr. Carroll that he come in the next day for an examination), the plaintiff's attorney will try to capitalize on these lapses through the use of probing or adversarial questioning. Even with deposition preparation from experienced defense counsel, explaining record omissions may be difficult. Typically, the adequacy of dental records influences the jury's perception of a dentist's credibility.

The case of Dr. Taylor suggests many potentially troublesome questions that the plaintiff's attorney might ask. Here's a sample:

- What is your protocol for documenting patient calls taken away from the office?
- Did you follow that protocol in this instance?
- Did you consider the risks of prescribing an antibiotic?
- Did you advise the patient of the potential seriousness of his condition?
- What did you tell the patient regarding the need for follow-up?
- Why didn't you write this down?
- Why didn't you or a staff member call the patient on the following day to schedule an examination?
- Do you have a written protocol addressing these and similar circumstances?

These questions are much easier to answer when supported by the written record.

Good records and a solid office protocol for follow-up are essential components of risk management. The quality of a dentist's clinical records can determine whether a trial is an ordeal or a vindication – or whether a trial even takes place.

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