CNA HealthPro

The Refusal of Periodontal Treatment and Periodontal Referrals

A patient who refuses either your periodontal treatment recommendation or your periodontal referral presents you with two choices. You can continue to treat the patient – within the outline of the parameters to follow – or you may dismiss the patient from your practice due to noncompliance. There is no right or wrong decision, simply a matter of preference.

Each choice presents some level of risk to your practice. If you choose to continue treating, you risk the chance that at some point in the future the patient's periodontal condition may not be adequately evaluated or documented. If you choose to dismiss the patient, you risk alienating him and having his ill will spread to other patients he knows. Your decision will be based on a myriad of factors, including the quality and longevity of your dentist-patient relationship, the nature and urgency of the recommended periodontal treatment, and the overall financial impact on your practice.

The dentist who chooses to keep the refusing patient in his or her practice and continue with care must be aware of several additional duties that stem from the patient's informed refusal. These duties are in addition to having informed the patient regarding the risks of not having the recommended periodontal treatment. They include:

- A continued duty to *examine* and *diagnose* the patient's periodontal condition for as long as the dentist-patient relationship exists and for as long as the patient continues to refuse either periodontal treatment or a periodontal referral

- A continued duty to *inform* the patient about his or her periodontal status and the associated risks for as long as the dentist-patient relationship exists, the periodontal condition exists, and the patient continues to refuse treatment

- A heightened duty to tell the patient how the refusal of periodontal treatment might affect treatment of other structures

The failure to meet these obligations has resulted in numerous *failure to diagnose* and *failure to inform* allegations. The good news is that we at CNA are seeing fewer of these allegations than we were in 1990. A typical claim of this type involves a patient who refuses scaling and root planing but is agreeable to return on a regular basis for debridement by the hygienist. Since the patient has not demonstrated an interest in improving his periodontal health, the dentist does not emphasize periodontal concerns during regular 6-month recalls. He neither probes the periodontium nor documents in the progress notes anything about the patient's perio status.

After a few years, the patient complains of a worsening of his periodontal status, including increased bleeding and progressive mobility of teeth. Upon hearing a renewed complaint by the patient, the dentist finally reevaluates the periodontium, only to find it has progressed from a Type II case to a Type IV case. The patient now has severe bone loss and needs multiple extractions. Incredulous at the news, the patient questions how his mouth could have gone from needing a "gum scraping" to multiple extractions without the dentist ever saying a word about it.

Our claims specialists find these claims commonly are without any recall perio chartings or documentation of having informed the patient of his status. The risk to the dentist lies not in the

continuation of the dentist-patient relationship, but in the absence of regular evaluations and disclosure to the patient and of documentation of these actions.

Documentation of informed refusal

Refusals of periodontal care represent an increased liability risk and require greater diligence on your part to manage that risk. The most effective technique is to thoroughly document the informed refusal process. Criteria for documenting informed refusals are similar to, but go beyond, those for informed consent. Following a discussion of the consequences, we strongly recommend a comprehensive progress note as well as the use of a written form documenting the refusal. Your progress note should document:

- What treatment or referral was discussed
- What educational documents, brochures, handouts, or presentations were given to or viewed by the patient
- What questions were asked and what answers were given (by both parties)
- That the patient refused the recommended care
- That the patient was informed of the risks of not following your recommendations
- The patient's reasons for refusal
- That the consequences of refusal were re-explained and that the patient still refused the recommended treatment. Emphasize that the patient understood the risks of refusing care.
- Who was present

We also encourage the use of an informed refusal form. Most patients do not remember all that they were told during the informed consent/refusal discussion, making written forms a valuable reminder to both the patient and the dentist. A written form also helps manage patient expectations, provides further documentation of the disclosure of information, and deters claims of negligence alleging a lack of informed consent or informed refusal.

Fill out the form, paying particular attention to the section titled "Risks Of Not Having The Recommended Treatment." Then ask the patient to sign it. Some patients will change their minds and agree to treatment when presented with a written document and an insistence on their signature. Although the documentation process is not necessarily designed to persuade patients into accepting treatment, these individuals will ultimately benefit from receiving the appropriate care.

Of the patients who still refuse your treatment recommendation, some will sign the form, while others will not. While it is preferable to have the patient's signature, don't fret if you can't obtain it. Sign the form yourself and have the staff member who witnessed the discussion and disclosure sign it as well. Regardless of whether or not the patient signed the form, place the original in the patient's chart and give a copy to the patient. Your signatures on the form, along with your progress note, will demonstrate that a discussion took place and an informed refusal was given.

The documentation process for informed refusal doesn't end after the first refusal. You should make a chart entry concerning refusal of care at *every* subsequent visit when you discuss the issue with your patient, no matter how much time has elapsed between visits. If your findings and recommendations are the same as when the informed refusal form was last filled out, simply sign it again with the new date. If your findings or treatment recommendations have changed, then fill out a new form that includes the updated periodontal information.

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