



# How Dentists Can Avoid Risk When Assuming Care

Patients may choose to transfer to another dentist after a routine visit or even after starting a treatment plan. For example, a patient may have to suddenly relocate, or they may be unhappy with the treatment results to date.

Dentists who assume the care of a patient from another dentist have the same professional obligations as for all their patients. Failure to meet those obligations could result in legal action. Consequently, dentists should take steps to ensure a safe transfer of care and meet their responsibilities.

### Establishing professional responsibility

Once the dentist examines the patient, a professional relationship is initiated, with the dentist having an ongoing professional responsibility to the patient. The dentist is bound by ethical guidelines and standards of practice throughout the relationship.

The Michigan Dental Association notes that this relationship exists until both parties agree to end it, the patient leaves the dentist, or the dentist terminates the relationship. In the latter case, the dentist must safely transfer care to avoid patient harm and charges of patient abandonment.

### Ensuring a safe transfer

In any situation, a safe transfer begins with the receiving dentist ensuring they have copies of the patient's dental records and radiographs. The patient normally asks their current dentist to send this information to the new dentist. HIPAA rules state that a physician does not need the patient's written authorization to send a copy of the patient's medical record to another healthcare provider who will be treating the patient, but most dentists require written permission to release records. (Note: Some states may require written permission.)

The transferring dentist has ethical responsibilities related to the transfer. The American Dental Association Code of Ethics states that when asked by the patient or the patient's new dentist, the transferring dentist is obligated to provide dental records and any information that will be beneficial for treating the patient. Receiving dentists should direct any questions to the previous

dentist, not office staff, to avoid miscommunication. Details of the communication should be documented in the patient's dental record.

The receiving dentist should ask the new patient what they were told by the previous dentist about them and their practice so that any misinformation can be corrected. For example, the transferring dentist may not have clearly explained the services provided by the new dentist.

The receiving dentist should treat the transferred patient as a new patient, which means obtaining consent, checking insurance coverage, outlining expectations, and conducting a thorough assessment. Assessment results should be compared to the patient's records from the transferring dentist. It may be necessary to obtain new radiographs if the previous ones are unclear. If the receiving dentist uncovers an error made by the transferring dentist, appropriate action should be taken. [See [Discovering an error](#), below after the article]

After the assessment, the new dentist should develop a treatment plan. The dentist should minimize risk factors related to any planned treatment, particularly if they are following a treatment plan developed by the transferring dentist. For example, factors contributing to the treatment of the wrong tooth include inaccurate review of dental records and miscommunication of a referral.

If the new treatment plan differs from the one the previous dentist developed, the receiving dentist should clearly explain the new approach, including the reasons behind it, and disclose any impact on costs.

When treatment plans differ, the patient may question their previous dentist's approach. In this case, receiving dentists should not guess about how the plan was developed, since they do not know the full circumstances. The dentist could suggest the patient contact the previous dentist with any questions.

As is the case with all patients, documentation, including a detailed treatment plan and patient communication, is key to reducing the risk of liability.

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## Building the dentist-patient relationship

Establishing a positive relationship early on with the new patient may reduce dissatisfaction, which could result in a lawsuit or a complaint with the state dental board. The new dentist should establish trust with the patient by being honest and recognizing that every communication matters. One negative conversation can quickly undo a trusting relationship. Patients also need to know upfront the expectations related to treatment approaches, missed appointments, and fees. Failure to set expectations can result in patient dissatisfaction and, depending on the situation, legal action.

## Discovering an error

In rare instances, the receiving dentist may discover that the transferring dentist made an error. The following actions may be helpful in this situation.

- Keep in mind that the patient's welfare must come first.
- Conduct a complete assessment to uncover the extent of the error.
- Determine whether a true error exists or if there is simply a variation to treatment approach. The ADA Code of Ethics notes that differences in approaches should not be communicated to the patient in a way that implies mistreatment. Contact the original dentist to obtain their perspective.
- If an error has been made, avoid attaching blame to the previous dentist; it is best to remain neutral and factual. Blaming the previous dentist could result in charges of slander.
- Be honest and transparent with the patient. Keep to the facts and offer solutions. For example, "It looks like this permanent crown is too large for the tooth. Here's what we can do moving forward."
- Thoroughly document the findings (including written notes, relevant radiographs, and patient communication). Note discrepancies with the dental record received from the previous dentist, but do not state to the patient that the dentist made an error.
- The dentist may want to verbally share the findings with the previous dentist as a professional courtesy.
- If an egregious error occurred, the dentist has an ethical responsibility to report it to the applicable state dental board and/or any other appropriate state agency. (ADA, 2023)

Sources: American Dental Association. Principles of Ethics & Code of Professional Conduct. 2023; CNA, Dentist's Advantage. Dental professional liability: Risk management program. 2023.

## REFERENCES

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## A smooth transfer

Receiving a patient from another dentist can be advantageous for business, but must be handled appropriately. Building the dentist-patient relationship from the start will help ensure a smooth transfer, increase satisfaction, and reduce the risk of litigation.

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