The National Society of Dental Practitioners
RISK MANAGEMENT Newsletter
Volume 35 | No. 4

Integrating Diversity Into Your Dental Business

The aftermath of high-profile deaths of people of color, including the deaths of George Floyd and Breonna Taylor, has brought the problem of racism to the forefront and renewed calls to re-examine many aspects of life, including the workplace. This is an ideal time for dentists and dental practice owners to re-evaluate whether their businesses truly embrace diversity and inclusion.

Valuing a diverse workforce helps dentists and dental practice owners in recruiting and retaining high-quality employees and attracting and keeping patients served by the business. Policies and procedures that promote diversity, as well as a culture that values each employee and patient, also help protect the business against litigation related to discriminatory practices. Integrating diversity into a business requires thoughtful self-reflection and a willingness to act.

Understand the problem

Many studies have shown the problem of racism in the workplace. For example, one study found that applicants with White-sounding names received an average of 50% more calls for interviews than equally qualified applicants with Black-sounding names.

Although current events have focused on racism, dentists and dental practice owners should remember that challenges also remain in other areas of diversity, including gender, sexual orientation, disability, age, and weight. For example, older applicants may be automatically excluded by some businesses, despite excellent qualifications, because of ill-founded fears of increased absenteeism.

Unfortunately, it can be challenging to address racial or diversity issues because some employees may not see the need. For example, a 2017 Pew research report found that although 58% of Americans view racism as a "big problem in our society," 29% say it is "somewhat of a problem" and 12% say it's a "small problem" or "not a problem".

You may need to help build empathy by sharing research and stories related to the effects of racism and discrimination. The Penn Dental Medicine Office of Diversity and Inclusion collected resources to learn about racial biases, inequities, and inclusion available here. The American Student Dental Association has also organized a list of websites offering assistance or information related to matters of diversity and inclusion in organized dentistry.

You also should consider your own possible implicit biases, which refer to unconscious attitudes that affect understanding, actions, and decisions (see *Facing implicit bias*). Do you have certain assumptions associated with different ethnic groups? How were those assumptions formed? Knowing your biases will help you self-regulate them. One strategy is to complete the Implicit Association Test, developed by Harvard University researchers. Once you understand the issues and your own biases, you will be in a better position to promote diversity in your practice though a variety of strategies.

Talk—and listen

Frank, open discussions are essential to ensure diversity is authentic and not simply a buzzword. Acknowledge that these are challenging times and set the tone that you want your practice to be culturally sensitive.

Having conversations about topics such as race, diversity, and bias can be difficult for dentists and other dental business leaders. It's certainly acceptable to share your discomfort, but add that you want the organization to meet employees' and patients' needs and that you value others' perspectives. Ask employees what they think the practice could do to better address issues of racism and discrimination and then listen to what they say). Stay empathetic, particularly to those who may have had personal experiences with racism or discrimination.

Provide guidance

Employees are guided by the vision, mission, policies, and procedures of the organization. Your vision and mission should convey the concept of inclusion. Policies and procedures should make it clear that there is zero tolerance for offensive and discriminatory behavior. You can view a sample diversity policy. Businesses also need a policy outlining what employees should do if they believe they have faced discrimination.

Guidance also comes in the form of serving as a role model, starting with treating each person with respect. All employees should understand the value of respect toward each other and patients. This has additional benefit for productivity and retention: Research by Gallup shows that the most important aspect of staff engagement is that employees feel their supervisor or someone at work cares about them as a person.

Educate staff

Education should include the value of diversity and understanding implicit bias. Often dental healthcare workers don't realize that they bring inherent biases into the clinical setting. Unfortunately, these biases can affect how clinicians and staff treat patients, resulting in poorer outcomes. For example, a randomized clinical trial found that dentists were significantly more likely to recommend a root canal for white patients, and tooth extraction for black patients, irrespective of the patient's condition. In another study, black patients enrolled in Medicaid identified racial discrimination as a "major barrier" in seeking care. They reported "overhearing dental receptionists making negative comments about black people," and white receptionists helping white patients before black patients. Once dentists, dental hygienists, dental assistants, and non-clinical staff alike are aware of these biases, they can strive to avoid them.

Education also can empower staff. For example, if a person tells an inappropriate joke, employees should feel empowered to speak up without fear of retribution, even when it's a manager who is being inappropriate.

continued, pg 2 ...

Support from employees is essential for successful implementation of diversity programs, so plan programs carefully. Keep in mind that diversity training won't be effective unless the culture of the organization is congruent with the principles being taught. It is critical to set the tone from the top and set an appropriate example for your colleagues. Efforts to shift organizational culture will not be effective without consistent buy-in from senior clinical staff and supervisors.

New employees should receive education as part of orientation, with periodic reinforcement for all employees on a regular basis. Several online education resources are available to facilitate training, including those from Georgetown University's National Center for Cultural Competence and Johns Hopkins' Office of Diversity, Inclusion and Health Equity. Be sure to document training in the employee's work record.

Engage in effective human resources practices

Your staff should reflect the patient population you are serving. When hiring, screen applicants to ensure they value diversity. Most business owners know that the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, prohibits discrimination based on race, color, sex, religion, or national origin. However, other acts are important as well, such as the Age Discrimination in Employment Act of 1967, which prohibits discrimination based on age against individuals who are age 40 and older, and the Rehabilitation Act of 1973, as amended, which prohibits discrimination in employment on the basis of physical or mental disability.

Identify any race or gender wage gaps, keeping in mind that the Equal Pay Act of 1963, as amended, prohibits any discrimination based on sex in wages and fringe benefits. You may want to designate someone to be responsible for ensuring diversity within the business or create a committee of employees who focus on ensuring inclusion. Finally, consider whether there is equal access to leadership opportunities.

Promote a positive patient experience

Addressing diversity also includes ensuring that patients from all backgrounds are respected and well cared for. Examples of showing respect include being culturally sensitive and providing the means for effective communication, including translation and interpretation services when indicated.

Cultural sensitivity. Be sure practice staff are sensitive to patients' cultures. It may be helpful to provide them with education and resources, such as *Cultural and Religious Sensitivity: A Pocket Guide for Health Care Professionals*, 3rd edition, published by The Joint Commission.

Have regular discussions with staff to brainstorm as to how they can ensure patients have positive interactions with those providing care. Be sure to emphasize that each patient needs to be approached as an individual and that all staff need to be aware of unconscious bias.

Evaluate the environment for ways to make it more welcoming to patients. For instance, ensure that visuals in educational posters and materials reflect the patient population.

Effective communication. Oral and written communication and education should be available in the patient's preferred language. In case of oral communication, this may require arranging for a translator or, in the case of someone who is hard of hearing or deaf, an interpreter.

Providing these services not only shows you value your patients; it also protects you from liability. Patients who are well informed are in a better position to adhere to dental health instructions and will likely feel more connected to their providers, which can lead to better outcomes for patients and reduce litigation. In addition, local, state, and federal laws that require these services may apply. For example, failure to provide an interpreter for someone who is deaf can result in a lawsuit under the Americans with Disabilities Act of 1990, amended in 2008, should the patient experience harm because of poor communication. Be sure to document that information was given in the patient's preferred language and use of interpreters or translators.

Set goals and measure

Establish and review metrics related to diversity goals on a regular basis. For example, you may decide that you want to increase the number of people of color you hire by a certain percentage over a year. You should also track employee data such as age, gender, and race to determine if your workforce is balanced. Check with an attorney to ensure that your data collection doesn't violate state law. In some cases, you may need to ask employees to voluntarily provide some of the information you wish to gather.

Take action

True commitment to diversity means more than simply issuing statements on social media, which can be perceived as a marketing strategy instead of sincere sentiments. What's most important is taking specific steps such as those described in this article (performing a self-assessment, implementing policies and procedures, providing staff education, and ensuring a positive patient experience, among others), to ensure employees and patients understand the value of diversity and enact it in the workplace.

Article by: Georgia Reiner, MS, Senior Risk Specialist, Dentist's Advantage

This newsletter is prepared by the staff of the National Society of Dental Practitioners, Inc.

Senior Editor:
Jennifer L Flynn, CPHRM and President of the Society.

Associate Editor:
Margaret Surowka Rossi, J.D.

The NSDP
1100 Virginia Drive
Suite 250
Fort Washington, PA 19034
800.237.9429

FIGHTING IMPLICIT BIAS

The Joint Commission provides these suggestions to help clinicians reduce implicit bias:

- Have a basic understanding of the cultures from which your patients come.
- Avoid stereotyping your patients; individuate them.
- Understand and respect the magnitude of unconscious bias.
- Recognize situations that magnify stereotyping and bias.
- Know the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care
- Perform "teach back" to ensure understanding.
- Practice evidenced-based dental healthcare.
- Use techniques to de-bias patient care, such as training, intergroup contact, perspective-taking, emotional expression, and counter-stereotypical exemplars.

Source: The Joint Commission. Implicit bias in healthcare. Quick Safety. 2016;23.

RESOURCES

Agrawal S, Enekwechi A. It's time to address the role of implicit bias within health care delivery. Health Affairs. 2020. www.healthaffairs.org/do/10.1377/hblog20200108.34515/full.

Clifton J, Harter J. *It's the Manager.* Washington, DC: Gallup Press; 2019.

Dodds F. How should you be talking with employees about racism? *Entrepreneur. 2020*. www.entrepreneur.com/article/351522.

Horowitz JM, Brown A, Cox K. Race in America 2019. Pew Research Center. www.pewsocialtrends.org/2019/04/09/race-in-america-2019.

Livingston R. How to promote racial equity in the workplace. *Harvard Business Review.* 2020. https://hbr.org/2020/09/how-to-promote-racial-equity-in-the-workplace.

US Small Business Administration. Office of Diversity, Inclusion & Civil Rights.

Mahyar Mofidi R, Rozier G, King RS. Problems with Access to Dental Care for Medicaid-Insured Children: What Caregivers Think. *American Journal of Public Health*. 2002;92(1):53-58. https://doi.org/10.2105/AJPH.92.1.53.

Neal S. Views of racism as a major problem increase sharply, especially among Democrats. Pew Research Center. 2017. www.pewresearch.org/fact-tank/2017/08/29/views-of-racism-as-a-major-problem-increase-sharply-especially-among-democrats.

Parker K, Funk C. Gender discrimination comes in many forms for today's working women. Pew Research Center. 2017. www.pewresearch.org/fact-tank/2017/12/14/gender-discrimination-comes-in-many-forms-for-todays-working-women.

Patel N, Patel S, Cotti E, Bardini G, Mannocci F. Unconscious Racial Bias May Affect Dentists' Clinical Decisions on Tooth Restorability: A Randomized Clinical Trial. *JDR Clinical & Translational Research*. 2019;4(1):19-28. doi:10.1177/2380084418812886

Small Business Administration. Resources. www.sba.gov/about-sba/sba-locations/headquarters-offices/office-diversity-inclusion-civil-rights/office-diversity-inclusion-civil-rights-resources.

The Joint Commission. Implicit bias in healthcare. Quick Safety. 2016;23.

Dental Expressions® – From the CNA Claim Files

Delayed Diagnosis—Squamous Cell Carcinoma

Thorough medical and dental histories are essential to providing safe dental care. Reviewing and investigating the patient's written and verbal responses to queries the dentist can help to prevent drug interactions, identify oral manifestations of systemic diseases, and better manage patients with various medical conditions. Combined with the clinical examination findings, the history may indicate the need for dental/medical consultation or referral. Accurate and thorough documentation of examination findings and ongoing progress notes help to inform future care, but also serve as the foundation for defending a malpractice allegation.

CLAIM CASE STUDY

Practitioner: General dentist

Claimant: 58 year-old male patient

Risk management topics: complete medical/dental history; comprehensive examination; recordkeeping; referral

Facts: In this case scenario, the dentist and patient presented different versions of the facts during depositions. The dentist's version of the facts:

- The patient presented with complaints of pain in the lower left quadrant. After examination, the dentist recommended root canal therapy (RCT) for tooth 21 and the patient agreed.
- The dentist removed decay, initiated RCT and then placed a temporary crown on tooth 21. The dentist prescribed penicillin and advised the patient to schedule appointments to complete RCT and for a comprehensive examination.
- About three weeks later the patient returned and the dentist completed RCT on tooth 21. During the next three months the dentist prepared tooth 21 and delivered a full crown. The treatment took longer than normal due the patient's work schedule.
- Five months after delivery of the crown on tooth 21, the patient returned, complaining of pain in the upper right quadrant. After taking a periapical radiograph, the dentist diagnosed a periodontal abscess involving tooth 5 and prescribed amoxicillin and ibuprofen. At this visit the patient stated that he had removed a very loose tooth 4 himself nearly a year before.
- The dentist extracted tooth 5 and when the patient returned two weeks later complaining of infection and pain, the dentist prescribed penicillin. The dentist stated that he diagnosed severe periodontal disease, advising the patient to return for a complete examination and treatment plan as soon as possible. The patient did not return for an examination or further treatment.

The patient's version of the facts varied significantly from the dentist's deposition:

- At the initial visit, the patient complained primarily about pain on the upper right. He told the dentist that he had not received dental care for many years and that a few months ago he had removed a very loose tooth himself in that area (tooth 4). The patient believed that he received antibiotics for the problem on the upper right, not for the lower left (tooth 21).

- The patient indicated that he continued to complain of discomfort and a "knot" or swollen area on the upper right while treatment on the lower left tooth proceeded.
- The patient said that the dentist extracted two wisdom teeth on the upper and lower right during this time, due to gum problems.
- After completion of the lower crown, the upper right area calmed down. A few months later the problem flared up and the patient returned to the dentist's office. The dentist took an X-ray and said that an upper right tooth was abscessed and needed to be extracted (tooth 5). The patient asked the dentist to check the area where he removed his own tooth, since it still was not fully healed. The dentist told the patient that this "dry socket" area should heal, now that the abscessed tooth had been removed. This was the patient's last visit to the dentist's office.
- When questioned about ongoing dental care, the patient indicated that the dentist had never recommended that he return for a full examination and treatment plan.

Several months after the extraction of tooth 5, the patient sought care with his physician, complaining of weight loss, diarrhea, and mouth pain. The physician referred the patient to his personal dentist, who referred the patient to a periodontist.

As part of the medical history, the periodontist noted that the patient recently lost 20 pounds and had a long history of smoking and sinus problems. The dental history included delayed healing in the upper right after the patient removed his own loose tooth. The periodontist diagnosed advanced periodontal disease, and extracted a hopeless tooth 3. The periodontist submitted the tooth and attached soft tissue for microscopic analysis.

The pathology report indicated moderately differentiated squamous cell carcinoma of the right maxillary sinus. Medical assessment by an ENT/cancer specialist resulted in a diagnosis of stage IV squamous cell carcinoma of the maxillary sinus. Treatment included a hemimaxillectomy and radiation therapy. The patient underwent a second surgery when cancer recurred a year later.

Key Allegations: Failure to diagnose/delayed diagnosis; failure to obtain medical and dental histories; failure to take appropriate radiographs; failure to refer

Alleged Injury/Damages: Negligent care resulted in a significant delay in cancer diagnosis and treatment, leading to pain and suffering and facial disfigurement. The patient's/plaintiff's initial demand exceeded $2 million.

Analysis: The plaintiff's expert believed that the dentist deviated from the standard of care by failing to obtain and document a complete medical and dental history. The dental records did not include a medical or dental history form. Progress notes indicated a "negative" medical history with no additional details.

For the patient's initial emergency visit, the use of a "SOAP" progress note would have provided the dentist an organized approach to capturing essential information about the patient's chief complaint and symptoms (see The "SOAP" Format). Although the chart entry documents a penicillin prescription, no clinical findings, rationale or diagnosis supports this recommendation.

The dentist's documentation was incomplete throughout the patient's course of treatment. The patient mentioned that two wisdom teeth had been extracted and this could be confirmed by billing statements. Although the chart did not include an extraction informed consent form nor a chart note documenting a discussion, prescriptions for an antibiotic and pain medication were documented.

The dentist testified in his deposition that he diagnosed severe periodontal disease and again recommended that the patient return for a full evaluation. Yet, the chart does not document probing depths or other clinical findings, meaning there is nothing to confirm that the dentist advised the patient to return for further assessment and treatment.

After completion of the crown on tooth 21, the patient did not return to the dental office until pain and swelling recurred on the upper right. The plaintiff's expert stated the periapical radiograph of tooth 5 should have raised suspicions, and that a reasonable dentist would have taken additional images to determine the borders of the radiolucent lesion discovered in the image.

The plaintiff's expert further opined that the cancer treatment would have been less invasive and with a better prognosis, had the cancer been diagnosed earlier. He was critical of the fact that during the many months of treatment, the dentist never performed a comprehensive oral examination nor an oral cancer screening. While maxillary sinus squamous cell carcinoma may not be detected during a visual/tactile oral cancer screening exam, a complete medical/dental history combined with the clinical findings for this patient would lead a prudent dentist to investigate and/or refer for further assessment.

Outcome: Costs associated with this claim were in the low six-figures. The patient moved to another dental office to complete periodontal and restorative treatment.

Article by: Ronald Zentz, RPh, DDS, FAGD, CPHRM
CNA Dental Risk Control

THE "SOAP" FORMAT

Whenever a progress note is made for treatment that reflects a change in the written treatment plan or emergency care, one method to document the event is using the SOAP format. This format uses the acronym **SOAP** to remind the author to follow the prescribed formula:

- Record the patient's **Subjective** comments, including desires, expectations, and physical complaints. Use open-ended questions that allow patients to fully describe their problems. Document the patient's chief complaint in his or her own words with quotation marks around it.
- Make note of your **Objective** evaluation. Include the results of your medical history review, physical exam, clinical findings, diagnostic test results, radiographic findings, and all observations.
- Note your **Assessment** of the patient's problem: the diagnosis or your differential diagnosis
- Outline the treatment **Plan**. All aspects of the actual treatment must be documented, including patient preparation, treatment provided, any instructions or medication prescribed, and plans for the patient's next visit.

For additional information and resources, please refer to the Record Keeping and Documentation section of the Dentist's Advantage and CNA Risk Management Manual.