



## Considerations Related to Refunds

No dentist likes to hear that a patient is dissatisfied with the care provided. It is especially disheartening when the patient is so unhappy that he or she asks for a refund. While the inclination might be to grant the request to help maintain a positive relationship with the patient, dentists may also be concerned that a refund would be tantamount to an admission of liability. Dentists should consider business and risk management implications before deciding.

### Making the decision

A key factor in deciding whether to grant a full or partial refund is whether the dentist feels the patient has made a valid request. It is reasonable to ask questions such as: *Is the patient right in saying the work was subpar? What is the evidence for that claim?* Evidence can be subjective, such as reports of pain, or objective, such as findings on the dentist's examination or reports from a dentist who performed additional services for the patient.

How much time has elapsed between when the work was performed and when the refund is being requested? Is the time reasonable for what the patient says has happened? For example, a patient who complains a year after receiving a crown that he or she had a serious infection a month ago probably would not have a valid complaint.

Dentists will also want to consider possible business effects when asking questions such as: *How long has the patient been with the practice? Have they ever requested a refund before? How likely are they to complain about the situation to others? Is the refund likely to satisfy the patient?* Patients who receive a refund are less likely to lodge a complaint with the state dental board; such complaints can result in a protracted and expensive process on the part of the dentist, hitting the bottom line.

The dentist, as opposed to a staff member, should make the final decision as to whether a refund will be issued and the amount of the refund. Such a decision should be outlined in a refund policy that has been reviewed by the staff. It may also be helpful to include how requests for refunds are processed in the information new patients are given.

### Offering an apology

Whether or not the dentist offers a refund, an apology can help reduce patient dissatisfaction and may even preserve the relationship. The apology differs depending on whether the dentist believes the patient's dissatisfaction is justified.

A dentist who chooses to provide a refund even though he or she feels the patient does not have a valid claim can say something like, "I'm sorry you were dissatisfied with the care provided to you." Note that the dentist conveys distress over the dissatisfaction but does not agree that the care provided was not acceptable. The dentist could also add, "My intent is for patients to feel good about the care they receive" to reaffirm a commitment to quality care.

Dentists who decide that a mistake has been made should first consult with their professional liability insurance provider. In

this situation, it is often still appropriate to apologize, which can reduce the risk of litigation. The apology should be sincere and empathetic and convey that the dentist plans to take steps to avoid a similar situation in the future.

Depending on the seriousness of the error, granting a refund for services rendered may be the best option for reducing future liability claims and maintaining a long-term relationship with the patient.

### Denying the refund

If the dentist decides a refund is not warranted, he or she should tell the patient the rationale for the decision then follow up with a letter. The letter should be sent by certified mail with a return receipt requested, and a copy should be kept in the patient's records.

### Negotiating the refund

Dentists who decide to provide a refund may choose to negotiate the nature and amount. For example, the dentist might choose to provide a free dental cleaning rather than a monetary refund or may choose to ask the patient to accept a lesser amount than what was originally requested. However, it is wise to avoid protracted negotiations, which are likely to cause more dissatisfaction on both sides.

Refunds larger than what was already paid should be avoided because they may be viewed as a "settlement" for wrongdoing, requiring reporting to the National Practitioner Data Bank (NPDB). Refunds from a third party (including a professional corporation) or based on a written patient demand may also be reportable to the NPDB. For more information on mandated reporting, it is advisable to consult The NPDB Guidebook (<https://www.npdb.hrsa.gov/resources/aboutGuidebooks.jsp>), your attorney and/or your insurance carrier. Dentists should also have office staff track the number and amount of refunds to check for trends and the impact on the financial health of the business.

### Providing the refund

If the fee was originally paid by a third party, such as an insurance company, the dentist's office will need to contact the insurer to determine how the refund should be processed. Depending on the situation, the insurer may ask that the refund be paid to the company and not to the patient.

Dentists should require patients to sign a Release of All Claims form before the refund is issued to protect themselves against future claims. Keep the document in the patient's record and store a backup copy in a separate location.

If the patient refuses to sign a release, it may be still be advisable to comply with the refund request. This may prevent the dispute from escalating into a dental board complaint or malpractice allegation. However, dentists should make this determination based on their assessment of the situation. Dentists can also consult with their professional liability insurer for advice.



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

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Refunds may be issued by a paper check or electronically. Electronic payments allow for better tracking and for refunds to be issued more quickly, which patients will appreciate. Keep copies of the payment method in the patient’s record. The dentist should also send a letter that states the amount that will be paid (or services to be provided) and how it will be paid (e.g., enclosed check, electronic transfer of funds). Again, it is best to send any refund by certified mail with return receipt requested. The discussion and resulting outcomes of how the refund request is handled should be documented in the patient’s record.

**Dentist-patient relationship**

A positive dentist-patient relationship is vital for successful dental health. By taking steps to prevent refund requests and responding appropriately when they occur, dentists can preserve—and even strengthen—the bonds with their patients and reduce the risk of liability claims.

Article reviewed by Dr. Kenneth W.M. Judy, DDS, FACD, FICD, PhD  
Article by: Cynthia Saver, MS, RN, President, CLS Development, Columbia, Maryland

**RELEASE OF ALL CLAIMS FORM**

This form should state that

- the signer waives all claims of negligence or malpractice committed by the dentist or his or her employees that took place before the date on which the release was signed.
- the agreement is not an admission of liability.
- the agreement is confidential and not to be discussed with others.
- the signer will not publicize the complaint via written or social media.

**PREVENTING REFUNDS**

To avoid the situation where a refund might be requested, dentists should follow these suggestions:

- **Maintain a positive relationship with patients.** Dentists and their staff should be honest and polite at each patient encounter.
- **Recognize “problem patients.”** Some patients regularly complain about care in general, or are unusually demanding. Do not agree to patient demands that would breach the standard of care or that are not in the patient’s best interest. A patient’s demand and consent to such treatment does not change the dentist’s professional responsibility to meet the standard of care.
- **Document completely and educate staff to document completely.** That way, if patients question their care, the dentist has a record of what occurred and can better respond. Documentation will also help if a claim is filed.
- **Empower staff to speak up.** If a staff member identifies an unhappy patient early on, steps can be taken to ease the situation and possibly avoid a refund request.
- **Follow up.** Follow up with patients as needed after care if provided and document that it was done. This can help identify problems early.
- **Refer as needed.** Dentists should not hesitate to seek assistance if a problem is beyond their expertise.
- **Conduct a thorough informed consent.** Patients who experience a problem that they were not told was a possibility are more likely to be unhappy and request a refund.
- **Do not avoid the patient.** It can be tempting to avoid conversations with patients who are unhappy. However, talking with them soon after they express their dissatisfaction may help diffuse the situation. Having a well understood office policy regarding refunds is critical in today’s litigious society.

Source: Adapted from Hay, L.J. (2006). Risk management: the top 10 mistakes dentists make.

**RESOURCES**

Anthem Blue Cross Blue Shield. (2017). Billing and Reimbursement Claims Policies and Procedures: Overpayments. Provider Manual.  
Centers for Medicare and Medicaid Services. (2017). Fact Sheet: Medicare overpayments. Medicare Learning Network.  
CNA. (2018). Dental Risk Management Spotlight: Fee Arrangements and Disputes. CNA Dental Professional Liability Risk Management Program.  
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Sullivan, T. (2018). District court rules on reporting overpayments and false claims act liability. Policy & Medicine.  
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**Dental Expressions® – From the CNA Claim Files  
Crown & Bridge Challenges**

**Practitioner:** General dentist

**Claimant:** 51-year-old healthy female patient

**Risk management topics:**

Impossible-to-satisfy expectations; informed consent; guarantee/warranties; refunds; dental materials and treatment options

**Facts:**

The patient, who was missing upper lateral incisors, presented with anterior crowns: she felt that the embrasure spaces were too large, and the crowns were too square in shape. After a thorough diagnostic work-up, including examination, radiographs, intraoral photographs, and mounted

models, the dentist obtained the patient's informed consent to proceed with treatment. A diagnostic wax-up and temporary restorations were completed. This treatment was followed by four years of continuous treatment and re-treatment, including full mouth crowns, veneers and a lower left fixed bridge. Some restorations were remade 3-5 times with the assistance of multiple dental laboratories. This occasionally included office visits by laboratory technicians to help insure that the patient's expectations were clearly communicated. The patient's approval was secured prior to the cementation of each restoration. The patient insisted on ceramic bridges, but after three bridge fractures on the lower left, the patient consented to fabrication of a porcelain-fused-to-metal bridge. On the final appointment with the insured, various crowns and a new lower left bridge were placed. The patient was informed that the restorations required return to the laboratory for porcelain glazing. When the practitioner left the operatory for a moment, the patient left the office with the restorations. A subsequent practitioner refused to cement the restorations but was willing to proceed with new restorations. The patient then requested a full refund from the insured.

### Key Allegations:

Dissatisfaction with anterior restoration esthetics and occlusion of lower left bridge, leading to both a professional liability claim and dental licensing board complaint.

### Claimed Injury/Damages:

Replacement of multiple restorations

### Analysis:

- **Unrealistic patient expectations.** Determining when a patient is impossible to please is far easier to detect in hindsight. When should the dentist have terminated treatment? When the first restorations were rejected? The second round of rejections? Of course, each patient scenario is unique. While we all know that it is impossible to please all of the patients all of the time, it is often challenging to know when to discontinue treatment and dismiss a patient. The dentist printed photographs, which permitted the patient and the dentist to effectively communicate with the laboratory about desired cosmetic changes. Laboratory technicians also observed the patient/restorations in the operatory. While the patient remained dissatisfied, these methods may help to achieve patient satisfaction when faced with cosmetic challenges.
- **Informed consent.** In this case, the patient was informed of the benefits and risk of treatment, and she also approved the aesthetics at each cementation appointment. The patient insisted on all ceramic porcelain bridges, even after detailed discussion of the associated increased risk of fracture. One point to consider is whether or not the all-ceramic bridge was an appropriate alternative in this case. In hindsight, perhaps not. We know that the patient later agreed to a porcelain-fused-to-metal restoration. As the dental professional, you have the ability and responsibility to say "no" to a patient's treatment demands if you believe the treatment option is not in the patient's best interest.

- **Guarantees/Warranties.** The patient was not charged for any of the replacement restorations. The dentist provided a warranty, promising free restoration replacement for five years. Some dentists provide guarantees and warranties that require patient compliance with recall appointments, night guard use, etc. While it is reasonable to stand behind the quality of one's work, understand that treatment guarantees and warranties expose dentists to breach of contract claims, which may have a longer statute of limitations than malpractice claims. Breach of contract claims require only proof that the outcome did not achieve the guaranteed result, regardless of whether the standard of care was met.
- **Refunds.** If the dentist had terminated the relationship due to unrealistic patient expectations, a refund would allow the patient to seek treatment elsewhere. In some situations, a refund may represent the most advisable course of action for the dentist as well as the patient.
- **Dental materials/restorative options.** Relatively new ceramic materials were used for the first three bridges. The dentist insisted that the fourth replacement be a porcelain-fused-to-metal bridge. The long-term success of bridges constructed with new ceramics is unknown. However, ceramic bridges typically experience higher rates of failure due to fracture compared to porcelain-fused-to-metal bridges. It was, therefore, prudent to inform the patient of the risk. The dentist also placed very thin veneers on multiple anterior teeth, which experienced a high fracture rate. With a known history of bruxism, were other options preferred? At what point should the dentist alter the treatment plan? Dentists should consider that a patient's insistence on a specific dental material or treatment option does not defend substandard treatment. Each dentist must assess the needs of the individual patient and decide whether the material/treatment demanded by the patient will meet the standard of care. If not, the dentist should decline the patient's request.

### Outcome:

The dentist went to extraordinary lengths in this case to satisfy the patient. Each practitioner must assess scenarios individually and proceed according to legal requirements, while also considering ethical/professional concerns.

Ultimately, the Licensing board investigation was closed without action, as the board did not find cause to pursue the matter. The professional liability claim was denied and closed without payment and the patient took no further action.

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## Did you know...

...that there is a full library of Risk Management information available to NSDP members on the Dentist's Advantage website?

As a member, you have access to a full range of helpful information that you can use everyday in your practice. They include:

- **Dental Office Forms** – Our Dental Office Forms system represents one of the valuable and useful tools we provide to assist you in managing your practice in the safest way possible. Included in this library are dozens of Record Keeping Forms and Consent Forms. Some examples are:
    - Record Keeping Forms
    - Chart Review Checklist
    - Post Extraction Instructions
    - Consent Forms
    - Consultation/Biopsy Request
  - **Articles** – Browse through our articles index for a specific risk management-related topic.
  - **NSDP Newsletters** – Read past issues of the NSDP newsletters.
  - **Risk Management Webinars** – Our webinars are open to all dentists to learn about risk exposures they might face in their daily practice. Our free web-based-seminars feature presentations made by industry leaders in the insurance and healthcare fields.
  - **Risk Management Alerts** - Periodic alerts to recent changes in dental practice, dental regulation and trends in dentistry.
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