The National Society of Dental Practitioners
RISK MANAGEMENT Newsletter
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Teledentistry: Risk Management Considerations for Dentists

The ongoing novel coronavirus (COVID-19) global pandemic, digital technology advancements, and the need for dentists to more readily consult with colleagues and specialty practices so they can ensure optimal patient outcomes are among the factors driving the expansion of telemedicine into dentistry in the form of teledentistry. Teledentistry involves the use of health information and telecommunications technology to deliver oral care, consultations, and education. As with many advancements, teledentistry carries both benefits and risks. Benefits include the ability to support patient care while mitigating COVID-19 transmission, and easier access to others' expertise, so dentists and patients can make better treatment decisions; risks include professional liability claims and licensing board actions. To reap benefits and reduce risks, dentists need to follow best practices.

Reasons for teledentistry

The need to increase access to dental care in underserved areas has led to the rise of new care models that incorporate telehealth technology, or teledentistry. Teledentistry includes the remote provision of dental treatment or advice using encrypted patient electronic data, via the use of electronic health records, videoconferencing, and/or intraoral photographs and radiographic images.

Teledentistry can occur in real-time using synchronous communication methods, or it can be asynchronous, meaning that there is no real-time interaction between the provider and the patient and information is stored and forwarded. For example, a dentist might send a full-mouth radiographic series to another dentist for a second opinion, or a dentist or endodontist might send a CBCT scan to an oral and maxillofacial radiologist for an interpretation.

Licensing and liability

Any legal action or professional board case would include an analysis of how the practitioner's behavior conformed to state statutes and/or regulations. Guidelines from professional associations may also be included in the analysis, even if the guidance states that they do not comprise a standard of care. There are two American Dental Association (ADA) documents related to teledentistry that can provide background information on the topic: The Comprehensive ADA Policy Statement on Teledentistry, which was passed by the ADA House of Delegates and last updated in 2015 as of this writing, and ADA Technical Report No. 1060, The Secure Exchange and Utilization of Digital Images in Dentistry, which was published in 2011. The American Teledentistry Association is another source of information about the practice of teledentistry and related regulations.

When it comes to licensure requirements for dentists providing teledentistry services, the ADA policy statement notes, "any dentist delivering services using teledentistry technologies will be licensed in the state where the patient receives services or be providing these services as otherwise authorized by that state's dental board." Overall, the ADA policy defers to individual state requirements. The ADA technical report discusses a "virtual patient" who is "transmitted" to another practitioner who "receives" the patient. Therefore, dentists practicing teledentistry should be licensed in the state where he or she is receiving the "patient." In essence, the ADA report says that the patient has travelled to another location to receive services. However, some states require dentists to adhere to the licensing requirements of the patient's state, so dentists should be aware of individual state requirements for licensure and teledentistry.

Referring dentists using teledentistry to obtain second opinions or specialty consultations also have responsibilities. The ADA policy statement noted that the dentist is responsible for "the safety and quality of services provided to patients using teledentistry technologies and methods." For example, if an oral and maxillofacial radiologist incorrectly interprets a report, the dentist treating the patient could still be held liable for treatment of the patient if the interpretation was deemed to be one that the dentist should not have accepted in light of the patient's condition.

The bottom line is that dentists should be aware of state laws and regulations related to teledentistry and provide care that aligns with state standards of practice.

Security and quality

Given the spate of hacking and data access problems in recent years, as well as Health Insurance Portability and Accountability Act (HIPAA) requirements for privacy, it comes as no surprise that ensuring security of information is key to avoid possible litigation related to inappropriate access to patient data. In fact, the ADA policy statement on teledentistry notes that privacy and security of patient information must be maintained. All general dentists, specialty dentists, and staff need to keep HIPAA requirements in mind. It is also vital to ensure the quality of information obtained and exchanged.

The ADA policy statement encourages dentists to conform with data exchange standards and lists these to consider:

- **Digital Imaging and Communications in Medicine (DICOM) standards.** Select an imaging system that conforms with these standards, which will ensure smooth exchange of dental image files.
- **X12/HL7.** These data standards help protect the information being transmitted. HL7 sends small packets of information when they are available, but X12 sends more the complete information later in the process.

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- **ICD-10-CM/SNOMED/SNODENT.** Using consistent terms to describe dental disease and findings will help clarify communication and facilitate full reimbursement.

Dentists do not need to be experts in DICOM or X12/HL7; instead, it is best to consult with a security expert when setting up systems to exchange information. When consulting with experts, dentists should be aware that systems and processes being used to transmit images and data need to meet security requirements under the Health Information Technology for Economic and Clinical Health Act of 2009. There may also be state-specific requirements.

Patient rights

Patients receiving teledentistry services have the right to expect the same quality of care they receive from their primary dentist. The dentist who sees and examines the patient has a distinct advantage over one who is simply reviewing images; the consulting dentist should also follow evidence-based practice guidelines.

The ADA policy statement on teledentistry outlines the rights of patients who are receiving these services, including being actively involved in treatment decisions and that services are provided in accordance with applicable laws and regulations related to the privacy and security of protected health information.

Policies and documentation

Any teledentistry services requested or provided should be documented in the patient's dental record. If images are being sent for a second opinion, the referring dentist should note that in the record, then include the returned opinion and how it factored into any treatment decision.

Images must also be properly documented to ensure they are linked to the correct patient. The ADA Technical Report No. 1060: The Secure Exchange and Utilization of Digital Images in Dentistry states that when the image is acquired, the following should be documented: patient name, identification numbers, date and time of the examination, name of facility, type of examination, anatomic orientation, and amount and method of data compression. A brief patient history is also suggested.

Images do not have to be archived by the receiving site as long as the sending site is doing so, although the files must be retained for the length of time that meets state or local requirements.

All dentists engaging in teleradiology should have policies and procedures in place. Staff need to receive education, for example, on how to transmit a file securely; attendance at education programs should be documented.

Knowledge is power

Teledentistry can be a powerful tool for delivering patient care, but as with any tool, knowledge is essential for proper use. Dentists must ensure secure exchange of information, understand professional guidelines and governmental requirements, and verify that they have the liability and licensure protection they need. Only then can they take full advantage of teledentistry without putting their practice or their licenses in jeopardy.

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RESOURCES

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Patient safety and risk management efforts are most beneficial when one considers risks in advance of adverse outcomes (prevention). Some risks are inherent to providing dental care. However, remaining focused on safe practices will help to minimize the occurrence of adverse events in your practice. This issue of *Dental Expressions*® considers a dental "never event" that occurs all-too-frequently: a swallowed/aspirated foreign object.

While a number of such claims are closed without patient injury or significant claim costs, many are not. These incidents continue to be a source of both frequent and costly claims that may lead to death and other severe patient outcomes.

Claim Study 1

Practitioner: General dentist

Claimant: Male patient, aged 63 years

Risk management topics: Patient risk assessment; patient management for swallowed/aspirated object; documentation

Facts: Records indicate that a lower molar crown had insufficient retention and required several re-cementations over a period of a year. The dentist recommended fabrication of a new crown to optimize retention.

Treatment began with an initial impression to be used for temporary crown fabrication. Unfortunately, the crown dislodged from the tooth during removal of the impression and at the same time, popped out of the impression material. The crown immediately disappeared down the patient's throat. The dental record indicates the "patient swallowed crown" and also documents that the crown procedure was completed, followed by cementation of the new crown approximately one week later.

The day before the new crown delivery, the patient presented to his physician with a cough and fever that had persisted for several days. The diagnosis: upper respiratory infection/bronchitis. Medications included an antibiotic and bronchodilator. The patient's symptoms continued/worsened and two weeks later a chest X-ray revealed an aspirated foreign object. The medical record indicates that the patient suspected that he inhaled the crown, but the dentist disagreed since he displayed no coughing or respiratory difficulty.

Removal of the crown was extremely challenging. Although ultimately successful, the patient spent approximately two weeks in the hospital due to the crown removal. He underwent several bronchoscopy procedures and suffered blood loss requiring transfusions. The patient also developed atelectasis and pleural effusions which were managed with ultrasound-guided thoracentesis.

Analysis: Could swallowing/aspiration have been prevented in this case? Perhaps: perhaps not. Certainly, paying close attention to the dental history would lead the prudent dentist to consider: 1) the risk of crown dislodgment for this patient and; 2) possible alternatives to the office's standard temporary crown fabrication method. Once an event occurs however, patient management best practices for a swallowed/aspirated object are critically important in order to minimize patient harm and uphold the standard of care. Complete documentation of the adverse event is highly important as well, but was absent in this case. The information should include a description of the event details, any patient discussion, symptoms, recommendations, follow-up and resolution/outcome of the event.

Outcome: Total claim costs in excess of the mid-six figures.

Claim Study 2

Practitioner: General dentist

Claimant: Female, aged 55 years

Risk management topics: Inadequate precautions to prevent injury; patient management for swallowed/aspirated object; documentation

Facts: This partially edentulous patient sought dental care in order to replace missing teeth and restore chewing function. The treatment plan included placement/restoration of 10 dental implants. During the course of treatment, an implant hex tool was dropped during use: both the patient and dentist believed that the tool was swallowed and not aspirated. The dental record includes a description of the event and also reflects the doctor-patient discussion regarding recommended imaging and follow-up. A complete description of the tool was recorded in the chart, including manufacturer and length.

The record indicates that the patient refused recommended imaging. The risks of not following the dentist's recommendations were explained and documented, and the patient was informed that the office would follow-up often to monitor for symptoms and confirm the tool passes.

The patient was asymptomatic for a few days, but then developed abdominal pain, nausea and vomiting. She sought care at a local hospital, where imaging confirmed a metallic foreign object in the small intestine. A prescribed laxative proved ineffective and medical personnel were concerned about possible perforation and peritonitis. The patient underwent a successful exploratory laparotomy to remove the hex tool and was hospitalized for a week. The dentist's office continued to communicate with the patient during and after hospitalization, which was well-documented in the dental record.

Analysis: The growth of dental implant treatment encompasses certain risks. Screws, abutments, wrenches and other tools - all of these and more may be swallowed or aspirated in the midst of providing care. In this case study, the dentist followed best practices for patient management following the event. It is critical to recommend imaging, communicate with and follow the patient throughout the course of medical care to resolution and to document appropriately. However, this case is one for which appropriate isolation and other safety measures could have eliminated or significantly reduced the possibility of a swallowed/aspirated object. The dentist failed to meet the standard of care in this regard.

Outcome: Total claim costs in the mid-six figures.

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