

RISK MANAGEMENT ARTICLE

Protect yourself from liability related to endodontic procedures

As you finish your examination of a patient, you realize that he will need an endodontic procedure on his lower right first molar. You recently heard about a colleague who was sued by a patient who developed an infection after an endodontic procedure, and wonder how to avoid landing in the same situation. Here are some strategies that will help.

Before the procedure

Be sure to complete (and document) a thorough examination and take radiographs as needed to ensure you have support for the diagnosis related to the need for an endodontic procedure. A resource for helping you decide whether an endodontic procedure is needed is "Treatment Options for the Compromised Tooth: A Decision Guide," which is available online at www.aae.org/uploadedFiles/TreatmentOptionsGuideWeb.pdf. The guide features cases that help identify factors a dentist should consider.

Remember to ask about allergies and what drugs and herbs the patient takes. You will also need to determine if prophylactic antibiotic therapy is indicated before the endodontic procedure is done. For example, patients who are immunocompromised will likely need prophylaxis. If you are unsure whether prophylaxis is needed, check with the patient's primary care provider. You should also ask about any physical limitations, such as back problems, that will make it difficult for the patient to sit for a long time.

Obtaining informed consent

One of the most important strategies for protecting yourself from litigation related to an endodontic procedure is to obtain informed consent from the patient before the procedure. Informed consent is more than simply having patients sign a form. It's the process by which you ensure patients understand the treatment plan, alternative treatments, possible outcomes, and what patients should do after the procedure.

Although you can recommend endodontic procedure over other alternatives, you need to state why and include implications of all options so that patients know their options. For example, you might say that an endodontic procedure is preferred over extraction because the affected tooth is important in chewing, but that an endodontic procedure is more expensive and takes longer to do. You would then give the outcomes for both procedures. Also discuss the consequences of no treatment. The consent form should be written in language the patient can understand and be printed in large enough font that the patient can easily read it.

Once the patient decides, obtain the signed, witnessed consent and document the process in the dental record. Also be sure to document your treatment plan, including the specific tooth. Be consistent in your numbering system with all of your patients to avoid errors.

Providing patient education

One of the best defenses for litigation is a knowledgeable patient. If you thoroughly engage patients in the informed consent process, they will feel comfortable that they understand the risks, benefits and expectations.

To reinforce understanding, provide educational material that is geared toward the patient's reading level and is printed in his or her primary language. Ensure that the material explains the procedure and possible negative and positive outcomes, and includes what the patient can expect to occur on the day of the endodontic

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procedure as well as on the return visit for the permanent crown.

Using a model of the internal structure of the tooth will greatly aid in making explanations clear to patients. You might refer patients to online videos that show the procedure; just be sure to watch them yourself first to ensure they are accurate.

Remember to provide patients with detailed instructions on what they should do after the procedure, such as pain medication, when to eat food, the importance of not biting down on hard foods such as pretzels, and when to call the dentist.

During the procedure

You can take several steps during the procedure to protect yourself from lawsuits, starting with making sure you are operating on the correct tooth. To avoid performing the endodontic procedure on the wrong tooth, refer to your original documentation and verify the location with the patient.

Be sure to use instruments and materials that meet established standards. For example, the American Dental Association (ADA) publishes American National Standards Institute/ADA Standards for endodontic procedure instruments such as barbed broaches and raps. The standards specify requirements and test methods. Purchasing instruments meeting this standard sends the message that you know the importance of having the right tools for the job.

Always use a latex or non-latex dental dam, which is considered a standard of care in endodontic procedures, according to the American Association of Endodontists (AAE). A dam prevents instruments, solutions, and debris from falling down a patient's throat. It also minimizes the risk of contamination from indigenous oral bacteria and provides a clean operating field, which improves visualization. Document that a dental dam was used and specify non-latex if the patient has a latex allergy.

Monitor the amount of anesthetic or sedative you give the patient and the patient's level of comfort and consciousness. Document the name and dose of each medication in the medical record. Be sure your office has an emergency cart and procedures in place should the patient experience a serious adverse reaction.

Avoid using materials that contain paraformaldehyde because there have been a number of malpractice suits related its use, and the AAE recommends against it. Paraformaldehyde can cause serious damage to tissue near the endodontic procedure system, including intractable pain and destruction of connective tissue and bone.

Try to minimize making the patient keep his or her mouth open for a long time. You don't want to rush and make a mistake, but prolonged opening could cause temporomandibular problems. Sitting too long in the chair could cause problems with the patient's neck and back. Finally, have an assistant present during a procedure, particularly when using sedation, so you don't leave yourself open to claims of physically attacking the patient under sedation.

After the procedure

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Be sure the patient has a copy of the postprocedure instructions. If you have used sedation, require that an adult take the patient home.

Documentation

Even if you do everything correctly, if you fail to document, you may end up in court. Document the following in the dental record: consent obtained, patient education materials given, description of the procedure (including anesthesia given), and patient responses to the procedure.

When something goes wrong

More than 15 million endodontic procedures are done each year in the United States, so it's unlikely that any dentist can completely avoid adverse outcomes. When something untoward occurs, be honest and tell the patient about the problem and how it can be fixed. For example, if you overfill an endodontic procedure but the overfill is only in the periapical area, tell the patient what happened but that there should be no difficulties. On the other hand, if you overfill the endodontic procedure and the overfill is in a nerve region, tell the patient what happened, then prescribe appropriate medications and instruct the patient to watch for signs of paresthesia. Of course, you should record all this in the patient's medical record.

Protect yourself and your patient

The majority of dentists rightly focus on providing excellent care to their patients. However, you also need to protect yourself from legal action. Following the steps in this article—and ensuring you have adequate malpractice insurance—will help you avoid the courtroom.

Endodontic procedure consent elements

The consent you have patients sign before undergoing an endodontic procedure should include:

- Your name
- The specific location of the tooth or teeth being worked on
- The fact that alternatives to treatment have been discussed and that the patient understands the alternatives
- A statement that says discomfort and swelling is not uncommon for 2 to 3 days after treatment
- A list of possible untoward effects that might require stopping the procedure before completion or cause a lack of success, such as tooth fracture or infection
- A list of other procedures that might be necessary to save the tooth in the case of a stopped procedure or failure after treatment
- A statement that says if the patient can't reach the clinician's office, he or she should go to the nearest emergency department
- The expectations of the patient, such as following home care instructions and need to contact the office with any questions or problems
- A statement such as, "I acknowledge that no guarantees or assurances have been given by anyone as to the results that may be obtained"
- A statement that says the patient has discussed the information with the dentist and has had any questions answered
- Signatures of the patient, dentist, witness, and, in case of a minor, parent or guardian. In cases of adult patients who have a guardian, such as those with advanced dementia, the guardian should sign
- The date

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Dentist's Advantage offers ready-to-use office forms to assist you in managing your practice in the safest way possible.

A sample "consent for endodontic procedure treatment" letter can be found on our website as a downloadable PDF (in both English and Spanish) at
<http://www.dentistsadvantage.com/rskmgt/forms/consentenglish/index.jsp>

RESOURCES

American Association of Endodontists. Position statement: Concerning paraformaldehyde-containing endodontic filling materials and sealers.
http://www.aae.org/uploadedFiles/Publications_and_Research/Guidelines_and_Position_Statements/paraformaldehydefillingmaterials.pdf.

American Association of Endodontists. Position statement:

Dental dams. http://www.aae.org/uploadedFiles/Publications_and_Research/Guidelines_and_Position_Statements/dentaldamstatement.pdf.

American Association of Endodontists. Treatment options for the compromised tooth: A decision guide.

<http://www.aae.org/uploadedFiles/TreatmentOptionsGuideWeb.pdf>.

American Dental Association. For the dental patient: Getting to the root of endodontic (root canal) treatments. *J Am Dental Assoc.* 2001;(132):407.

Morse D. Dealing with dental malpractice, part 2: Malpractice prevention. *Dentistry Today.* March 2004. <http://www.dentistrytoday.com/practice-management-articles/riskmanagement/1898-dealing-with-dental-malpractice-part-2-malpractice-prevention>.

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