

RISK MANAGEMENT ARTICLE

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.

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.

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.

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.

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 is 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.

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RESOURCES

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