

Coping With A Regulatory Complaint

We live in a world that is customer and consumer oriented so receiving a regulatory complaint does not necessarily make you a 'bad dentist'. A frequent cause of complaints is a breakdown in communications between the patient and a member of the team. This may not be entirely attributed to the treating dentist but to the individual that the patient feels is most representative of the team. Complaints may stem from a patient's unresolved anger over a poor outcome, unrealistic expectations, or a desire for compensation.

The key psychological event in the complaint process is the accusation of having failed to meet a reasonable standard of care and the impact can be significant. In the initial stage, there may be shock, outrage and anxiety that can occupy much of respondents waking hours. During the second stage, the dentist may become conflicted and may experience a range of emotions such as anger, depression and even thoughts of suicide. Doubt about professional identity and associated loss of self-esteem and self-confidence may enter one's mind. There may be a reluctance to perform certain procedures and, sadly, some may even consider leaving practice. Physical symptoms may include fatigue, insomnia, gastrointestinal complaints and exacerbation of pre-existing chronic medical conditions. Some respondents may frame the complaint as a learning experience and use this to reflect on and improve their practice.

Several published studies by Dr. Sara Charles, psychiatrist and pioneer in the study of the impact of malpractice lawsuits on physicians, showed an increase in major depressive disorders (prevalence 27-39 per cent), adjustment disorders (20-53 per cent) and the onset or exacerbation of a physical illness (two to 15 per cent). Fewer than two per cent acknowledged drug or alcohol misuse.

There are a number of strategies that can be employed to cope with the stress of a regulatory or legal complaint:

- **Keep the seriousness of the complaint or concern in perspective.** The College Strategic Plan Mission is 'regulate and assist Members.....to provide safe, excellent, comprehensive patient centered care within a well performing oral-facial and general health care system.'
- **Consult Confidential (no cost) Help:**
 - CDSS Team Assistance Program - Call Par Consulting at (306) 978-8282 or Toll free 1-877-978-8282 for Saskatoon Area, (306) 352-0680 or Toll free 1-877-352-0680 for Regina area; or
 - CDSPI Member Assistance Program(MAP) @ 1.844.578.4040; or
 - CDSS Member Alternate Member Support Contact- Dr. Mike Prestie @ 1.306.630.8842.
- Ensure you're under the care of a trusted primary care physician who can closely monitor your physical and emotional health.

If it is a **legal complaint**, become acquainted with the litigation process, as disturbing as it may be. Consult your Malpractice Insurer (CDSPI- 1.800.561.9401) for advice as to how to address the matter. Ensure an appropriate amount of time is set aside for necessary meetings. Be aware that this process may proceed independently of a complaint sent to the CDSS (Professional Conduct Committee)

If it is a **complaint or concern being addressed by the Professional Conduct Committee** the CDSS office can assist you in understanding the CDSS Complaint Resolution process. As mentioned above, the College's mission is to assist members. If a member is uncomfortable with the thought of contacting the CDSS office for assistance, they may, confidentially, contact the Alternate Member Support Contact, Dr. Mike Prestie @306.630.8842. Seek support from family members, close friends, and trusted professional colleagues, particularly those who have been involved in the complaint process or litigation. Focus on sharing your feelings and concerns rather than the details of the complaint.

A complaint can leave a dentist with upsetting memories, negative expectations about their future practice and even a desire to leave dentistry. To help restore a feeling of control and "mastery", identify clinical and non-clinical areas of practice that cause anxiety and find ways to reduce them. Stick to your values and don't engage in situations that compromise professional standards. Increase your competence by participating in teaching and professional development. Invest in your physical and emotional bank

account by enjoying exercise and leisure activities, spending time with family and friends, and taking vacations.

1/2

It can't be stressed enough that lack of communication is leading major cause of complaints and lawsuits. All dentists should reflect on their interpersonal skills and consider taking a CE course that addresses improving communication with patients.

(credit to Dr. Carolyn Thomson Professional Support Program Coordinator- Reprinted from NSDA newsletter)

Confidential Help -

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Or: Members Alternate Member Support Contact- Dr. Mike Prestie phone # 306.630.8842

Appendix 1: CDSPI Advice

Your Insurance Adjuster

When you contacted CDSPI's Claim Support Centre to notify us about your potential claim, we provided you with the name and phone number of the insurance adjuster assigned by the insurer to handle your claim. **If you haven't already contacted the adjuster, you should do so immediately.** You'll find information about your insurance adjuster in the covering letter included with this Claim Kit. Record the information about your insurance adjuster in the space provided in this guide.

The adjuster acts on behalf of the insurer, (Aviva Insurance Company of Canada in the case of a Malpractice Insurance claim, or Scottish & York Insurance Co. Limited in the case of a Personal Umbrella Liability Insurance claim) and will be an important contact throughout your claim. **The adjuster will review your claim and then make recommendations to the insurer about how to settle your claim.**

NEGOTIATIONS WITH THIRD PARTIES

Your insurance adjuster *will handle all negotiations with any third parties* involved in your claim so it's important that you **do not admit liability or offer money or other forms of restitution.** While it may be tempting to try to smooth things over with the affected party, by admitting liability you can seriously jeopardize your claim and your insurance coverage. Simply inform any third parties involved that an independent representative will be contacting them soon on behalf of your insurer.

In connection with malpractice claims (outside of Ontario and Quebec), following the provincial Licensing Body's guidelines for patient care management will not be considered a voluntary assumption of liability that could jeopardize coverage.

In resolving your claim, the insurer in most cases negotiates a settlement without admitting liability. In the event that an admission of liability is required, the insurer cannot admit liability on your behalf without your consent.

Malpractice Claim Procedure

Statistics show that there is a high probability that a dentist will be sued for malpractice at some time during his/her career. So you're not alone.

Dentists who have been sued say they feel shock, disbelief and even anger immediately after learning about a potential malpractice claim. These are all natural reactions, particularly since you may feel you have no control over the situation. However, you can regain control and minimize the disruption the claim has on your personal and professional life by following a few simple steps.

If you believe a malpractice claim may be made against you, contact CDSPI's Claim Support Centre as soon as possible. The Support Centre will alert the insurer about the potential claim. Then, an adjuster representing the insurer will contact you. Your cooperation with the adjuster handling your claim is vital and required by the terms of your policy. You should secure and retain all patient records, correspondence and, in particular, X-rays relating to the claim. The adjuster will need to review them. **Never alter or destroy documents.** This will reflect unfavorably on your credibility should the case go to trial.

You are reminded not to admit liability or offer money or other forms of restitution to the patient. *The adjuster will handle all negotiations with the complainant on your behalf and inform you about developments in the claim.* Similarly, you should let the adjuster know if you receive any further correspondence relating to the claim.

Aviva Insurance Company of Canada will arrange legal counsel for you, if required. Your insurance through the Canadian Dentists' Insurance Program covers awards of damages and interest payable on the damages, approved legal costs and some compensation to you for the time you spend in court, up to a specified limit per claim.* If you have had to retain the services of your own lawyer to prepare an emergency legal response, let the adjuster know immediately. Aviva Insurance Company of Canada will determine whether your lawyer should continue to act and whether the legal costs you have incurred will be paid by the insurer.

* See your insurance contract for complete information about coverage details including insurance limits.