

Article

A reminder of the need to fully inform patients of their condition and alternative treatment options, regardless



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A dentist recently sought legal advice after he received notification from the Health Services Commissioner that a complaint had been made against him by a former patient.

The complaint concerned the failure by the dentist to advise the former patient that she had severe periodontal disease and refer her for specialist treatment. The patient alleged that if she had been informed by the dentist that she had periodontal disease at an early stage, she would not have required surgery for the placement of implants.

In early 2010, the patient wrote to the Health Services Commission complaining about the dentist who had been her family dentist for over 20 years. The patient had sought a second opinion regarding her dental state following the extraction of one of her molars. She was diagnosed as having advanced gum disease and periodontal disease. The patient alleged that, despite frequent visits to her dentist over the years, she had never been informed that she was suffering from these conditions.

The patient had surgery to remove her remaining upper teeth and place four implants in her upper jaw. The patient alleged that her treatment had cost her thousands of dollars and had caused her significant pain and suffering.

The Health Services Commissioner referred the matter to the Australian Health Practitioner Regulation Agency ('AHPRA') for determination by a Professional Standards Panel ('Panel').

Treatment

The dentist treated the patient for over 25 years. The dentist advised that during the 1980s to 1990s, treatment focused on replacing the patient's old anterior six unit bridge and a number of restorations on the patient's posterior teeth. The patient's teeth were regularly scaled and cleaned. By the early 2000s, the patient's teeth were exhibiting increased mobility, particularly in the molar region. The dentist was aware that the patient's teeth were deteriorating and he stated that he tried to maintain the patient's teeth as best as possible. The dentist stated that by 2005, the patient was informed that she had periodontal disease and bone recession, and a number of teeth were lost. Over the next couple of years, the condition of a number of teeth deteriorated and the patient required root canal therapy. By early 2009, the dentist advised the patient that she may have to consider a full immediate denture. The dentist advised that he tried to preserve the patient's teeth for as long as possible.

The dentist regularly scaled and cleaned the patient's teeth however he never used a periodontal probe to check the pocket depth of the teeth to determine the presence of sub gingival calculus and the extent of any sub gingival pocketing. The dentist did perform some OPG radiographs and bitewing radiographs of the patient's periodontal condition and bone recession, but he did not perform these regularly or successively enough to allow an assessment of the extent of any deterioration. The dentist did not chart the patient's periodontal status on

an ongoing and regular basis to determine a base line for her periodontal condition.

The dentist stated that he had mentioned to the patient on numerous occasions that her teeth were loose but had never explained why, or mentioned that she had progressing gum disease. It was likely that the dentist did not recognise that the patient had aggressive periodontal disease. It appears that the patient had a number of acute episodes of periodontal disease which resulted in increased mobility in her teeth. Arguably, these episodes should have put the dentist on notice to refer the patient for specialist periodontal care.

When the patient sought a second opinion from a specialist, the specialist found that the patient had extensive and severe periodontal disease with marked bone loss around a number of teeth and that the prognosis of her upper teeth was particularly poor. The specialist was of the view that the condition had been present for a long period of time.

The Panel found that during the course of his treatment, the dentist did refer his patient to specialists for specific treatment, but not specifically for periodontal treatment. The Panel considered that the dentist should have recognised the need to refer to a specialist for periodontal treatment.

In this case it was difficult to determine if a referral would have made a difference to the outcome or the patient's periodontal condition but the Panel determined that a referral to a periodontal specialist should have been made.

The Panel found that the periodontal treatment provided to the patient to maintain the teeth where possible, was of a lesser standard than a member of the public or professional peers were entitled to expect from a reasonably competent dentist. The Panel made the same finding in relation to the dentist's professional performance in treating the patient's periodontal condition.

Failure to Refer

The dentist advised that he did not refer the patient for periodontal care because he did not believe it would result in a different or better outcome. The dentist believed that had he referred the patient to a specialist, that the specialist would have removed her teeth. The

dentist therefore felt he was acting in the best interests of the patient by regularly cleaning her teeth to assist and maintain them as long as possible.

The Board found that the dentist failed to refer the patient for management of her periodontal condition, when it was appropriate for him to have done so.

Consent

The Panel found that the dentist failed to obtain fully informed consent from the patient in relation to the treatment provided for the patient's periodontal condition. The Panel found that the dentist made a number of assumptions relating to the treatment and the knowledge that the patient had, which resulted in the failure to obtain fully informed consent by omission.

Records

The dentist maintained that he did, on a number of occasions, discuss the patient's gum problems and issues with individual teeth. The dentist made some records, but largely failed to document these discussions. The records he did make were: 'Mobile – Perio' in 2002, 'Perio Pocket >7mm' in 2003, 'Advised re Perio' in 2005, 'Deep Pocket Perio' in 2008, 'Advised Upper Perio...' in 2009.

The Panel found that the records kept for the patient were not satisfactory, and did not record Gingivitis, successive Periodontal pocket depth, Supra-Gingival Calculus, Sub-Gingival Calculus and Oral Hygiene Status.

The Panel also found that the records kept by the dentist did not comply with the minimum suggested requirement of a dental chart for periodontal status.

Panel Determination

The dentist was willing to make a number of concessions in relation to his record keeping, his failure to inform the patient fully of her condition and options for treatment, his treatment and his failure to refer the patient for periodontal examination and treatment. As the dentist made a number of concessions, the Board did not make a finding of unprofessional conduct. The Board determined that the dentist complete counselling in record keeping and informed consent.

Comment

Dentists must ensure that their patients are fully informed of their dental condition and treatment options. Patients must be given sufficient information to make their own, informed choices about treatment options, irrespective of whether the dentist believes that a potential treatment option is likely to be of benefit to the patient. Practitioners are advised to make careful notes of any such advice given to patients.

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