Medicolegal Aspects of Dental Practice - An Overview

Shilpa Pharande

Introduction
In this current era of consumer satisfaction, dentists are increasingly facing legal challenges from dissatisfied patients. With this changing scenario, doctors have to adapt to the situation and may have to face such legal tangles, which is intangible and disturbing sometimes. It is imperative that all dentists should be aware of the medico legal aspects of the field.

Negligence
We dentist are expected to have a sound knowledge of our profession and science including the recent advances. So that the patient is assured that a reasonable degree of care and caution will be taken during the treatment.

As defined by Alderson “ Negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do”.

So to say that an act is negligent following factors should be present:
1. That the doctor owed certain standard of care and duty.
2. Doctor failed to perform his duty and necessary care was not taken
3. Due to lack of care patient suffered injury
4. There should be close proximity between negligent act and the resultant injury.

Therefore to have a viable dental malpractice lawsuit one must have unintentionally or intentionally committed an act that a reasonable dentist would not have done. A dentist cannot be held liable just because a better treatment option was available or due to lack of special skills as far as basic standard of care was practiced by him.

Stringently, the duties of care for dentist are:— deciding whether to undertake the case, what treatment to give, and Duty of care in administration of that treatment. Nevertheless, a simple lack of care, an error of judgment or an accident is not a proof of negligence on the part of medical professional.

Hence negligence is not a specific term but is comparison of all the facts from legal point of view.

Some Common Dental Negligence occurring are:
1. Injuries to the nerves of the tongue, jaw, chin and lips, (permanent or temporary) while performing extractions.
2. Mandibular fractures during extraction
3. Loss of taste sensation due to lingual nerve damage
4. Injury from improper use of dental instruments e.g. broken RC instrument (file, reamer) left in root canal sometimes causing periapical infection.
5. Failure to diagnose precancerous lesions in oral cavity
6. Root resorption occurring due to excessive forces applied during orthodontic treatment
7. Failure to obtain proper informed consent from the patient explaining him the available options, advantages and ill effects of the treatment.
8. Ill-fitting dentures due to a some faulty techniques causing pain and discomfort to the patient
9. Not referring the patient to the specialist when required
10. Practicing dentistry without a DCI approved dental degree and registration
11. Carrying out surgical procedure without having sufficient backup in the clinic or hospital.

Some Interesting Dental Cases
1. Parmley vs Parmley (1945) 4DLR81. Dentist was held liable for extracting few more teeth in upper arch without patient consent though they had advanced periodontitis
2. Garner vs Marrell (1953) Times 31 Oct. CA. dentist held liable for the death of the patient as a piece of gauze slipped into his throat during extraction causing asphyxia.
3. Ishwardas vs VK Gupta (1992) CPJ118NC. Soreness and ulcers caused due to ill-fitting denture, dentist was held liable.

Conclusion
Because I am, first and foremost, an orthodontist, I have tried to offer you a unique perspective on Medico-Legal issues, not simply from the point of view of a legal professional, but from the point of view of a dentist, just like you. After all, life isn't always straightforward and things can go wrong, but if you're prepared, and fully equipped to deal with the unexpected, you can minimise the disruption any legal issues will have on you and your practice.

When it comes to Medico-Legal issues, my philosophy is to provide advice and assistance to practitioners in order to support them, and to minimise disruption to their practices, as well as to uphold the professionalism and reputation of dentistry as a whole.

References
1. Medical law for dental surgeon by George Paul, chapter no 5, pg no 29.