

## Informed Refusal



Written by:  
**Paul Sauchelli,**  
DMD, JD  
DentistCare  
Practice Management  
Consultant

A common and unwelcome problem dentists face in daily practice is a patient's refusal to follow treatment advice. This situation may expose the dentist to professional liability risk that may be influenced by:

- What the dentist tells the patient in reaction to the refusal to follow his/her advice
- The nature of the dental problem
- The degree to which the recommendation and the patient's refusal is documented

When a patient refuses to follow your advice, inform the patient of the potential consequences to their health—and document this in case of allegations of malpractice in the future. It may improve the defensibility of your case. This is similar to the rules of obtaining informed consent to provide treatment. The patient must be provided:

- A clear description of the treatment offered
- The reasons the treatment was offered
- The cost of the treatment and any acceptable alternatives
- The potential benefits and risks of the treatment(s) and the refusal of the same

Make a contemporaneous notation in the chart that the patient has been told of the risks in not accepting the recommended treatment. Identify why the patient refused your advice for a particular course of treatment. Then clearly document that the patient has unequivocally and without condition refused the treatment. As with the rule of informed consent, the patient must be given an opportunity to discuss the recommended treatment and effects of refusal with the dentist. Also, the patient must be given the opportunity to ask questions and have them answered; the entire discussion must be conducted in language the patient understands.

Many informed refusal cases arise out of instances when a patient refuses treatment for a periodontal condition (e.g., crown lengthening required prior to fabrication of a fixed prosthodontic restoration) or routine x-rays. When complications arise due to the refusal of care, the patient may later claim they were not told of potential complications that might occur.

A patient's refusal of treatment does not provide consent for a dentist to practice below accepted standards of care (e.g., the dentist continuing treatment when a patient refuses to have diagnostic radiographs over a long period of time).

When an informed refusal is allowed to go on for too long, as in the situation described above, supervised neglect may be successfully alleged. If the patient continues to refuse a referral, a particular course of treatment, and/or a necessary diagnostic test—it would be wise to consider withdrawing from care of this patient and terminating the relationship.

*The risk management rule is: when a patient refuses to follow your advice, serious consideration should be given to terminating the patient from your practice.*

**Please call 844.223.9648 to discuss this or any other risk management concerns. This service is provided to you at no extra charge as a ProAssurance insured.**

ProAssurance underwrites the DentistCare® professional liability insurance program and is committed to treating you fairly.

**DentistCare**<sup>SM</sup>  
PROASSURANCE.  
Member Since 1987

Professional Liability Insurance & Risk Resource Services



ProAssurance Corporation © 2017

This Bulletin is not intended to provide legal advice, and no attempt is made to suggest more or less appropriate medical conduct.