

MINIMIZING MALPRACTICE LAWSUITS AND PATIENT COMPLAINTS RELATED TO DENTAL IMPLANT TREATMENT

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Rollin M. Matsui, B.Sc., D.D.S., LL.B., F.C.L.M.

DISCLAIMER

- ◉ This presentation is intended to provide information of a general nature only and is not to be taken as legal advice upon which you are to rely for specific situations.
- ◉ Appropriate legal advice should be obtained from your own lawyer prior to taking any action.
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Topics

- ◉ Legal liabilities Related to Implant Dentistry
- ◉ Key essentials for rendering appropriate Implant Dentistry
- ◉ Ways to minimize and deal with Dental Implant misadventures and patient complaints

Legal Liabilities

Legal Liability: Bad Things That Can Happen to Dentists

- ◉ Malpractice Lawsuit
- ◉ Regulatory Complaint / Investigation
- ◉ Criminal Investigation
- ◉ Other Regulatory Investigations

Malpractice Lawsuits

- ◉ Patient seeking compensation from the dentist for harm suffered arising from the dentist's dental treatment.
- ◉ Are independent, separate from and unrelated to a Regulatory complaint or investigation.
- ◉ Not unusual for civil proceeding to be commenced by patient in addition to other legal proceedings (eg. regulatory).
- ◉ Due to high costs of implant dentistry, civil legal proceedings not uncommon.

Professional Misconduct, Complaints and Investigations

- ◉ A formal investigation by the Provincial / State Regulator when a patient files a written complaint against a dentist.
- ◉ Can be initiated by the Regulator if reasonable and probable grounds exist.
- ◉ Professional misconduct can include failing to obtain informed consent, meet the standards of practice.
- ◉ If misconduct proven, dentist can be suspended from practicing dentistry.

Criminal Liability

- ◉ Certain dentist conduct can attract criminal sanction.
- ◉ Allegations related to assault (no consent to touching), sexual assault, billing fraud can arise.
- ◉ Sanction can be imprisonment.
- ◉ May see increase in criminal sanctions if public dissatisfaction increases.
- ◉ Typically not common in implant dentistry.

When Does Liability Arise in Implant Dentistry?

Unsatisfactory Dentistry



Unsatisfactory Dentistry

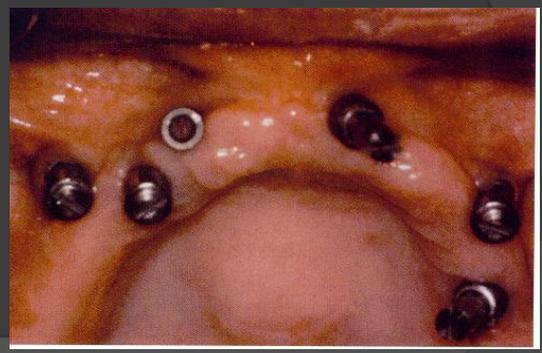


Implant Dentistry

Bone lost around implant causing chronic bleeding gums

Surgical Implant Placement Into Mandibular Canal Causing Paraesthesia

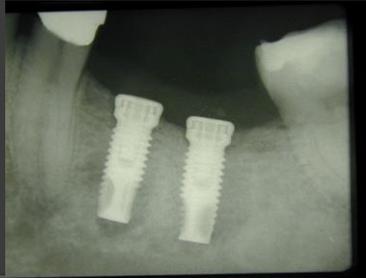
Unsatisfactory Dentistry



Unsatisfactory Dentistry



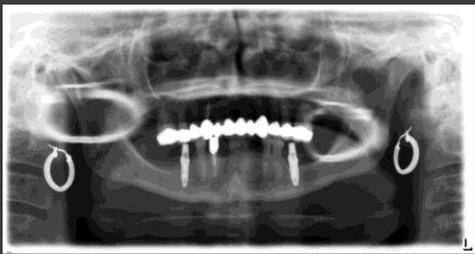
Patient presents with radiating pain. Dentist suspects bicuspid. Substandard implant treatment?



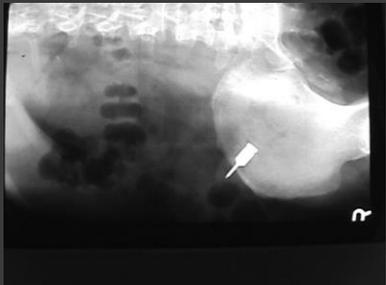
Unsatisfactory Dentistry: The failed implant prosthesis



Paraesthesia?



Is this Substandard Dentistry?



Is this Negligence? Was Sinus Lift / Bone Graft Performed?



Key Essentials for Rendering Appropriate Implant Dentistry

Key Essentials

- ◉ Recognition of necessary elements integral to successful Implant Dentistry
- ◉ Educational Requirements
- ◉ Diagnosis and Treatment Planning Parameters
- ◉ Practitioner and Team Member Responsibilities

Key Essentials

- ◉ Proprietary Implant Systems
- ◉ Standards of Practice
- ◉ Informed Consent to Treatment
- ◉ Post-operative Management

Standards of Practice

- ◉ There is no printed standard of practice for the practice of implant dentistry in Ontario.
- ◉ Dentists must rely on continuing education courses, dental literature, colleagues and expert witnesses.
- ◉ Ontario Solution: Rely on Implant Guidelines published by the Provincial Regulator (Royal College of Dental Surgeons of Ontario).

Guidelines Evolve Over Time

- ◉ Guidelines originally created in 1988.
- ◉ Revised in 1995 and 2002.
- ◉ Latest edition issued by the College in May 2013.
- ◉ www.rcdso.org

RCDSO GUIDELINES May 2013 Educational Requirements & Professional Responsibilities for Implant Dentistry

Importance of Guidelines

- Are not deemed to be standards of practice of practice of the profession regarding implant dentistry.
- Guidelines *may* be used by the College in determining whether appropriate standards of practice and professional responsibilities have been maintained.

Key Requirements

- Key: Implant dentistry is about the creation of an implant supported prosthesis.
- Dentists utilizing dental implants in their practices *require* specialized knowledge and clinical skills related to both the surgical and prosthetic phases of treatment.
- Guidelines outline recommended educational and professional responsibility requirements for those practitioners wishing to use dental implants for their patients.

Limitations of Guidelines

- The Guidelines do not attempt to provide comprehensive information relating to the clinical steps necessary in providing dental implants.
- Onus is on the dentist to seek requisite knowledge prior to performing implant dentistry.

KEY EMPHASIS

- Guidelines require that even if you only perform the surgical placement of the implant, you must be knowledgeable about the prosthodontic aspects of the implant treatment and vice versa.
- The prosthetic dentist should be the “quarterback” of the implant case.

Reality Check

- For the surgeon, temptation is to just place the implant and let the prosthetic dentist “take it from there”.
- For the prosthetic dentist, temptation is to just send the patient to the surgeon and let him/her do the surgery without input from the dentist.
- Miscommunication can lead to bad outcomes with great stress and high costs and Regulatory sanctions.

Guidelines Recognize 2 Levels of Implant Dentistry Complexity

- “Straightforward” placement and/or restoration of dental implants.
- “Complex” placement and /or restoration of dental implants.
- Incumbent on dentist to identify the type of implant case being considered when deciding if he or she is competent to render the implant treatment.

Initial Educational Requirements

- *Prior* to performing any implant procedure, dentists *must* have undertaken comprehensive training by means of a course(s) which adhere closely to specified criteria in the Guidelines.
- Course instructors should have had recognized comprehensive formal, preferably university-based, training and significant experience performing dental implant procedures.

Required Course Criteria

- Have didactic and clinical-related components with formal evaluation.
- Have a hands-on clinical simulation component with formal evaluation.

Course Content

- Teach methods and systems that have been shown to be successful and safe based on published scientific research preferably supported by longitudinal clinical studies that demonstrate the efficacy and effectiveness of the method and biocompatibility of the materials.

Course Duration

- Guidelines state if you provide both surgical and prosthetic phases of implant treatment, you must successfully complete a course or courses involving not less than 35 hours of instruction for each of the surgical and prosthetic phases, or 70 hours of combined instruction so that dentists learn the requisite information as set out in the Guidelines.

Course Duration

- If you limit practice to one phase only (surgical or prosthetic), you must successfully complete a course or courses involving not less than 35 hours of instruction for the phase practiced and 14 hours of instruction for the phase not practiced.
- If you provide surgical phase, you must be competent and experienced in dentoalveolar surgical procedures.

Importance of Communication

- Understand the importance of effective communication and shared responsibility between the various members of the dental implant team and other providers, and especially with the patient.

CAVEAT: *This is critical if you want to minimize miscommunication and misunderstanding leading to a very unhappy patient.*

Purpose of Educational Requirements

- The minimum educational requirements suggested in the Guidelines are adequate for most practitioners to begin “Straightforward” implant cases.
- Additional training and education should be completed before undertaking “Complex” implant cases.

New Technology

- It is the responsibility of each dentist to evaluate any new technology, products and techniques to ensure that their use is supported by valid scientific data and long-term studies, and that necessary Health Canada approvals are in place. www.mdall.ca.
- Caution is advised in extrapolating results from one system to another.

Professional Responsibilities

- Preliminary Evaluation and Treatment Planning *by the prosthetic dentist*.
- Pre-Surgical Assessment by prosthetic *and* surgical dentist.
- Finalization of Treatment Plan and Informed Consent *by the prosthetic dentist*. (Guidelines set out details of what to be discussed with patients).

Professional Responsibilities

- Surgical Treatment *by surgical dentist*.
- Post-Surgical Follow-up by surgical dentist *and* prosthetic dentist.
- Post-Surgical Pre-Prosthetic Assessment *by prosthetic dentist*.
- Prosthetic Treatment.
- Long-Term Follow-up and Maintenance.
- Management of Complications.

Recordkeeping for Implant Cases

- Essential for defending yourself if sued or confronted with College investigation.
- Guidelines set out details required for surgical and prosthetic records.
- Very useful for risk management purposes.

Ways to Minimize and Deal with Dental Implant Misadventures and Patient Complaints

Ways to Minimize Implant Misadventures and Complaints

- ◉ Understand *true* complexities of implant dentistry before rendering surgical or prosthetic implant dentistry or both.
- ◉ Obtain sufficient education for *both* surgical and prosthetic aspects of implant dentistry.
- ◉ Recognize your responsibilities and obligations for *both* surgical and prosthetic aspects even if you only perform one component of implant treatment.

Caveat

- ◉ Be critical when reviewing dental literature related to implant dentistry.
- ◉ Recent article in JADA: "Designing a safety checklist for dental implant placement: A Delphi study" (*JADA 2014; 145(2): 131-140 February 2014*).
- ◉ Expert panel of periodontists designed a safety checklist for implant placement.
- ◉ Note: Focus of study was on surgical issues, less emphasis on role of the prosthetic dentist in implant placement.
- ◉ Consider using Ontario Implant Guidelines as a general guide if no implant guidelines are available in your jurisdiction.

Caveat

- ◉ Comprehensive training programs in the utilization of dental implants protect the public as well as the dentist.
- ◉ Lack of adequate and /or inadequate clinical treatment and records may place the dentist at risk for civil proceedings and allegations of professional misconduct if there are adverse results due to the treatment rendered.

How To Deal with Dental Implant Misadventures and Patient Problems

Activate Your Action Plan

- ◉ Notify your malpractice insurer and seek advice if patient seeking or could be seeking compensation or refund.
- ◉ Seek legal advice if complaint filed or could be filed with State Regulator.
- ◉ Seek advice from circle of competent specialists with whom you consult and refer to regarding implant cases as necessary.
- ◉ Maintain patient privacy and confidentiality.

Ontario Solution

- ◉ In Ontario, compliance with the RCDSO Implant Guidelines will help provide basis for sound defence against allegations of dental malpractice or professional misconduct related to the provision of implant dentistry.

THANK YOU!

Dr. Rollin M. Matsui
B.Sc.,D.D.S.,LL.B.,F.C.L.M.
Barrister and Solicitor
Suite 503 - 330 Highway 7 East
Richmond Hill, Ontario CANADA
L4B 3P8
Phone: 905-709-9272
Toll Free: 1-877-709-9272
E-mail: lawyer@drrollinmatsui.com
Website: www.drrollinmatsui.com