FAILURE TO DIAGNOSE ORAL CANCER AND OTHER PATHOLOGIC CONDITIONS OF THE ORAL CAVITY

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Fear of being sued as a physician/dentist is real, although putting this "fear" in context is helpful!

RESULT OF SURVEY OF 1705 LAWSUITS*

Epstein JI: The American Journal of Surgical Pathology 25(4): 527–537, 2001

Disposition of Suit	Number (%) of Cases
Dropped by Plaintiff	513 (30)
Settled Out of Court	460 (27)
Suit Pending	260 (15)
Jury Verdict for Physician	182 (11)
Dismissed by Judge	171 (10)
Resolved by Arbitration and Mediation	66 (4)
Jury Verdict Against Physician	53 (3)

Conclusion: ***Majority of lawsuit threats do not materialize, and the majority of those that do are decided in favor of the physician.***

ORAL CANER: A significant Public Health Concern

- Over 90% are oral squamous cell carcinoma (OSCC)
- About 33,000 new cases in the U.S. annually
- Represents 5% (m=3; f=2)of all malignancies in the U.S.
- Survival rate essentially unchanged over three decades: 50%
- Early treatment :5YSR = 80%
- Up to 50% mortality in advanced cases
- Recurrent disease may signal non-curability

Neville and Day. *CA Cancer J Clin* 2002; 52: 195-215.

ORAL CANCER: Other Epidemiologic Facts

- Individuals 45 years of age and over – 90 percent
- Tongue cancer increasing in males <40 years old
- 14th most common cancer among all U.S. females
- Male to female ratio has decreased from 6:1 in 1950 to 1.8:1
- Incidence in women has increased from 15% to 33% of all cancers diagnosed in last 45 years

- Occur more frequently in African-Americans than Caucasians
  - 4th most common cancer in African-American males
- Oral cancer mortality rates are also high for African-Americans
  - Nearly twice the mortality rate of Caucasians in 1998.
  - Oral cancer is the 7th leading cause of cancer death in African American men

ETIOLOGIC AGENTS

- Tobacco products
- Alcohol
- Viruses (Particularly HPV)
- Others

THE ORAL CAVITY

"The Oral Cavity is one of very few body sites conducive to visual inspection thereby offering morphological features detectable as precancerous changes that provide opportunity for early detection and intervention."

Oral cavity is easily accessible for routine clinical examination

ORAL CANCER: Missed Diagnosis; Misdiagnosis

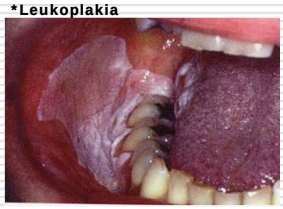
- The incidence of missed diagnosis and misdiagnosis relatively high compared to cancers of other regions of the GI tract
  - Diagnosis of Oral Premalignant Lesions (OPL) still present challenges
- Non-standardized and archaic paradigm still in use for clinical diagnosis

MISSED DIAGNOSIS: Premalignant Lesion (precancer)

LESIONS WITH HIGHER THAN NORMAL PROPENSITY FOR TRANSITION TO CANCERS WITH TIME, IN THE ABSENCE OF ADEQUATE INTERVENTION

ORAL PREMALIGNANT LESIONS (OPL): Misdiagnosis?

*Leukoplakia

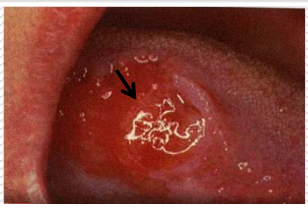


*Speckled Leukoplakia

****Clinical terms implying no specific histopathology and therefore of no pathological diagnostic value***

Misdiagnosis/Underdiagnosis/delayed diagnosis

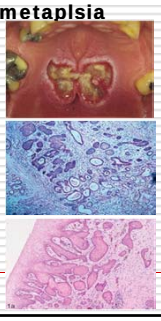
Erythroplakia: a red patch/plaque not attributable to any known etiology/diagnostic entity.



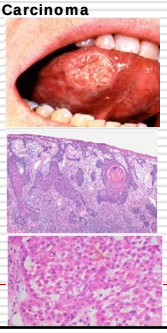
Could be mistaken for inflammatory cause (e.g. trauma) leading to delayed diagnosis

Misdiagnosis (by the Pathologist)

Necrotizing Sialometaplsia



Oral Squamous cell Carcinoma



ORAL CANCER: Who is at risk for malpractice litigation?

- Dentists: all specialties
  - Failure to diagnose
- Oral and Maxillofacial Surgeon
  - Misdiagnosis/Mismanaged
- ENT
  - Misdiagnosis/Mismanaged
- Oral and Maxillofacial Pathologist
  - Misdiagnosis/Failure to Diagnose

SPECIALTIES

Cancer of the Oral Cavity and Medical Malpractice.
Lydiatt, Daniel; DDS, MD. Laryngoscope. 112(5):816-819, May 2002.

TABLE III.
Specialties.

Anesthesiology	1/47 (2%)	General practice (GP)	11/47 (23%)
Dentist (DDS)	17/47 (36%)	Pathology	1/47 (2%)
Oral surgeon (OS)	4/47 (9%)	Radiation oncologist (RO)	1/47 (2%)
Total dental	21/47 (45%)	Head and neck surgeon (HNS)	1/47 (2%)
Otolaryngologist (ENT)	8/47 (17%)	Dermatologist	3/47 (6%)

SUBGROUP ANALYSIS

Cancer of the Oral Cavity and Medical Malpractice.
Lydiatt, Daniel; DDS, MD. Laryngoscope. 112(5):816-819, May 2002.

TABLE IV.
Subgroup Analysis.

	GP	DDS/OS	ENT/HNS
Total suits	11	20	9
Average age (y)	51	46	40
Failure to diagnose	100%	85%	89%
Failure to refer	36%	35%	0%
Failure to biopsy	36%	60%	22%
Delay (mo)	9	13	7
Surgical comp	0%	15%	11%
Dead	64%	40%	44%
Defendant verdict	27%	60%	33%
Settlement verdict	45%	15%	33%
Plaintiff verdict	27%	25%	33%
Receiving awards	73%	40%	67%
Average award	$296,857	$874,500	$691,666
Awards over $1,000,000	0	3	3

GP = general practice; DDS/OS = dentist/oral surgeon; ENT/HNS = otolaryngologist/head and neck surgeon.

Subgroup Analysis.GP = general practice; DDS/OS = dentist/oral surgeon; ENT/HNS = otolaryngologist/head and neck surgeon.

COMMON PERSPECTIVES FOR LAW SUITS

- Oncologic outcomes
- Patients Age

COMMON PERSPECTIVES FOR LAW SUITS: Oncologic outcome

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TABLE I.
Findings When Comparing Suits From the Perspective of Oncologic Outcome.

	Dead	NED
Average age (y)	50	41
Failure to diagnose	96%	77%
Failure to biopsy	48%	38%
Failure to refer	39%	15%
Surgical complication	0%	23%
Delay in (mo)	11	14
Defendant verdict	48%	38%
Settlement	30%	23%
Plaintiff verdict	22%	38%
Average Award	$483,500	$808,875
≥ $1,000,000 award	3	4

NED = no evidence of disease.

COMMON PERSPECTIVES FOR LAW SUITS: Plaintiff Age

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TABLE II.
Findings for Comparison Based on Plaintiff Age.

	Group A		Group B	
Oncologic outcome	NED	17/26 (65%)	NED	9/23 (39%)
	Dead	9/26 (35%)	Dead	14/23 (61%)
Delay known	13 patients	8 months average	13 patients	17 months average
Misdiagnosis	5/27 (19%)		0/23 (0%)	
Awards	5 awards $1 million +$755,824 average		2 awards $1 million +$495,417 average	
Verdict	Defendant	10/26 (37%)	Defendant	11/23 (48%)
	Settlement	5/26 (19%)	Settlement	7/23 (30%)
	Plaintiff	11/26 (41%)	Plaintiff	5/23 (22%)

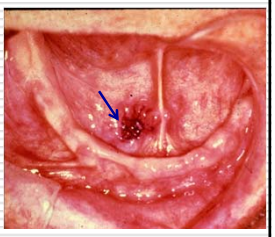
NED = no evidence of disease.

DIAGNOSTIC ADJUNCTS

- Toludine Blue
- Chemiluminescent
- "Brush' Biopsy (smear cytology)
- Biopsy
  - Incisional
  - excisional

DIAGNOSTIC ADJUNCTS: Toludine Blue

- Fast and easy office procedure
- Stain suspected malignant tissue
  - When several surface abnormalities are present
- Tissue that stains blue indicates either dysplasia or malignancy
- Pending approval in U.S.



DIAGNOSTIC ADJUNCTS: Chemiluminescent Light

- A liquid similar to diluted vinegar is applied to the area of the mouth to be screened
- Under the special light, the liquid causes pre-cancerous or cancerous cells to glow
- Approved for use in the United States but not yet widely available

DIAGNOSIC ADJUNCTS: Brush Biopsy

- Uses small stiff-bristled brush to collect mucosal epithelial cells from a suspicious site
  - Apply firm pressure with the brush to the suspected area
  - Brush is then rotated five to ten times until pinpoint bleeding occurs
- Immediately place and fix the tissue on a slide
- Slide is subsequently sent to a laboratory for computer analysis
  - Results sent back to the practitioner within a week

DIAGNOSTIC ADJUNCTS: Biopsy

- "Gold Standard"
- Provides most definitive diagnosis
  - If malignant, determines the stage and grade
- Common oral biopsy techniques:
  - Excisional
    - Remove whole lump
  - Incisional
    - Remove a portion of the lump
  - Punch
    - 3-4mm diameter – cuts out cylindrical piece of tissue

ORAL CANCER EXAMINATION

- Can be performed by:
  - Dentist
  - Dental Hygienist
  - Physician
  - Physician's Assistant
  - Family Nurse Practitioner
  - Nurse

In malpractice lawsuits, Respondeat Superior ("Master-Servant Rule") may apply.

MISDIANOSIS/UNDERDIAGNOSIS OF ORAL CANCER: Summary/Conclusion

- Litigation in patients with oral cancer is relatively rare
- Young patients more likely to pursue litigation than their old counterparts
- Patients who sue often have poor oncological outcomes
- In order to prevent subsequent litigation, guidelines and risk management goals must aim to prevent delays in diagnosis.

Good Morning
And
Thank you All for Listening

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OTHER LESIONS: Child Abuse Cases

SEXUAL ABUSE:

Forced Fellatio

SEXUAL ABUSE:

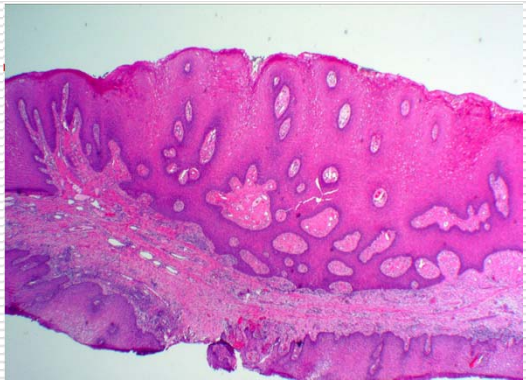
Orogenital Contact

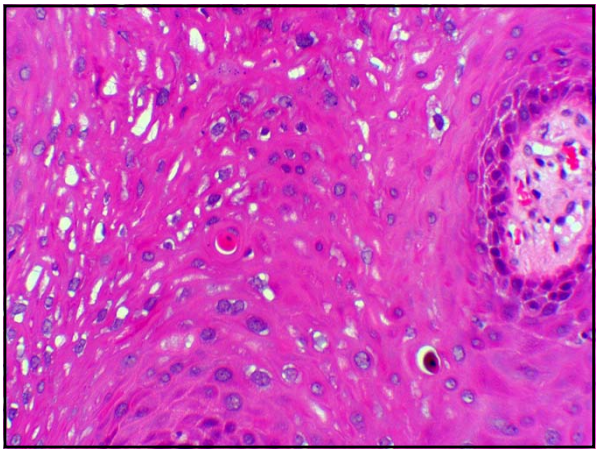
Condyloma Accuminatum

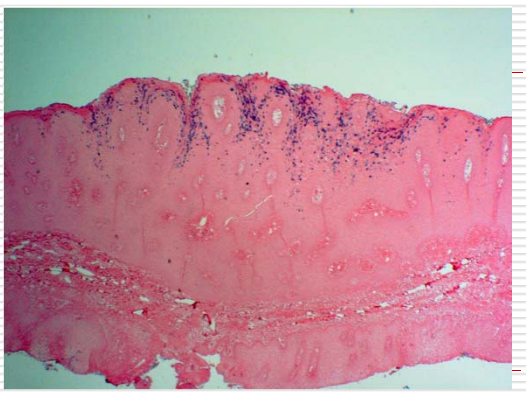
- A sexually transmitted disease resulting from Orogenital contact

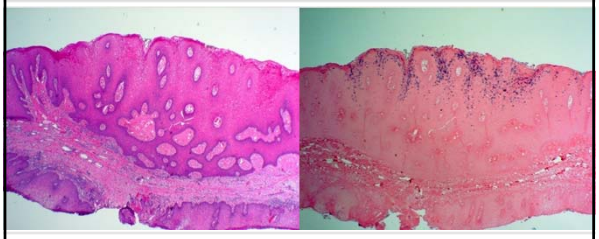
CASE REPORT

A 7 year-old female with broad and papillary mandibular gingival lesion









Diagnosis:

Viral Papilloma, morphologically consistent with Condyloma Acuminatum.

Patient (Child) should be evaluated with that in mind

INTERVENTION

As a Professionals, You

Must

Report!!!!

For Healthcare Professionals, Oral Report within 24 Hours

INTERVENTION (2)

- Referral
  - Child Protective Services
  - Adult Protective Services

1-800 252-5400

800 25-25 400

Good Morning
And
Thank you All Again for Listening

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