

Understand The Risk Involved with Clinical Plagiarism & Medical Necessity

Documentation is the most important piece of dental hygiene role. Chart notes are considered legal documents and, according to the American Dental Association, are “critical in the event of a malpractice insurance claim.”¹ The notes keep track of the procedures, treatments, recommendations, and findings from previous dental visits. It is also for next visits to remind the team where the patient was prior to this visit or if they are going on the next visit and if treatment and home care are working. Collaboration is key both with the patient and the medical providers if the patient is being treated for any issues that are in medical history. The documentation also reminds dental hygiene professionals how the patient is doing, with after treatment and home care improving oral health. Progress stating what you are seeing and what was expected, any health care changes, and home care information need to be documented to collaborate with the patient and the information must be gone over again.

Medical history. Review and update it, noting any changes (medications, allergies, surgeries, medical conditions, etc.). If a patient reports no changes in their medical history, state, “Patient reports no changes” in your notes. We must always add medical at each visit, especially if they have not been in your office for three months. Everyone’s health changes and we are held responsible for documenting any changes or the fact that the patient is the same. Each one of us has changes in our system all the time, good and bad.

Intraoral/extraoral cancer exam Describe any findings inside or outside the mouth (color, type of finding, size [using a probe, measure the finding; is it raised?]) The law on Oral Cancer has extended for a law suite from patients to providers who are not recommending or testing for oral cancer.

Intra-Oral Camera: Dealing with a lot of issues such as bleeding and or incisal edge should have a picture. However, if you are using AI x-rays you will have that documented within the x-rays. You will also have this within the AI x-rays or some plans may take your x-rays and put them thru AI to read the following is it (light, moderate, heavy), supragingival and/or subgingival, generalized or localized, location of deposits (interproximal, facially, at the gingival margin. Plus, **Bleeding and inflammation** Note the amount (light, moderate, heavy) and whether it’s generalized or localized. Knowledge of language that must be used in order to code for scaling, bone grafting and other periodontal issues.

Treatment rendered during the current appointment. Note radiographs, periodontal assessment (any changes in probe depths, recession) sealants, scaling (hand scaled and/or ultrasonic instrumentation), doctor exam (any restorative treatment recommended?), and treatment rendered (prophy, periodontal maintenance, non-surgical periodontal therapy/SRP, gingivitis treatment, fluoride treatment, sealant or other treatments that you provided.

Periodontal status (stage and grade). Does the patient present with recession or furcation involvement?

Clinical charting: Observations, chipped teeth, failing restorations, missing teeth, and other issues that are seen.

Patient concerns. Report any chief complaints or concerns stated by the patient. For example, concerns of halitosis, pain, esthetic concerns, tooth sensitivity, etc. Be sure to write this in the patient's words.

Oral health instruction and recommendations. Did you go over homecare, with the use of products, toothbrushes, or water pick. Did you explain and give them a handout of the directions for use on any of the products you recommend? This must be documented and asked on the following visit how it went. (I recommend a short video on your Tele dentistry recorded for patients to use after they return home.)

Hygiene dental exam. Any notes during the dental exam (diagnosed dental caries, restorative work that was recommended, or referrals). I also highly recommend the use of an informed refusal so if they are not willing to go forward that documentation is part of the patient's chart. It explains why and what you recommended, and they are entitled to refuse but that protects the office.

Next appointment. Review of what went over last visit, updated medical history, and after your clinical charting, any x-rays. If the health history has changed make sure that it is documented. If the patient has any condition that will give them paid three-month visits, go over that in detail.

All charts must include copies of the informed refusal or acceptance of treatment, consent for treatment on the day, and knowledge that each test that is used for diagnostic purposes is documented with results. Also, if you take x-rays make sure the doctor has ordered them, not you. Then he must read them and document the findings. All tests must be ordered by doctors such as Oral DNA, Saliva Tests, finger prick test for diabetes, and any other you may use in your office.

The most common reason is why dental hygienists are sued!

An obvious reason a patient might sue a hygienist is that the patient was physically injured. We work with many sharp instruments on living, moving patients, and sometimes accidents happen.

Other common reasons for malpractice lawsuits include failure to update medical history, failure to document patient chart notes comprehensively, failure to diagnose periodontal disease, and failure to diagnose (i.e., detect) oral pathology, such as cancerous lesions.² We can prevent malpractice lawsuits by paying extra attention to each of these areas of patient care. They need compliance courses also.

2) You do not necessarily need to make a mistake to be sued

We've all heard stories about frivolous lawsuits such as coffee being too hot or property owners being sued when a trespasser injures themselves on the property. A lawsuit could come our way without us even making an error. For example, a patient could trip over the base of the chair and injure themselves. There are also many procedures where adverse reactions are

possible. For instance, we can follow all the safety protocols when administering local anesthesia, however, paresthesia or a hematoma might still **Providers should know that a lawsuit is possible, even for the best and most competent hygienists.**

3) You may not be covered by your employer's liability insurance

As we've seen with dental insurance, every insurance plan and its coverage is different. That's why hygienists shouldn't count on being properly covered by their employer's plan. The employer may only have basic coverage that insures themselves as an individual. It is also possible that an employer's policy has lapsed. The best way for a hygienist to be sure they are covered by liability insurance is to look into the delicate details of liability insurance plans, understand, and purchase their own policy.

4) The benefits and exclusions of your specific liability insurance plan

Many liability insurance options are available for dental hygienists. When looking into policies, take a close look at what the benefits and exclusions are. Some policies don't cover hygienists when they are volunteering or collaborating with patients as a clinical instructor at an educational facility. If you work at multiple offices, make sure that your policy covers you no matter which office you work at. Some policies provide coverage for proceedings, fines, and penalties for HIPAA violations, while others don't. Consider your specific situation to find the right policy for you.

5) Communication is key

Patient communication is an integral part of dental care. It is especially important when a procedure doesn't go as planned. A proper explanation of an adverse event may help prevent a lawsuit. For example, if a restoration is dislodged during a hygiene appointment, the patient should be informed immediately. Hygienists should then educate patients that undamaged sound restorations are durable enough to withstand hygiene therapy. If a restoration dislodges during hygiene treatment, the restoration is failing for reasons such as secondary decay, fracture, marginal deficiencies, wear, or bonding failure.

If a patient understands *why* something happened, they may be less likely to make it a legal matter. In this example, after informing the patient and explaining why this can occur, the next step would be to have the dentist examine the area, determine the cause, and if due to a failing restoration, reinforce that undamaged, sound restorations should not be able to dislodge by hygiene treatment. Then, the dentist, hygienist, and patient can work together to establish a proper treatment plan for the patient.

Another important part of patient communication is informed consent. Patients should be made aware of why treatment is needed, the risks and benefits of treatment, alternative treatment options, risks of not having treatment, treatment outcomes, and a chance to ask questions before any procedures are performed. Implicit or verbally informed consent may apply for simple procedures, exams, or assessments (i.e., radiographs, periodontal charting). For more extensive treatment, a written informed consent form should be signed.

Proper documentation in patients' chart notes is paramount when defending yourself against a lawsuit. Chart notes are considered legal documents, so be sure to write down in detail everything that happened. Your chart notes will communicate the exact situation to other providers, the patient (if they request their records), lawyers, and the court if a lawsuit occurs.

Thinking about malpractice lawsuits can be stressful, but it is important to have a plan in place should the situation arise. There are many liability insurance plans for dental hygienists that are under \$100 per year. For such a small price, it can provide peace of mind all year and financial protection in the event of a lawsuit.

Along with liability insurance, it is important to provide the highest level of patient care, communication, and documentation. Together, these are our greatest defenses against malpractice lawsuits.

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Although the hygienist provided periodontal therapy to the patient, the billing code she used was for prophylaxis, a fee that is far less than that charged for periodontal therapy. Dateline: Anytown, USA...Heidi Doe, RDH, was fined \$10,000 for battery to her client, Patty Jones, and sentenced to six months in jail.

Doe was charged with battery to the patient for performing an unauthorized procedure. Jones arrived for her dental hygiene appointment at Compass Dental on January 4. She was on the hygienist's schedule for a routine prophylaxis. Jones asserted that Doe was told only to clean her teeth, but that Doe ... without authorization from the dentist overseeing Jones' treatment ...proceeded to perform periodontal therapy.

"I love Dr.so Jones said. "When the hygienist told me that I had gum disease and what it would take to get rid of it, I told her I did not want the treatment. I told her it was too expensive, but she did it anyway," Jones added. Periodontal disease is a multifactorial disease characterized by clinical bleeding when instruments are placed between the gums and the tooth.

"When I put the probe into the pocket, the patient was bleeding profusely," Doe explained in an exclusive interview with this reporter for Nearly News Weekly. "I thought to myself, "Oh, no! Not again."

Doe went on to say, "She [the patient] had so much bleeding and so much calculus, I could not stop. I just kept going deeper and deeper until I got the majority of it off. Periodontal disease is an indicator of heart problems and more things, too. "I explained that to Jones when I expressed my concerns about the state of her oral health. The doctor was busy on the phone, unavailable for consultation. I just could not do what she asked; I just could not ignore it!

"I know that conservative treatment works. In cases like this, I usually just do therapy, and charge for regular cleaning. It makes the patients happy because they aren't charged a lot, and I feel good about the treatment I'm providing. It also helps the doctor keep his reputation for not being 'money-grubbing.' I never dreamed it would come to this. Dr. so is squeamish about recommending treatment for periodontal disease. I'm not sure why. It puts me in a terrible position." Although Doe provided periodontal therapy to Jones, the billing code she used was for a prophylaxis, a fee that is far less than that charged for periodontal therapy.

"I feel as if I've been violated," said Dr. so so, Doe's employer. "I don't know how much Hygienist has stolen from me by undercharging for periodontal therapy or how many clients she's done this with. It will be a long time before I can trust again."

Dr. So retained legal counsel and sued Doe for fraud and grand larceny. "She took money directly from my pocket," he said. "I support five families, other than my own, with this practice," Dr. so so said, referring to other staff employed at Compass Dental.

The charges by Dr. so so, added to those brought by the patient, resulted in a guilty judgment with a sentence of six months in jail for Doe. Judge Magistrate said, "I'm livid! These hygienists are highly skilled, highly paid, and educated individuals. The employer in this case is inept. We must change the laws to allow more autonomy for hygienists. I know several legislators that will hear from me within the next week."

Axel Knight, representing the Hygiene Association, explained that, while dental hygienists learn to recognize periodontal disease in college, most states do not allow them to perform a diagnosis. "Sure, they know how to recognize it [periodontal disease] and treat it, but they need the doctor's prescription in order to proceed. Hygienists also need the patient's permission to treat them. The association is supportive of a client's right to decide on treatment," said Knight.

In a statement, the insurance company, Big Bad Insurance Co., said: "It became clear that Dr. so so was not providing treatment for periodontal disease, as evidenced by a code audit. The doctor also was not providing referrals to any periodontal disease specialist,

although one was located in the same building. This raised a red flag during the audit, resulting in the charges." "I can't believe the lack of support around me," Doe said. "I know this to be standard practice."

As the law stands now, our state does not allow hygienists autonomy. The dentist must prescribe all procedures done by hygienists. In this case, periodontal disease was evident to the hygienist, who treated the patient for the disease. However, no prescription for treatment was written. Protect yourself from legal actions.

Make sure you have written authorization from the dentist and the patient before proceeding with periodontal treatment and that you use the correct code for billing purposes.

What about dentists?

<https://justicedirect.com/post/report-dentist>

Have a problem with a dentist? This article helps guide you through what options are available for patients who feel they have been treated improperly by their dentist.

Your options range from reporting and filing a complaint against your dentist to filing a lawsuit in a small claims court. Talk to your dentist about your concerns. This often clears things up.

1. Consider sending a [demand letter](#) to your dentist stating your situation and seriousness about taking legal action if the issue is not addressed.
2. [File a complaint with the Better Business Bureau](#). Also, consider leaving reviews on all social media platforms. If the dentist cares about their online reputation, this may be a powerful avenue for resolving your complaint.
3. File a complaint with the **state government agency** that regulates dentists (state-by-state guide below).
4. File a lawsuit in your state's [small claims court](#).

