

JCO ROUNDTABLE

Ethics in Orthodontic Practice, Part 1

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Editor's Note: The participants in this discussion are JCO subscribers who were chosen at random. Other topics will be explored in upcoming issues.

DR. GOTTLIEB *Are there circumstances under which you can ethically elect to discontinue treatment even though the parents want to continue? Suppose no payments have been made for several months, and repeated efforts to obtain payment have been ignored. What do you do?*

DR. WOODEN There is no ethical reason to continue treatment when the responsible party breaks the contract or agreement and stops paying. The key is communication with the responsible party. Specific warnings should be given as the account falls behind. If it gets behind a specified length of time with no response from the responsible party, a notification should be sent stating that treatment will be terminated at a named future date. This note should contain the AAO-suggested legal specifics [American Association of Orthodontists, St. Louis, 1996].

DR. KRUEGER I believe there are reasons to ethically terminate treatment for a patient even if the parents want it to continue. Non-payment of treatment fees can be seen as a breach of contract and release the orthodontist from providing further treatment. Depending upon the patient and on current oral condition, I may elect to continue treatment to completion or to a point where the patient's dental health is at least equal to or better than the beginning status. The patient could also be put on a treatment hold with emergency care provided until the account is brought up to date. If that does not happen in a reasonable length of time, the patient could be told to seek the completion of treatment in another office.

DR. THEURER In my practice, after being informed verbally as well as in writing about the delinquency of the account with no response, the



Dr. Gottlieb



Dr. Geller



Dr. Krueger



Dr. Theurer



Dr. Wooden

responsible party is informed that until the account is brought current the treatment will not be continued. However, we will continue to see the patient at regularly scheduled maintenance appointments to monitor the integrity of the braces as well as the oral hygiene. If there is still no response, we would discontinue orthodontic treatment for the patient with the recommendation for removal of the braces, or suggest that they find another orthodontist to whom we will be happy to transfer the diagnostic records.

DR. GELLER Generally, if payments are behind and there is no response to efforts to discuss the situation, I will also note lack of cooperation with treatment visits and other aspects of care. Since parents are part of the team helping to render care to their children, their absence from the office and the communication process would conflict with their desire to continue treatment. Additionally, is it ethical to detract from office productivity to the detriment of the orthodontic staff and the other patients of the practice, who then would be supporting the financial burden of the non-paying family? I don't believe this would be fair. If the doctor and staff were to feel that the welfare of the child superseded the lack of care and concern of their parents, they could elect to continue care to completion and make the parents aware of their obligation. No further efforts would be made to collect the fee. Should the doctor and staff not feel that the patient would be severely harmed and not elect to provide charity care, the patient could be seen on an emergency basis for one month, which is adequate time to obtain services elsewhere. I would remove fixed appliances after the family signed a letter recognizing the lack of case completion, potential problems, and their acceptance of the discontinuation of care.

DR. GOTTLIEB *Suppose you are nine months into treatment of a child whose parents are now instituting divorce proceedings. The father is advised by his lawyer not to continue to pay your fee, and the mother says she cannot afford to pay it. What do you do?*

DR. GELLER In this situation, I would attempt to consult with the family to make them aware of the status of the child's care. I would assume the attorney of the husband is not representing the father pro bono, and I would not feel the obligation to continue treatment of the child pro bono when the child's father has the ability to make payments. I would offer the family the opportunity to discontinue care until someone with financial resources would commit to accepting responsibility, and then resume care. If the situation were not resolved within a month or two, I would discontinue care.

DR. KRUEGER In divorce cases that arise during treatment, I dislike punishing the child by withholding or terminating treatment. If the patient is motivated and compliant, I will continue treatment and worry about payment after the divorce is resolved. If the patient is non-compliant with appointment and treatment procedures and the current dental state is equal to or better than the beginning status, I would consider removing appliances and retaining as is, or transferring if the responsible parties so desired.

DR. THEURER It is not our position to get in between the responsible parties in cases of divorce. I would inform both parents of their responsibility for payment for services being rendered to their child. If neither elects to or cannot work out financial arrangements, then I would recommend that orthodontic treatment be discontinued until such time as specific financial arrangements can be made or the responsible-party situation can be resolved. As always, it is at our discretion to choose to treat a case as a no-fee situation.

DR. WOODEN Although I have continued treatment with no certainty of ever being paid, there is no ethical reason to continue. The situation is sad and is certainly not the child's fault, but I am not obligated to make the problems of this divorce my own. I would treat all parties fairly with open communication, but if payments stop, then with proper disclosure treatment would end.

DR. GOTTLIEB *Suppose you are one and a half years into treatment and there has been little progress due to non-cooperation in keeping appointments, maintaining oral hygiene, and following instructions. You believe the case will never reach a successful conclusion and want to terminate treatment, but the parents have paid most of the fee and want you to continue. What do you do?*

DR. GELLER I am assuming I have spent much time in communicating with the patient and family prior to the point of termination of care. I believe that to continue without progress or hope of progress might be considered supervised neglect resulting in further harm to the patient's oral health. I would discontinue treatment, noting in the record the reasons why. I would give the family the option to pursue treatment in another office. I would charge only for the time and care provided to the point at which the treatment has been discontinued.

DR. KRUEGER If treatment has been underway for 18 months and there has been insufficient cooperation to achieve a successful conclusion, legally I believe there are grounds for a breach of contract and termination of treatment. Ethically, I also feel there are grounds for termination. As professionals, I feel we must not knowingly allow harm to come to the patient. Even if the parents want to continue, the treatment could in good conscience be terminated. If the parents wish to continue treatment and I do not, providing emergency care and a reasonable time to transfer would be a valid consideration.

DR. THEURER If appointments are not being kept or oral hygiene is not being maintained and there appears to be some potential damage to the teeth if orthodontic treatment is prolonged, I would suggest that either the patient be placed on a three-month cleaning schedule with the dentist—in order that some semblance of oral hygiene and oral health can be maintained—or that the appliances be removed and the treatment fee prorated.

DR. WOODEN There is no ethical mandate to continue treatment against all odds, since it is only reasonable that patient/parent cooperation in all areas is essential for treatment success, and this cooperation should be expected and demanded. If a patient does not cooperate in appointment keeping, oral hygiene, appliance breakage, elastic wear, headgear wear, appliance wear, etc., and it is my feeling that no progress is being made, further treatment would cause more problems than any possible benefit, and treatment should be stopped. The key factor is informing the patient and parents and allowing time for improved cooperation. If it does not improve, then treatment should be stopped.

Again, communication is the key in order to inform the parents about the potential damage and problems of continuing without progress. I would discontinue treatment with proper notification and treat the amount paid as I would a case transferring out, using our formula to figure where the amount paid should be, and charge for underpayment or refund for overpayment.

DR. GOTTLIEB *In the same situation, the parents agree to terminate treatment, but want their money back. What do you do?*

DR. WOODEN The position of the parents is unreasonable, since my side of the agreement has been kept. I have performed work, and the only reason for stopping is the lack of cooperation, which is their problem in breaking their side of the agreement. I would explain this to the parents, and if they are reasonable, I am sure that they would agree to some amount of partial payment. However, if they are completely unreasonable, I would probably give their money back, have them sign a release, and be glad to have this type of family out of my practice. For this type of personality, it would be money well spent to be done with them.

DR. KRUEGER I feel that if the patient is non-compliant, the orthodontist is entitled to the fee paid to date. If there appears to be a major problem over the fee, I would refund a portion of the

money and explain that there were nonrecoverable expenses associated with the patient's treatment.

DR. THEURER In the situation where the responsible party wants their money back, I explain to them that we have maintained our portion of the financial arrangement as outlined at the initiation of treatment, but that the overall fee would be prorated based on the anticipated completion date, and if any monies are owed to them I would reimburse them. But I would not reimburse the full treatment fee.

DR. GELLER In my practice we offer no guarantee of results. We emphasize teamwork to accomplish treatment goals, and we discuss everyone's responsibilities prior to initiating care. During active treatment we keep all parties aware of progress or its lack. In this situation, I feel it proper to have the family pay for the care received.

DR. GOTTLIEB *Instead of terminating treatment, would you offer any treatment alternative?*

DR. KRUEGER If I felt that there was no way for me to successfully complete the case, I would explain to the parents that I felt totally uncomfortable with continued treatment, and if they felt so inclined, I would provide emergency care for a reasonable time until they were able to continue treatment elsewhere. Records would then be transferred to the office of their choice.

DR. WOODEN It is difficult for me to see that there would be any treatment alternatives given the circumstances of this question. It has been my experience that someone who has not been cooperating in keeping appointments, maintaining oral hygiene, and following instructions continues with this poor behavior no matter what type of treatment is offered. Therefore, I would not continue with treatment of any sort, but I would hope that with maturity and changing circumstances the patient would be more amenable to cooperate with treatment at a later date.

DR. GELLER If I were convinced that the fam-

ily recognized their failure to participate adequately in the treatment and truly wanted to recommit their efforts, I would suggest the following: Agree to a fee that represents the care provided to that point, and set an open-ended monthly fee for all further care. Agree that if I then see lack of cooperation or progress, treatment will be terminated by removal of appliances or transfer to another practice.

DR. THEURER If the factors limiting treatment are brought into line with the original treatment plan, then continuing orthodontic treatment is an option to be considered. But it is important that the patient be informed of all the alternatives—not only orthodontic alternatives, but dental restorative alternatives as well.

DR. GOTTLIEB *In any of the questions of termination of treatment, does it make a difference to you if teeth have been extracted and spaces are still present?*

DR. WOODEN No.

DR. KRUEGER Termination of treatment when extraction spaces are present is not a real problem for me if the overall health is no worse than the starting status, and retention is placed. Our informed-consent letter covering the consequences of non-completion is signed by all parties, and a copy is retained in the patient's records.

DR. GELLER In cases of extraction of teeth, I might continue to treat long enough to complete space closure and minimize any long-term untoward effects that might negatively affect treatment the individual might seek on his or her own at maturity.

DR. THEURER Where teeth have been extracted and spaces remain, I feel it is in our best interest to continue. However, if the decision is to terminate treatment, documentation is made with regard to the reasons for termination as well as potential sequelae associated with early termination of treatment. Spacing would be considered one of the sequelae associated with removal of

braces prior to the completion of orthodontic treatment.

DR. GOTTLIEB *Is it ethical to refuse to treat a patient at a scheduled visit because the monthly payment has not been made?*

DR. GELLER I would perform the scheduled treatment and contact the family to obtain payment or set up a new financial protocol if desired and acceptable to the practice.

DR. WOODEN It is not ethical to refuse treatment, because this question implies that proper notification has not been given and a regular appointment has been made. It is only ethical to refuse further treatment if the proper steps have been followed, and even then, emergency care must be given during the time before treatment is terminated.

DR. KRUEGER To refuse treatment without prior warning would be ethically questionable. If prior notification has been made, emergency care only would be provided until financial arrangements have been resolved.

DR. GOTTLIEB *A patient presents with a bimaxillary protrusion. You believe the best way to treat this case is to extract four teeth. The patient's parents are against extracting teeth. You agree to treat the case nonextraction and estimate it will take two years. At the end of two years of treatment, the case is not finished, but the front teeth look good and the family wants the braces off. You want to complete the case properly. Should you agree to terminate the case?*

DR. KRUEGER If I felt strongly that it was in the best interest of the patient to treat a bimaxillary protrusion with extractions and if the parents refused to have teeth removed, I would prefer not to treat the case and suggest that they seek treatment elsewhere. If, in a weak moment, I agreed to treatment, I would have to accept the fact that a less-than-ideal result would be expected. If, after two years, the cosmetic results were acceptable to the patient and parents and the family

wished to terminate treatment, the current deficiencies and the possible consequences of not finishing the case would be discussed and documented. If the family still wished to terminate treatment, I would comply with their wishes, but require a termination-of-treatment letter signed by all parties and retained in the patient file.

DR. GELLER I typically explain concerns I have regarding the lack of treatment goals obtained and possible consequences of terminating care prior to the best possible result being obtained. If the family is informed and chooses to terminate care, it is their decision to make.

DR. WOODEN Although I would certainly like to finish the case, the patient and parents have the right to demand that treatment stop. I would educate them as to why the case needs further treatment, hoping that we could continue, but if they demand the braces be removed, I would have them sign a release and terminate treatment.

DR. THEURER If the parents are insistent, the fees have been paid, and they are happy with the completion of the orthodontic treatment to this point, although I myself am not satisfied, I would review the concerns that I have as well as the long-term sequelae, document this, and have the parents sign a release form for the removal of the braces.

DR. GOTTLIEB *Is it ethical to offer a patient who is opposed to extractions the option of trying a nonextraction approach for six to nine months, even if you believe the nonextraction treatment will fail?*

DR. KRUEGER I don't believe that it is ethical to agree to treat a definite extraction case nonextraction when a patient refuses extraction. In a borderline case, I would not be opposed to a trial period of six to nine months of nonextraction therapy.

DR. GELLER I would not initiate care that might worsen the situation without a commitment from the patient and family that extractions would be allowed if the treatment failed or if

periodontal or other concerns would be adversely affected.

DR. WOODEN It is unethical to begin any treatment that does not have a chance to be successful. If I strongly believe that extractions are the only way to treat a case and the patient or parents refuse to have extractions, then I would not start the case, but suggest that they seek treatment elsewhere.

DR. THEURER I do not find it unethical to offer the patient the option of six to nine months of nonextraction treatment in a situation where I feel extractions would be appropriate, as long as this did not compromise overall long-term oral health and the stability of the dentition. A review of the treatment plan should be discussed at the end of the six-to-nine-month trial period, and thorough documentation should be made.