JCO ROUNDTABLE

Ethics in Orthodontic Practice, Part 3

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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 *Is it ethical to try a new technique without telling the patient you have never done this before as long as the technique is minor, such as a newly designed spring you have read about?*

DR. HINESLY It is not unethical to try this spring as long as the mechanical principles are understood and closely monitored, not delegated.

DR. CRAWFORD I do believe it is ethical if I have a good understanding of how it would work; and I would check the patient frequently.

DR. CURTIS I also believe it is ethical to try a new technique without telling the patient you have never done it before, if the technique is minor. We make thousands of decisions as the patient's advocate.

DR. FRANKEL Yes, I think a minor procedure, say a rotating spring, does not warrant such disclosure. Part of being an orthodontist is thinking and innovation.

DR. GOTTLIEB *Is it ethical if the technique is unusual, but has appeared in the literature, such as skeletal anchorage?*

DR. FRANKEL I do usually mention that this is a new approach that has been shown to be successful. Also, in these circumstances, I check the patient at more frequent intervals to get a feel for any reaction. I try to stay away from the real unusual.

DR. HINESLY Often, when a highly unusual technique is utilized there are a unique set of problems. The difficulties of the treatment options must be presented to the patient and to the family dentist. A separate informed consent


Dr. Crawford


Dr. Curtis


Dr. Frankel


Dr. Hinesly

should be obtained prior to the initiation of such treatment.

DR. CRAWFORD I would contact the originator of the technique, and I would discuss it with my study club and others who would be knowledgeable about it.

DR. CURTIS If it has appeared in the literature, but is truly experimental and has not been used on human patients, I do not believe it is ethical to just go ahead and use it without informing the patient of its experimental or unusual nature.

DR. GOTTLIEB *You are one year into treatment in which four bicuspids have been extracted. You take a routine x-ray and notice that there is root resorption on all the anterior teeth. If the resorption is mild, do you inform the patient?*

DR. CRAWFORD Yes. Inform the patient.

DR. HINESLY If the resorption is mild, I would inform the patient and family. Root resorption occurs occasionally with the most carefully planned mechanics. It must be included in the discussion of the other risks and limitations of treatment *prior* to the initiation of treatment. Then, if it is observed during treatment, it will not be a surprise.

DR. CURTIS I would not make a special point of informing the patient about mild root resorption, because the likelihood of mild root resorption occurring is explained to the patient at the beginning of treatment. They need to know that anterior root resorption is, to some degree, typical in orthodontic treatment.

DR. FRANKEL I would notify the patient and remind them of the disclosure film they viewed and the statement they signed. I would also check for any history of injury or other possible etiologies.

DR. GOTTLIEB *Would you continue to treat the patient?*

DR. CURTIS Yes, I would, while monitoring the resorption radiographically.

DR. HINESLY I would continue to treat in hopes of closing the extraction spaces and debanding without a compromised result.

DR. FRANKEL I would continue treatment, monitoring the forces carefully, and re-x-ray in six months.

DR. CRAWFORD I would stop treatment for three months, then restart and take panos every three months.

DR. GOTTLIEB *Suppose the resorption involves a third of the roots of these teeth, and that the parent has been hard to get along with and might even sue you. Do you inform the patient?*

DR. HINESLY I would inform the family at each step of the process.

DR. CRAWFORD This is on our consent-to-treatment form, but yes, I would inform the patient.

DR. CURTIS I believe you have to inform the patient. I don't think the risk of being sued has any effect on the ethical obligation a practitioner has to provide information that may have an effect on the patient's health.

DR. FRANKEL I agree. You still need to inform the patient. I might suggest a blood workup to explore that possible etiology.

DR. GOTTLIEB *Would you continue to treat the patient?*

DR. FRANKEL It depends on the stage of treatment at that time. I would try to do as little as needed to reach an acceptable compromised status. I have never seen a tooth with a resorbed root exfoliate. I feel periodontal problems will affect the teeth before their shortness will.

DR. HINESLY I would consider the amount of space closure that was necessary and decide how to finish. The situation could involve prosthetics to complete treatment.

DR. CURTIS I would only continue to treat the patient if completion of treatment was imminent.

If there was a long way to go, I would explain the problem to the patient and parents and advise them if I thought the risks of continued treatment were greater than the benefits of completing treatment.

DR. CRAWFORD I would stop treatment for three months, even if I was going to continue to treat the patient.

DR. GOTTLIEB *You have referred a patient for the extraction of four first bicuspids. When the patient returns to your office, you note that three bicuspids and one upper cuspid have been extracted. You call the doctor who extracted the teeth, and he asks you not to call this to the patient's attention. You are in the clear. You sent a written prescription for the extractions. Do you accede to the request and not mention the mistake?*

DR. HINESLY I would be adamant with the general dentist or oral surgeon that we should inform the patient about what had occurred. Any changes in the treatment plan or any expected treatment compromises should be discussed at this time. If it were not explained to the patient, inevitably it would be discovered and the problems would then worsen.

DR. CRAWFORD I would inform the patient.

DR. FRANKEL I would probably ask the doctor, "How do you want to handle this?" and ask them to call the patient. If they did not, I would be compelled to bring the matter up in some manner.

DR. CURTIS As an advocate of the patient first and foremost, I would not accede to a request to cover up the mistake, even if the doctor was a good referrer. My first choice would be for the oral surgeon or dentist who extracted the teeth to speak to the patient and parents. If he or she refused, I would tell the patient and parents that the wrong tooth was extracted.

DR. GOTTLIEB *When you told the patient, would you then say that you can deal with it?*

DR. FRANKEL I don't think I would say that exactly. I probably would say that first bicuspids are often utilized in the cuspid position, and I could do that in this instance.

DR. CRAWFORD I would explain how my treatment would change and inform the patient of what I felt my results would be.

DR. CURTIS If I can deal with it, then yes, that is what I would say. If I can't, I would only say that I will do my best to try to make it work. That is just being honest. Putting myself in the role of the patient's advocate is my top priority. At the same time, I would try to avoid creating an adversarial situation.

DR. HINESLY I would mention it to the patient and document the conversation. Then an assessment must be made to determine if the treatment goals can be achieved in spite of the mistake that was made. If necessary, a diagnostic setup should be constructed. If I think the treatment goals can be attained, only then would I inform the patient that I could deal with it.

DR. GOTTLIEB *Would it make a difference if the doctor was a good friend or a good referrer?*

DR. CRAWFORD No.

DR. HINESLY No.

DR. CURTIS No. Ethical decisions should not be governed by finances, friendships, or self-interest.

DR. FRANKEL It wouldn't make a difference, but it has to enter into one's thinking.

DR. GOTTLIEB *Would it change your responses if the mistake did not suit your treatment plan but could be more easily dealt with, as with the extraction of a second bicuspid instead of a first bicuspid?*

DR. CRAWFORD No.

DR. CURTIS It wouldn't change my response. However, when this has happened, I have told the patient that I can work around it and it shouldn't

affect their treatment.

DR. FRANKEL Oftentimes these two teeth are not identical in mesiodistal diameter, creating a problem. So my answer is "no".

DR. HINESLY I would still discuss it with the patient. A determination must be made whether the treatment goals can be achieved with the second bicuspid removal instead of the first bicuspid removal. If any compromise in treatment is expected, it should be discussed with the patient at this time.

DR. GOTTLIEB *If the patient tells you that he or she is going to sue the doctor who performed the extractions, how do you react?*

DR. HINESLY If the patient states they are going to sue, explain to them the compromises in the treatment outcome if any are expected. If the patient understands all aspects they may be less likely to sue.

DR. CRAWFORD If I thought I could deal with the mistake effectively, I would stop and take records to document where I was at that point and ask the patient to give me some time to see if the altered treatment plan was going to work.

DR. FRANKEL I'd say, "Let's see how this works out first."

DR. CURTIS I would reassure them that I will do everything I can to achieve the result they desire. If that does happen, the mistake will have had no adverse consequence to the patient. If the patient was not satisfied with the result, I would try to mediate between the patient and the extracting doctor. If the patient was still determined to sue, I would say that I thought they were making an improper decision that I could not support.

DR. GOTTLIEB *Suppose you made only a telephone request for the extractions and feel you might be at risk if the patient elects to sue. Does that change your decision about disclosure?*

DR. FRANKEL It doesn't change my decision to disclose, but I make every attempt to have a hard copy. In the rare event that it is done over the telephone, I make the recipient repeat the instructions and then I mail or fax them. The worst problem is the office that constantly cannot find the extraction notices.

DR. CRAWFORD I just don't do telephone extraction requests.

DR. HINESLY Written orders would certainly eliminate any miscommunication. Still, all the doctors may be involved in such a suit, including the orthodontist, because the extraction orders originated there.

DR. CURTIS I don't think covering myself or anybody else is appropriate in this situation. We all make mistakes. If they significantly affect our patient's health, we need to do the right thing. Ethics are not negotiable.