

JCO ROUNDTABLE

Ethics in Orthodontic Practice, Part 4

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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 *A patient transfers to your office from out of state. You determine that at least one year of additional treatment is needed. The patient's mother says that the transferring orthodontist has been paid in full, and that he said only a few months of treatment were necessary. Would it be ethical for you to treat the transfer like a new patient and charge accordingly to complete the case and retain it?*

DR. JACOBSON I'd say yes, but it might ease things for the patient if the transferring orthodontist was called to discuss the problem.

DR. OPALKA My first responsibility is to the patient, to clearly explain the reason for treatment, to present a fair fee for the treatment, and then assume responsibility for everything that occurs after the transfer. Also, I feel that the patient should know that my diagnosis and treat-

ment plan is my opinion and is based on my education, training, and experience.

DR. BRANOFF I believe you should explain to the parents what your findings are and what the fee would be to complete the case. Many times, I will call the first orthodontist to ascertain what was said to the family and discuss what we are estimating the amount of treatment remaining will be.

DR. SUTHERLAND I charge a monthly fee based on the number of months estimated in treatment. For transfer patients, I also charge a final records and retention fee. I take progress records prior to starting treatment—panoramic, models, and photos. In this case, I would explain that my estimate for the completion of treatment is 12 months.

DR. GOTTLIEB *Do you feel you have an ethi-*



Dr. Branoff



Dr. Jacobson



Dr. Opalka



Dr. Sutherland

cal responsibility to the profession not to charge a fee?

DR. SUTHERLAND No, I do not feel I have an ethical responsibility not to charge a fee.

DR. OPALKA No. The patient and the first orthodontist have their own professional and financial arrangement. The patient and I will establish our own relationship.

DR. JACOBSON There is no ethical responsibility not to charge a fee, but you might compromise your fee, or the other orthodontist might send you a portion of the fee.

DR. BRANOFF I don't believe it would be fair to my office to accept this transfer patient and not charge a fee. I do believe the first orthodontist may want to accept a compromise in this situation. Also, why is the fee paid in full and the patient still in appliances? Was there a cooperation problem or many missed appointments?

DR. GOTTLIEB *If the patient decides to sue the first orthodontist, what is your ethical position?*

DR. BRANOFF Why is the first orthodontist being sued? Is the issue money or improper treatment? I'd have to know the exact details to decide my position.

DR. JACOBSON I would highly discourage such a suit. I would want no part of it.

DR. OPALKA I would feel an obligation to call the other orthodontist to discuss the case and to explain what I see and why I am recommending my treatment.

DR. SUTHERLAND I would do all I could to resolve it without a suit. I'd call the transferring orthodontist and see if he or she would help defer the cost of future treatment.

DR. GOTTLIEB *Suppose you are the first orthodontist. Under these circumstances, would you refund part of your fee?*

DR. SUTHERLAND Yes.

DR. OPALKA Only if felt I did something that was unjustified and/or improper.

DR. JACOBSON If I felt that additional treatment was needed after speaking to the other orthodontist, I would probably refund a portion of the fee to the other orthodontist after an agreement about the fee.

DR. BRANOFF Many times I have refunded transferring patients part of the fee if the circumstances warranted it.

DR. GOTTLIEB *What are the ethical considerations regarding second opinions?*

DR. OPALKA To clearly explain my diagnosis and treatment plan to the patient and avoid any comments on the other orthodontist's treatment plan even if asked for by the patient.

DR. SUTHERLAND I'd say just to be honest. Treat another orthodontist as you yourself would like to be treated.

DR. BRANOFF I believe every patient is entitled to a second opinion before orthodontic treatment is started or during treatment if that is their desire.

DR. JACOBSON Second opinions are now a way of life. If a difference of opinion exists, I would explain that orthodontics is an art as well as a science, and there are many ways of looking at the same case.

DR. GOTTLIEB *A patient who has been under treatment at a neighboring orthodontic office comes to you for a second opinion. Do you feel there is an ethical requirement for you to communicate with the first orthodontist?*

DR. JACOBSON Generally, I would say yes, but there are some occasions when it may not be best.

DR. OPALKA If I felt it was in the best interest of the patient to contact the other professional, I would do so, but I would tell the patient. Speaking to the first orthodontist without permission of the patient might violate the privacy law.

DR. SUTHERLAND I don't think there is an ethical requirement. However, I do sometimes talk with the other orthodontist.

DR. BRANOFF Any time I see a patient in appliances from a neighboring orthodontic office, I call the original orthodontist. My relationship with the original orthodontist determines what is discussed. At a minimum, I want them to know that the patient is unhappy about something and seeking another opinion.

DR. GOTTLIEB *Do you feel there is an ethical requirement for you to direct the patient to return to the first orthodontist?*

DR. SUTHERLAND Yes, I always recommend they return and try to resolve the situation.

DR. OPALKA After I discuss my findings with the patient, I would encourage the patient to return to the original orthodontist. If they choose not to return, I would then call the other orthodontist.

DR. BRANOFF As long as I feel the patient is being treated properly, I always suggest that the patient return to the first orthodontist.

DR. JACOBSON There are cases where the patient will refuse, but the effort should be made.

DR. GOTTLIEB *If the patient requests to stay in your office, do you accept the patient?*

DR. OPALKA Only if the patient insists they will not return to the other orthodontist.

DR. JACOBSON Generally, yes, but I might communicate with the other orthodontist first to learn the circumstances.

DR. BRANOFF Sometimes the family has had a personal problem with the first orthodontist or a staff member. If they insist they will not return to the original orthodontist, I will accept the patient.

DR. SUTHERLAND I don't usually accept a patient while in active treatment at another office, but I have made a couple of exceptions.

DR. GOTTLIEB *If the patient arrives with the records from the first orthodontic office, but wants to stay in your office, is it ethical for you to keep and use the records?*

DR. SUTHERLAND Yes, assuming no treatment has been initiated. But as I just said, if the patient is currently being treated, I usually do not accept them.

DR. OPALKA I would keep them only with the permission of the original orthodontist.

DR. BRANOFF Since the patient has the records, I assume they were given to them by the first orthodontic office. I also assume they were paid for. Thus, the records should be able to be used for this patient's treatment in our office.

DR. JACOBSON It is ethical to use the records, but I would be a little leery and communicate with the first orthodontist.

DR. GOTTLIEB *You have heard that a crackerjack office manager in a neighboring orthodontic office is unhappy with her job there. Is it ethical for you to approach her about working in your office?*

DR. OPALKA Absolutely not.

DR. JACOBSON I don't think it would be ethical for me to approach her if she's still working for the other orthodontist.

DR. SUTHERLAND I would never contact another doctor's staff member to offer employment.

DR. BRANOFF I wouldn't either, but if that same person answers an ad and says they are unhappy in their job, that is a different situation.