

JCO ROUNDTABLE

Ethics in Orthodontic Practice, Part 6

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Editor's Note: The participants in this discussion are JCO subscribers who were chosen at random. This month's roundtable concludes the discussion of ethics.

DR. GOTTLIEB *A general dentist in your town has been performing orthodontic treatment. You have retreated a number of his cases and believe him to be incompetent. Would you ever discuss this with him, and if so, how?*

DR. BRENNER I feel that ethically you would be obliged to discuss the situation with the practitioner and that there are benign ways of doing this. I think you are on relatively safe ground if you point out that you have retreated certain cases and that it is difficult for you to justify the retreatment without calling into question the treatment previously performed. In a perfect world, the incompetent dentist might take the information to heart and reevaluate his forays into orthodontics.

DR. KORNBLUTH I have had experience in such a case. I chose not to discuss it, since the

general dentist's choice of doing orthodontics was purely economic.

DR. MCGILL If I had a good working relationship with him, I would probably go out to lunch and bring along the case to discuss.

DR. LOVINGGOOD I would not discuss it with him. He already knows he's incompetent, and discussing it with him could hurt chances for future referrals.

DR. GOTTLIEB *A patient of his whom you are not retreating decides to sue the general dentist and wants you to testify as a plaintiff's expert. Do you accept?*

DR. KORNBLUTH I would not testify as a plaintiff's expert, because I have done it and found it one big hassle. You get abused by the



Dr. Brenner



Dr. Kornbluth



Dr. Lovinggood



Dr. McGill

defense attorney. The time involved is out of proportion to the compensation received.

DR. MCGILL If I was not retreating the patient, I would not testify as a plaintiff's expert. I just don't think it would be good for local politics, and might jeopardize my relationship with other general dentists in the area.

DR. BRENNER In the case of a patient you are not treating, I think that your participation is not indicated.

DR. LOVINGGOOD Again, it could hurt chances for referrals, and someday, that general dentist could help you out in the same situation.

DR. GOTTLIEB *If you are retreating the patient, is your decision different?*

DR. LOVINGGOOD No.

DR. BRENNER In the case of the patient you are retreating, I do not see how you can avoid participation.

DR. MCGILL If I was retreating the patient, I would offer my observations on behalf of the patient. I think it would be proper as the subsequent-treating dentist.

DR. KORNBLUTH It would not matter if I was retreating the patient. I still wouldn't do it.

DR. GOTTLIEB *A general dentist in your town who performs orthodontic treatment asks for your help in diagnosis and treatment planning. Is it ethical to become involved in such cases?*

DR. BRENNER I do not think it is prudent for orthodontic specialists to become involved with generalists in diagnosing orthodontic cases. I practice in an area that has its share of dentists doing orthodontic treatment. I enjoy the referrals I do receive from them, so I do not want to turn them off. Also, patients coming from a general dentist who has told them that their case is beyond the scope of his orthodontic expertise are usually prepared for a substantial fee. Therefore, I take the position that a good educator takes, and

that is not to diagnose and treatment plan for them, but to suggest topics or problems that they might want to think about in their diagnosis and treatment planning.

DR. LOVINGGOOD I think it is ethical.

DR. KORNBLUTH I don't know if it is ethical, but I would not help them.

DR. MCGILL This has actually happened to me. I was in a local study club, and a general dentist started bringing a case or two for me to look at after our meeting. Initially this didn't bother me, but I gradually got the impression that he had little or no diagnostic ability. I finally told him if he couldn't tell the difference between an extraction or nonextraction case, he shouldn't be treating the case, and I stopped helping him.

DR. GOTTLIEB *Is it ethical to give gifts to referring dentists?*

DR. LOVINGGOOD Yes. They are my friends as well as referrers.

DR. KORNBLUTH I don't see a problem of giving gifts to referring dentists, for example at Christmas time.

DR. BRENNER It is ethical to give gifts to referring dentists as long as the IRS criteria are met.

DR. MCGILL It is a matter of personal choice. Anything we would give a good referral source would be a mere token of our appreciation. Gifts to non-referral sources are usually viewed as obvious gestures.

DR. GOTTLIEB *You are asked to testify as plaintiff's expert in a malpractice suit against an orthodontic specialist. After reviewing the patient's records and examining him, you believe the patient was misdiagnosed and mistreated and did suffer significant injury. If the defendant doctor were outside your geographical area, would you agree to testify?*

DR. LOVINGGOOD I wouldn't. Someday one

could be in that same situation.

DR. MCGILL If the defendant doctor were outside my geographic area, I would become involved with the case. If the defendant were in my local area, I would not become involved. I think it would be politically unwise.

DR. KORNBLUTH I would not agree to testify in either case. I have done both types of cases, and the legal system makes it very difficult for the plaintiff's expert.

DR. BRENNER I feel that if we are not active in the litigation, arbitration, and review process, we are opening the process up to those who might not have the knowledge of and sensitivity to the profession that we possess as orthodontists. We must be forthright in such situations if the profession is to be credible to the public. That means that somebody has to do it, and while I would like that somebody not to be me, I would agree to testify outside my geographic area. Within my geographic area, I would agree to help with arbitration and review, but I would not choose to testify in formal litigation.

DR. GOTTLIEB *Is it ethical to criticize the*

work of another orthodontist when you believe such criticism may be warranted?

DR. MCGILL I would not comment on their work unless I had spoken with the other orthodontist to determine the case history.

DR. KORNBLUTH I am not sure it is ethical without first contacting the other orthodontist and finding out the details of the case, but I don't think you must refrain from criticizing the work of a fellow orthodontist to the patient or the parents.

DR. LOVINGGOOD I am not the person to pass such judgment. There are always different ways to treat.

DR. BRENNER I would not criticize another practitioner. I often have patients come to my office and ask me if I agree with the treatment or treatment plan of another orthodontist. I operate under the precept that no one sets out to fail, and comment by me is not warranted.

DR. GOTTLIEB *I would like to thank all of our roundtable participants for their thoughtful comments.* □