Issues in Referring to Specialists

A general dentist suggested to the patient that she see a specialist for treatment with dental implants in the 2 and 3 positions. No verbal or written referral was made to the specialist. The patient saw the specialist, who subsequently performed a sinus augmentation with placement of 2 dental implants. Sadly, the specialist did not perform an adequate intraoral examination to know that there was not enough interarch clearance to restore the dental implants. Naturally, the patient was upset and requested her money be refunded. When that did not happen, she filed a lawsuit. Against whom? The specialist and the general dentist.

A Prosthodontist referred a patient to an oral surgeon for removal of failing implants. The Prosthodontist requested “treatment.” The oral surgeon removed the failing, although integrated, implants, and later denied knowledge of a pre-existing treatment plan by the Prosthodontist.

When referring patients to a specialist, the appropriate request should be for an “evaluation.” An evaluation indicates that the subsequent treatment performed by the specialist was performed at the specialist’s discretion, and therefore the treatment was appropriate. The referring dentist is then not legally implicated if the treatment is substandard, inappropriate, or just wrong. However, a referral for “treatment” such as extraction or orthodontic treatment may indicate that a treatment plan has been formulated by the referring dentist, and accepted by the patient. The specialist’s treatment is therefore part of the treatment plan irrespective of the specialist’s findings. This clearly implicates the referring dentist in any subsequent malpractice action.

A specialist’s defense in a legal action may be that he/she was performing the procedure at the direction of the referring dentist. This may not be a valid defense. The specialist has a legal duty to the patient to independently examine the patient and perform treatment based on appropriate clinical findings. Performing a procedure at the direction of the referring dentist is not defensible. The patient has the right to expect any indicated/necessary/elective treatment be done only after the specialist has performed an independent clinical evaluation. The specialist should then act based upon the evaluation and formulating an appropriate treatment plan in consultation with the referring dentist. Otherwise, a subsequent malpractice action can result in a finger pointing argument between each of the doctors involved in the case.

When referring patients to a specialist or any other clinician, it is crucial that the referring dentist do the following: (1) send a written referral for an evaluation with specific instructions; (2) contact the specialist and speak directly to him/her; and (3) document the patient’s record with a copy of the written referral. The referring doctor should document the conversation content to (1) the patient regarding the referral and (2) the specialist regarding the purpose of the referral. It is recommended to follow up the telephone call with written confirmation.

Do not allow a mistake by another practitioner ensnare you in a malpractice action. Document, document, document.

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