

VI. Referrals to the Judicial Council

Dentist Non-Compliance with the Final Decision

In the event a member elects not to comply with the final decision, the CDA Council on Peer Review will refer the matter to the CDA Judicial Council for violation of Section 3 of the CDA Code of Ethics.

1. Procedures to be followed by CDA peer review staff:
 - a. Send the dentist, **by certified mail return receipt mail**, the Dentist Non-Compliance with Resolution Decision Letter (Form #52 - first notice).
 - b. Recall file in ten (10) working days.
 - c. If the dentist complies within the specified time frame, proceed with the case review.
 - d. If the dentist fails to comply by the specific date, staff must contact the dentist by telephone to confirm that the dentist has received the request for the refund.
 - e. If the dentist fails to respond by the specified date, send the dentist, **by certified return receipt mail**, the Dentist Non-Compliance with Resolution Letter (Form #53) – second notice).
 - f. Recall the file in ten (10) working days.
 - g. If the dentist fails to respond by the recall date, send the Council on Peer Review the “Memo Requesting Approval for Referral to Judicial Council.” If the Council on Peer Review approves the referral, send the dentist the CDA Notification to Dentist Referral to CDA Judicial Council (Form #53A).
 - h. If the Council on Peer Review does not approve the referral to the Judicial Council, the case will be returned to staff with instructions about procedures to be followed.
 - i. If the dentist complies with the request at any time prior to the referral to the Judicial Council, the file will be closed and no further action will be taken.
 - j. No further action will be taken by the Council on Peer Review unless otherwise requested by the Judicial Council.

Patterns Of Practice

To identify and process pattern of practice cases, the following procedures will be utilized:

1. When a potential pattern of practice becomes apparent, the Council on Peer Review will consider the case files for only the following:
 - appropriateness for review
 - procedural integrity
 - decision "not arbitrary"
2. As a general guideline, if there are at least three adverse decisions for cases initiated within a twenty-four (24) month period, the pattern is appropriate for referral and the Council on Peer Review will forward the CDA Judicial Council copies of the complaints, resolution letters and resolution addenda.
3. The CDA Council on Peer Review will advise the dentist and the component of the action taken.
4. The CDA Judicial Council may refer the case to the Dental Board of California for its investigation.
5. This process does not apply to utilization cases.

Grossly Inadequate/Inappropriate Treatment

Grossly Inadequate Treatment: Dentistry provided to a patient which does not correct the pathological condition it was intended to correct, or fails prematurely under normal conditions of use, or fails to meet acceptable esthetic standards, or facilitates and/or contributes to the worsening of the patient's dental health, and/or leaves a disease entirely untreated or undiagnosed. However, for the purpose of referral to the CDA Judicial Council, the above

definition should not be so narrowly enforced as to base a referral on only one tooth but rather on the overall evaluation of the work performed or unperformed by the treating dentist.

Grossly Inappropriate Treatment: Dentistry performed that is unnecessary and/or unwarranted. The quality of the treatment need not be in question. This type of treatment can include, but is not limited to; dentistry performed solely for profit; dentistry performed for which the treating dentist is inadequately trained; dentistry performed that leads to a pathological condition that did not exist prior to treatment; and dentistry performed when a prognosis is so poor that immediate failure is readily apparent; or treatment which endangers the patient's general health.

In a situation involving a single case of grossly inadequate or inappropriate treatment, the following procedural steps are as follows:

1. When a peer review committee determines that a single peer review case demonstrates "grossly inadequate or grossly inappropriate treatment," a separate letter regarding possible endorsement of the CDA Code of Ethics should be directed from the peer review committee to the CDA Council on Peer Review at the time the proposed letter of resolution is drafted. A copy of the case file must be forwarded, with the draft resolution letter and resolution addendum, to the CDA Council on Peer Review outlining the basis of the committee's request for referral.
2. Following the expiration of the appeal period or the determination of any appeal of the decision, the CDA Council on Peer Review will review the file. If the CDA Council on Peer Review concurs, the council will forward the CDA Judicial Council a copy of the complaint, resolution letter and resolution addendum.
3. If the component/specialty committee fails to identify and advise the Council on Peer Review of the "grossly inadequate or grossly inappropriate treatment," the Council on Peer Review may refer the case directly to the Judicial Council for possible enforcement of the CDA Code of Ethics, following the expiration of the appeal period or the determination of any appeal of the decision.

4. The Council on Peer Review will inform the dentist and the component of the action taken.
5. The CDA Judicial Council may refer the case to the Dental Board of California for its investigation.

Alleged Fraud Or Billing Irregularities

Examples of irregular billing include submitting a claim to a carrier for treatment not yet completed or for procedures not provided or billing a patient for procedures not provided. In such instances, these procedures should be followed:

1. When a peer review committee determines that a peer review case demonstrates possible fraud or a billing irregularity, a letter should be directed from the peer review committee to the CDA Council on Peer Review at the time the letter of resolution is drafted. The letter should outline the basis of the peer review committee's request for referral for possible enforcement of the CDA Code of Ethics. A copy of the case file should be forwarded to the CDA Council on Peer Review.
2. Following the expiration of the appeal period or the determination of any appeal of the decision, the CDA Council on Peer Review will review the file. If the CDA Council on Peer Review concurs with the peer review committee's recommendations, the council will forward to CDA Judicial Council a copy of the complaint, resolution letter and resolution addendum.
3. If the component/specialty committee fails to identify and advise the Council on Peer Review of the alleged fraud or billing irregularities the Council on Peer Review may refer the case directly to the CDA Judicial Council for possible enforcement of the CDA Code of Ethics, following the expiration of the appeal period or the determination of any appeal of the decision.

4. The Council on Peer Review will advise the dentist and the component of the action taken.
5. The CDA Judicial Council may refer the case to the Dental Board of California for its investigation.

Dentist Drops Membership During Review

In the event a member drops membership during the peer review process, the Council on Peer Review will refer the matter to CDA Judicial Council for compliance with possible reporting requirements to the Dental Board of California. In these instances, the following procedures should be followed:

1. Procedures to be followed by the CDA peer review staff:
 - a. Upon discovering that the dentist under review has dropped his or her membership, CDA peer review staff must notify the patient immediately that the dentist has dropped membership with Notification to Patient of Dentist Dropping Membership (Form #48).
2. Procedures to be followed by the Council on Peer Review:
 - a. The Council on Peer Review will promptly refer the case to the CDA Judicial Council.
 - b. No further action will be taken by the CDA Council on Peer Review unless otherwise requested by the CDA Judicial Council.