



Dan Hubig

Not Following the Law Can Cause Big Trouble

By Dell Richards

Like many small businesses, dental practices often get into trouble because they do not know or follow the law. Whether it is wages and hours, or discrimination and sexual harassment, ignoring the law can end up costing not only valuable time and hard-earned money, but reputation and patients.

Often the little things cause the biggest trouble — “little” things such as overtime, lunches, and breaks.

“Wages and hours is a huge issue,” said Bette Robin, a Covina dentist, who also is a lawyer. “Overtime violations are the Number 1 issue. Lunch is a big issue. There are all sorts of problems that some dentists almost routinely violate.”



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Part of the problem is ignorance, Robin said. The law is complicated and getting more so all the time. But, small business owners sometimes think the law doesn't apply to them. "They think the law only applies to big businesses."

Being paid a salary, for instance, does not make employees exempt from regulations governing workers. The only exempt "employees" are associates. Even office managers don't always qualify.

Dentists often make agreements, as well as assumptions, about salaried employees that are illegal. If someone has to work overtime to do their job, but is not paid overtime, that is a violation of the law. Even if an employee agrees to disregard these laws, that also is illegal.

While it may not matter as long as everyone is happy, all it takes is one disgruntled employee to turn a dentist in.

Once an investigation opens, the California Labor Commissioner can go back three to four years, depending on the statute violated. "They can open the bag to look at all different issues," Robin said. "Then, it's not just a small, isolated problem with one employee. It becomes a much bigger issue with all employees."

Depending on the statute violated, commissioners can check timecards and other documents, which dentists have to supply and take the time to find.

In 2005, the California Division of Labor Standards Enforcement investigated more than 40,000 cases and held more than 30,000 conferences with employers about claims. Of these, nearly 9,000 went into formal hearings as a result of which employees were awarded nearly \$60,000.

In addition to the time and inconvenience, penalties can be quite severe. "The labor commissioner does not have the authority to waive penalties as they did in the past," said Robin. "They must assess them — and they can add on. They can be substantial, many times the original amount owed."

Unfortunately, dentists sometimes think of their employees as a "family." This not only can cause problems with wages and hours, but can end up causing even larger problems with discrimination and sexual harassment. Practitioners may not understand that what is acceptable to them can be offensive to others.

Andrea Rosa, founder of The Rosa Law Group, cited the example of a firm that creates a sense of camaraderie by joking and teasing. The jokes could be off-color, racist, sexist, homophobic, or about certain religions.

While these antics may make the group more cohesive, if jokes go too far, it can cause problems. "The conduct can cause problems," Rosa said. "Joking and being too familiar can be problem, especially if the people don't know where to draw the line."

If a new person is hired, that person may not find any of it funny. People may be hired who could easily take offense to what others may consider commonly accepted dialogue in social settings, entertainment venues, or other situations.

Again, only one person has to file a complaint for the practice to have to pay through the nose. The cost of an investigation, the attorney to resolve or defend a lawsuit, the lawsuit itself can mount up fast. "One complaint can damage a business owner's resources and be an enormous financial burden," said Rosa.

The average cost of an age discrimination lawsuit award is more than \$200,000. Race discrimination awards average \$150,000. Sexual harassment awards have been in the millions.

If a lawsuit is filed, the damage to the dentist's reputation from being in the press can destroy years of credibility. "The damage to a person's reputation can be terrible," Rosa said. "Just being in the newspaper saying a suit was filed can stop people from going to the practice anymore."

That is why prevention is the key. Whether it's having a person who enforces strict rules about wages and hours — or trainings on discrimination and sexual harassment — money spent on prevention is money well-invested.

Even if no one ever files a complaint, an unhappy employee can cost a practice enormous sums of money over the long-run. "Patients are not loyal unless employees are committed and happy," said Kathleen Naganuma, owner of The Naganuma Consulting Group, which does employee and patient satisfaction training and consulting. "Employee interaction with patients directly impacts how the patient feels about the practice."

Because dental procedures are such an intimate experience, people often are anxious when they arrive. How they are treated the moment they walk in the door colors the whole experience. "Having the environment be friendly and calming is critical to the patient's comfort level," Naganuma said. "If the employees are not

friendly and warm, it adds to the feeling of fear and isolation."

Because employees such as receptionists and treatment coordinators are the first and last people to handle the patient, it is crucial for them to shine. "There's definitely a correlation between patient growth and employee satisfaction," Naganuma said.

In a small office, one disgruntled employee has a much bigger impact than in a large worksite.

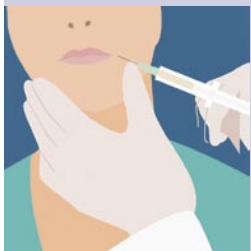
If a dentist has a team of five people and one is dissatisfied, 20 percent of the workforce is going to be fighting management. "One disgruntled employee can disrupt the whole team," said Naganuma. "Most dental practices need to be very careful to make sure that their employees are engaged in the business and committed to its success for the business to run as well as it should."

A practicing journalist, Dell Richards runs Dell Richards Publicity, a public relations firm specializing in dentistry and health care.

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Phase 3 Studies Initiated for Novel Dental Anesthesia Reversal Agent



A San Diego-based pharmaceutical company has begun two pivotal Phase 3 studies for NV-101, a vasodilator that is being evaluated as a local dental anesthesia reversal agent.

"Following receipt of the FDA's written agreement in October 2005 of the design and planned analysis of our pivotal studies through the Agency's Special Protocol Assessment process, we have begun the Phase 3 studies in 24 study sites across the United States," said Donna Janson, president and chief executive officer of Novalar Pharmaceuticals, Inc., a privately held specialty pharmaceutical company. "These sites include leading dental schools, clinical research organizations and private clinics."

Working off the results from the Phase 2 study, which was presented at the American Association for Dental Research annual meeting, the two multicenter, blinded, randomized, controlled Phase 3 studies will assess the safety and efficacy of NV-101 in reversing soft-tissue anesthesia with four leading anesthetics commonly used in dental procedures. Additionally, one Phase 2 pediatric study also is underway in children between the ages of 4 and 11. The three clinical studies are expected to be completed by the end of this year.

"While local dental anesthesia is the most widely used anesthetic procedure, it frequently results in longer than necessary soft-tissue numbness due to vasoconstriction induced by local anesthetic solutions," explained Bruce Rutherford, DDS, PhD, Novalar's vice president, clinical development.

Study Shows Link Between Perio Treatment and Reduced Costs for Chronic Conditions

A study recently found that there is a relationship between treatment of the gums and the total cost of care for several chronic diseases.



The retrospective study of claims data — conducted by the Columbia University College of Dental Medicine and Aetna — included analyzing an estimated 145,000 Aetna members with uninterrupted medical and dental coverage over a two-year period (2001-2002). The results indicated that periodontal care appears to have a positive effect on medical care costs, with earlier treatment resulting in decreased medical costs for those with coronary artery and cerebrovascular diseases, and diabetes. Additionally, the medical costs of care for diabetics and coronary artery disease patients were found to be reduced if they, in the first year of the study, received periodontal care.

“The results of this study are encouraging because they show the connection

between good oral health and overall well-being, as well as illustrating that the early treatment of periodontal disease can help reduce medical costs for these conditions,” said Pat Farrell, head of Aetna Specialty Products. “We believe that in addition to lowering medical costs, we are also helping to improve members’ quality of life. We will continue to work with Columbia to demonstrate ways that dental care can improve the overall health of our members.”

David A. Albert, DDS, MPH, associate professor of dentistry at Columbia University said “Systemic health is often associated with the condition of the oral cavity in that many systemic diseases manifest in the mouth. However, less is known about the connection between a diseased periodontium and the impact it may have on systemic health. The association between periodontal infection and systemic health has important implications for the treatment and management of patients.”

Bilingual DVD on Dental Health Available

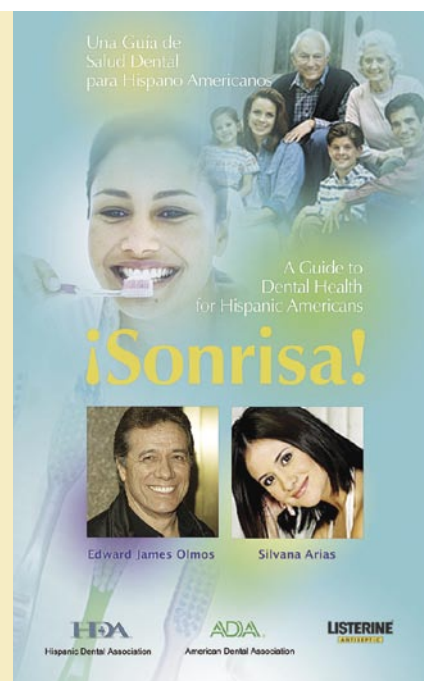
“Sonrisa: A Guide to Dental Health for Hispanic Americans,” designed to assist families in locating affordable dental care and preventing oral health problems, is now available as a DVD and guidebook.

“As the fastest growing demographic group in this country, there is certainly a need to address the oral health care needs of Hispanic American patients,” said David J. Farinacci, DDS, chair of the American Dental Association’s Council on Communications.

The 30-minute program was the first-ever collaboration between that council and the Hispanic Dental Association. Sponsored by Pfizer Consumer Healthcare, Sonrisa, which is Spanish for “smile,” also include tips for parents as well as encourage dental careers for Hispanic Americans. In the DVD, celebrities Edward James Olmos and Silvana Arias explain the significance of good oral health. Both the DVD and the 40-page guidebook are in Spanish and English.

“It’s a thrill to work with the Hispanic Dental Association and see them involve us in educational programs like this,” Farinacci said. “Collaboratively we can accomplish so much more.”

To obtain a copy of the program while supplies last, call (800) 223-0182. For more information about the program, call (800) 621-8099, ext. 2806.



Review Commissioned to Assist in Understanding Lasers

In an effort to help clinicians better understand the clinical applications of the use of lasers in periodontics, the American Academy of Periodontology commissioned a review of the literature on the emerging technology. The paper, "Lasers in Periodontics: A Review of the Literature" appeared in the April issue of *Journal of Periodontology*.

"The increase in promotion of the use of lasers in periodontics has prompted many questions from periodontists, general practitioners and patients," said Kenneth A. Krebs, DMD, and president of the AAP. "This paper will help clinicians sort through the hype and identify the appropriate use of this technology in providing periodontal care."

Fellow member and author of the paper, Charles M. Cobb, DDS, said "The topic of lasers has been condensed to a 'to-use' or 'not-to-use' debate. The issue is really more complicated than that. Each laser has a different wavelength. These various wavelengths can accomplish different things, however, damage to periodontal tissues can result depending on the wavelength and power, and the periodontal procedure that the laser was used to perform. This paper will help clinicians develop an evidence-based approach to the use of lasers in periodontal treatment."

To view the paper online, go to: <http://www.perio.org/resources-products/posppr3-5.html>.

General Dentists Consider Endodontists Trusted Partners

A recent poll of general dentists revealed that unbiased education on the latest endodontic techniques and materials is important to their continued practice.

The American Association of Endodontists surveyed American general dentists last year regarding the realities and perceptions of continuing education of endodontics in the United States as part of its public awareness campaign: "Endodontists: The Root Canal Specialists." The goal of the campaign is to educate general dentists and the public about the value endodontists bring to the dental team.

So while general dentists may differ in how they handle root canals, nearly half of them reported they refer most to all of their root canal cases to specialists. On average, general dentists said they perform only two treatments for root canals per month. Additionally, close to 90 percent of those surveyed responded they are at least "somewhat comfortable" with their overall understanding and knowledge of endodontics, and admitted they would like to learn more.

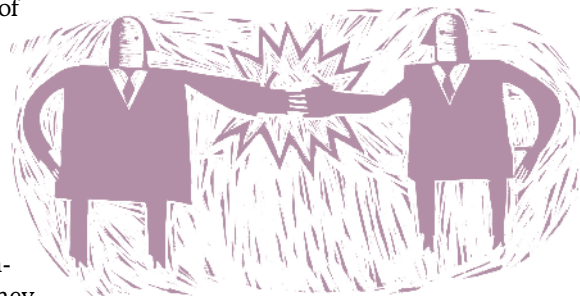
"As any good practitioner, general dentists want to ensure they are providing the highest quality care to their patients," said Marc Balson, DDS, and AAE president. "With up to three additional years of specialized training, endodontists are uniquely trained to perform root canals. This gives us not only

the experience to treat the most complex cases, but to serve general dentists as valuable members of the dental team."

Ninety-five percent of the respondents said they consulted with an endodontist in the year preceding the survey; this is in contrast to more than half of the general dentists who said they did not take any endodontic C.E. courses in the same time frame. The poll also revealed that the respondents viewed professional organizations, such as the AAE, and educational institutions as the most credible of C.E. courses.

Other interesting results include:

- The opinion among general dentists that endodontists are trusted partners in providing high-quality dental care;
- That 72 percent of general dentists believe endodontists are willing to help them learn more about endodontics;
- Roughly two-thirds of general dentists would like to learn from a local specialist; and
- Most interest topics range from endodontic diagnosis and troubleshooting, obturation techniques, and rotary instrumentation systems.



Honors

W. Patrick Naylor, DDS, MPH, MS, has been named associate dean of Advanced Dental Education at Loma Linda University School of Dentistry.



The appointment is effective Aug. 1 and he will be responsible for the organization and administration of the instructional and research activities connected with the program. Naylor is a retired colonel in the U.S. Air Force Dental Corps.

Proactive Approach Recommended for Boorish Behavior

A risk management expert believes dentists should regard their staff members as “front-line risk managers” and quickly deal with fears and grumblings from patients.

“Employees who know the warning signals can give their doctors a ‘heads up’ when patient comments or actions cross the boundaries of appropriate behavior,” wrote Kathleen Roman, risk management expert, in an issue of the *KDA Today*, a publication of the Kentucky Dental Association.

Roman advised that role-playing and discussion helps staff become skilled at dealing with a patient’s inappropriate behavior. Snarky comments about a dentist’s pricing or abilities uttered within earshot of other patients in the waiting



Lee Ann Engle

room can have a harmful effect on the practice. In most cases, staff either laugh it off, which they shouldn’t do, or ignore the comments altogether. However, immediate response to these types of remarks can counteract the effects. For example, responding to a rude comment with “If you have any concerns or questions about the treatment plan, we need to make sure that you and doctor have a chance to talk before your next appointment,” Roman said. Or, in the case of a payment concern, “If you have a minute, I know that our office manager will want to go over any aspects of the payment plan that are of concern to you.”

A proactive approach has several good points. First and foremost, it stops the problem in its tracks and demonstrates to other patients who are listening that any statements are taken seriously. Secondly, it curtails the chances other patients who hear the complaints will make similar comments. And lastly, taking these statements seriously helps the rest of the staff and the dentist prevent potential problems such as stopped payments, lawsuits, or missed appointments.

Upcoming Meetings

2006

Sept. 15-17	CDA Fall Session, San Francisco, (866) CDA-MEMBER (232-6362).
Oct. 7-11	Pacific Coast Society of Orthodontists 70th Annual Session, Honolulu, Hawaii; Oct. 11-13 post-meeting program, Poipu Beach, Kauai; www.pcsortho.org , (415) 674-4500.
Oct. 16-19	ADA Annual Session, Las Vegas, (312) 440-2500.
Nov. 2-4	Hispanic Dental Association 14th Annual Meeting, Universal City, www.hdassoc.org or (217) 793-0035.
Dec. 3-6	International Workshop of the International Cleft Lip and Palate Foundation, Chennai, India, (91) 44-24331696.

To have an event included on this list of nonprofit association meetings, please send the information to Upcoming Meetings, *CDA Journal*, 1201 K St., 16th Floor, Sacramento, CA 95814 or fax the information to (916) 554-5962.