Doctor-Shopping Patient Initiates Long Legal Battle

Mrs. Allegretti was in her 60’s when she first saw general dentist Jake Prince. A friend had referred Mrs. Allegretti because Dr. Prince was less expensive than most other dentists and would do all of the restorative work himself.

Mrs. Allegretti came in for an appointment with Dr. Prince to be evaluated for having a tooth extracted and her bridgework redone. At this first visit, Dr. Prince took a periapical film.

Dr. Prince determined the tooth was badly decayed, and he advised Mrs. Allegretti to have the tooth removed during this first visit. Mrs. Allegretti agreed to the procedure, and though Dr. Prince’s notes did not reflect any details about the extraction, the procedure appeared to be uneventful.

At the next visit, Mrs. Allegretti requested a treatment plan to help restore a number of teeth, so her teeth would “look better.” The clinical examination indicated extensive past dental work, and the treatment plan developed by Dr. Prince involved primarily redoing two bridges in the upper arch.

Patient Says X-rays Already Taken

When Dr. Prince told Mrs. Allegretti he would need to take a full-mouth series of films, she shared that she had these taken in the past couple of months. Mrs. Allegretti said she would bring the films in, and Dr. Prince agreed to use these films instead of obtaining new ones.

During the next several visits, Dr. Prince began work on Mrs. Allegretti’s upper mouth in preparation for the restoration of the bridgework. Dr. Prince prepared a number of the upper teeth and placed temporary bridgework. Dr. Prince again asked Mrs. Allegretti to bring in the full-mouth films, and she assured Dr. Prince she would do so.

Around this time, several notes in the records indicated complaints by Mrs. Allegretti about the temporary bridgework. These reflected complaints of pain and sensitivity, concerns about shading of the temporaries, and comments about their “bulky” feel. However, it was also noted that Mrs. Allegretti was a bruxer, which likely contributed to her difficulties.

After the patient’s fourth visit to receive occlusal adjustments to the temporary bridges—two of which were emergency visits—Dr. Prince felt Mrs. Allegretti needed an evaluation by an endodontist. At this point, he still hadn’t received the full-mouth set of films, and Mrs. Allegretti refused to have new films taken. However, she did agree to see an endodontist—just not the one Dr. Prince recommended.

After Mrs. Allegretti had an appointment with an endodontist, Dr. Jack Beale, she returned to see Dr. Prince. She told him that Dr. Beale
said she didn't need endodontic care. Hearing this, Dr. Prince was concerned about Dr. Beale's evaluation and conclusion—he didn't believe Dr. Beale had removed the temporary bridges to fully examine the teeth.

**Dentist Reluctant to Continue Treatment**

Dr. Prince tried to call Dr. Beale but was unable to reach him, so he told Mrs. Allegretti that until he was confident the endodontic review was appropriate, he would hold off on further treatment.

At this point, Dr. Prince started having additional concerns about treating Mrs. Allegretti. There had been approximately six visits with the patient, half of them on an emergency basis, in a relatively short period of time. This indicated to Dr. Prince that ongoing care would be difficult.

Later that evening, Mrs. Allegretti called Dr. Prince's office demanding to speak with him. She said she was in pain and wanted either an emergency appointment or pain medications. Dr. Prince was not in the office, so his service provided his emergency phone number at home.

When Mrs. Allegretti called the dentist's house and learned that Dr. Prince was not immediately available, she lashed out with profanity at Dr. Prince's wife. At that point, since Mrs. Allegretti was in a stable condition, Dr. Prince told Mrs. Allegretti to find another general dentist to treat her. When he arrived at the office the following day, Dr. Prince recorded in the charts the facts of the case and his decision to discontinue treatment of Mrs. Allegretti.

**Prosthodontist Takes Over Care; Lawsuit Ensues**

The next day Mrs. Allegretti went to Dr. Lev, a prosthodontist who advised her that she had a retained root tip in her mouth from the extraction done by Dr. Prince. Dr. Lev recommended extracting the root tip. He then recommended an extensive (and expensive) treatment plan for restoration of Mrs. Allegretti's mouth.

Dr. Lev performed additional preparations on the upper teeth Dr. Prince had previously prepared. Dr. Lev then referred the patient to an endodontist where she had five root canals on teeth initially prepared by Dr. Prince. Mrs. Allegretti went on to have some of these restorations completed. Months later, she had surgery to remove the root tip. Around this time, Mrs. Allegretti decided to sue Dr. Prince for dental malpractice.

In the course of the lawsuit, Mrs. Allegretti disclosed she had seen at least seven dentists prior to treating with Dr. Prince. Two of these dentists had recommended extracting the tooth that Dr. Prince removed. The records revealed that Mrs. Allegretti's last full-mouth films were taken almost two years before she saw Dr. Prince.

**Records Reveal Multiple Treaters**

Moreover, at the same time Mrs. Allegretti was treating with Dr. Prince, she was also seeing two other dentists. Yet, she never disclosed to any of the dentists that she was also being treated by others.

Not only did Mrs. Allegretti see several treaters before and during her care with Dr. Prince, she also saw a large number of treaters afterward. All tallied, there were 20 dentists and related treaters identified in Mrs. Allegretti's lawsuit.

By the time the lawsuit was filed, it was two years after Mrs. Allegretti's treatment began. This first lawsuit lasted approximately four years, and Mrs. Allegretti went through three sets of lawyers. All three attorneys ultimately decided not to pursue her case.

Eventually, Dr. Prince's case was voluntarily dismissed. This is a process in which a plaintiff has a one-time opportunity to dismiss the case and then refile it within a year. Right before the one-year deadline, Mrs. Allegretti found a fourth attorney to refile her case. In this second lawsuit, Mrs. Allegretti identified an expert who examined her approximately seven years after Dr. Prince's treatment. This expert criticized Dr. Prince for preparing the teeth without a full mouth set of films. He contended Dr. Prince should have known that he left a root tip in Mrs. Allegretti's mouth and advised her of this fact. This would have alleviated the need for five root canals and allowed the root tip to have been removed sooner, with fewer complications.
What Can We Learn?

• **Problem patients.** While hindsight is 20/20, there were numerous red flags about the patient in this case. She came in on an emergent basis for removal of an excessively decayed tooth, yet she clearly had extensive dental work done prior. She wanted to improve the “look” of her teeth rather than the health of her mouth. She was a chronic complainer who seemed to have a low level of patience. She did not follow Dr. Prince’s referral recommendation.

• **Stand your ground.** Though Mrs. Allegretti assured Dr. Prince she would bring in films, Dr. Prince should have waited to treat her until he had them in hand. Another option would have been to contact the previous dentist to obtain copies of the X-rays.

• **Multiple treaters.** Mrs. Allegretti clearly was a patient who hopped from treater to treater. Communication with those prior providers might have revealed some of the problems sooner—before there was an opportunity to find a basis for any criticism.

• **Ending the doctor/patient relationship.** There are reasons, including patient noncompliance, when it is permissible for the dentist to end the doctor/patient relationship. However, this must be done in a legally accepted way to prevent allegations of abandonment.

In this case, Dr. Prince did not take all the proper steps, and he was fortunate this didn’t become another factor in the lawsuit against him. (Please consult with your attorney or the Professional Solutions’ claims staff at 1-800-640-6504 to discuss specific considerations with the termination of the doctor/patient relationship.)

• **Records.** Dr. Prince was thorough in his documentation. Without the records to back him up, his attorney would have had difficulty stating with certainty that his dental care was consistent and within the appropriate standards.

• **Long-spanning case.** Lawsuits can drag on for several years, making the choice of a malpractice insurance company very important. In this case, Dr. Prince’s care was staunchly defended by a solid, well-qualified attorney and expert, and he was ultimately successful after a twelve-year battle.

• **Consent to settle.** In this case, Dr. Prince strongly believed he provided the appropriate care and treatment, and he wanted to have his day in court rather than settle the case. Fortunately, his malpractice insurance company backed him up. At Professional Solutions, no case will be settled without your specific agreement. This ensures that you have every opportunity to defend your good name.
Q: My practice is located in a community where there are two other dental groups. I frequently have new patients bitterly complain about dentists in the other groups, one in particular. The patients cite their former dentists’ “incompetency” as the reason for coming to my group. I am hesitant to agree, but wonder how I should handle these remarks.

A: Your hesitancy is prudent. It is never a good idea to second-guess, disparage, criticize or “bad-mouth” another dentist, physician, healthcare provider or group to a patient. It’s not professional, and your criticism may fuel the patient’s dissatisfaction and perceptions of negligent treatment. If the patient had thoughts of pursuing litigation, any validation from you may send the patient straight to an attorney’s office.

Many a lawsuit has been born out of a subsequent practitioner making incendiary remarks such as: “Well, it’s a good thing you came to me when you did” and “I’d NEVER refer my patients to THAT dental group.”

Keep in mind that you are only hearing one side of the story. The patient’s opinions may be based on a number of factors and be very subjective. It’s a good idea to avoid being drawn into these types of discussions, if possible. If you find it necessary to respond, try to maintain a neutral position with comments like: “There are different ways a dentist can approach this problem,” or “I have a different practice style and philosophy than Dr. X.”

Just as in any relationship, incompatibility can occur in a dentist/patient relationship. Some patients are just not a good match for a particular treatment approach, communication style, etc. In these cases, the patient can become dissatisfied and not comply with prescribed treatment, resulting in less-than-optimal treatment outcomes.

Dentists who feel that incompatibility is interfering with their ability to provide a patient with appropriate care should consider recommending that the patient find another dentist. The proper procedure for discharging a patient must be followed to avoid allegations of abandonment.

If there are repeated complaints from patients about substandard care received from a certain dentist or group, however, don’t ignore them. Obviously, these types of situations should be approached cautiously and only when there is concern about the overall quality of care and patient safety.

If you are sufficiently concerned, however, it may be necessary to take the next step. Your state’s dental association staff may be able to confidentially advise you on whether to take the issue before the dental board, and if so, the best way to proceed.