

## Dental misconduct

Thomson Snell & Passmore has recovered compensation from a dentist found to have altered patient's records.

Miss M was aged six when she was found to require the extraction of four lower front milk teeth to allow her adult teeth to grow as they had erupted without dislodging the milk teeth. She was referred by her regular dentist to another with sedation facilities because of the nature of treatment required.

When the mother saw her daughter after the treatment she was shocked to discover that four upper front teeth had been removed instead of the four lower teeth. The dentist tried to placate her by suggesting that the teeth he had extracted were close to falling out anyway. He showed her the referral form which he claimed the referring dentist had completed incorrectly. When the mother subsequently saw the referring dentist she was assured that the form had been made out correctly. The referring dentist then passed details of the matter to the General Dental Council (GDC).

Following our instruction the defendant dentist refused to respond meaningfully to correspondence insisting that he needed access to original records and not merely copies. He also fought the complaint which resulted in the matter being listed for a professional conduct committee hearing before the GDC. He then used this as a further excuse to refuse to respond to the allegations set out in the letter of claim.

We were not prepared to accept such an approach and therefore issued proceedings. A defence was due four weeks after the GDC hearing which ran for a full week. Witnesses called to give evidence for the complainant included the mother, the grandmother (who also accompanied the child to the clinic for the treatment under reference), the referring dentist, an independent dental expert and a handwriting expert. The allegations included:

- failing to read or understand the referral form
- failing to undertake his own examination
- failing to discuss with the mother the obvious problem with the lower teeth
- failing to obtain informed consent and
- dishonestly altering documentation to mislead and place blame elsewhere.

This was a rare but sadly not unique example of a clinician altering records to disguise an error.



This case was handled by Jonathan Herbert, Legal Executive, Clinical Negligence & Personal Injury.

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## Dental misconduct Continued...

Each allegation was found to be proved and the defendant dentist found guilty of serious professional misconduct.

“The committee is dismayed that you have persisted in denying that you were responsible for altering this document. You have demonstrated no insight into the seriousness of the position in which you find yourself..”

Once his time to appeal expired, he was to be suspended from the dentists’ register for 12 months and encouraged to apologise to the mother and referring dentist. The dentist’s initial stance after the hearing was to seek further time to prepare an appeal. In fact he neither appealed nor apologised. Soon after the appeal deadline expired the Dental Defence Union settled the case for £3,500 and costs.

This was a rare but sadly not unique example of a clinician altering records to disguise an error. The conduct was particularly reprehensible as it was obvious that a colleague was likely to be blamed for the error and the persisting denial of liability, delay and failure to apologise was amongst the most shameful conduct we have come across. In the circumstances it might be thought that the sanction was mild. Nonetheless the GDC hearing generated significant interest in the local press and the mother has been contacted by a number of media companies wanting her story.

The case is also an example of two remedies running in parallel. The GDC is empowered by Parliament to oversee the regulation of all dental professionals in the UK as well as being responsible for handling complaints on very similar principles to those employed by the General Medical Council (GMC). We can assist patients with complaints to the GMC or GDC but are not often called on to do so as those bodies tend to be interested in negligence only where the conduct is so bad as to raise a question over a clinician's fitness to practise.

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