Legal Bite Question of the Issue

A Favor?

By Frank Recker, DDS, JD

Q: I recently encountered a situation where a patient I had seen occasionally over the years, primarily for intermittent emergency care, experienced pain and a slight swelling in the lower submandibular area, probably from a “bombed out” lower molar or bicuspid. This happened over a weekend, so the patient sought medical care from a free-standing local health facility. After a lengthy, laborious, and long wait, he was seen by an MD who looked in his mouth and wrote a prescription for an antibiotic, simply advising the patient to “see his dentist” on the following Monday. On the following Monday, against my better judgment, and at the patient’s insistence, I took a panorex x-ray and extracted tooth #30. I did not perform a CT scan (I don’t have one). I would have preferred to have an oral maxillofacial surgeon (OMS) take a CT scan and determine the extent of the soft tissue involvement in case a drain or other measures should have been taken to prevent a rapid spread of the infection. But I had hoped the simple extraction with more antibiotics would resolve the situation. Five days later, after my extraction, the patient ended up in ICU and eventually recovered from a serious Ludwig’s Angina, after several surgical interventions. I’m told the patient is now searching for an attorney. Am I at fault?

A: Your situation underscores several dentist/patient risk management issues.

First, don’t be pressured into undertaking any treatment with which you’re not comfortable performing. You likely felt compelled to assist the patient and do what he wanted (extraction), especially since the MD advised him to “see your dentist.” But every practicing dentist should at least be familiar with a potentially life threatening sublingual/submandibular fascial space infection. You did not have a CT scan available, and you were probably reluctant to refer the patient out for comprehensive testing, perhaps because you knew the patient had already seen an MD, who had performed no surgical treatment. You likely then concluded such wasn’t necessary. So you wanted to make the patient happy and believed the infection could be managed by extracting the tooth.

But, never compromise your good judgment because someone wants a favor, or you feel pressured to do so. This patient likely needed surgical intervention via a surgical drain in the oral and/or submandibular area. It is possible a culture, IV antibiotics, or other measures were also required prior to or simultaneous with any attempt to perform one or more tooth extractions. Remember that, although the patient may not agree, you are rendering the best care when implementing your own judgment, including referring to
an OMS in any uncertain infection situation that has great potential for serious complications. If suit follows, the respective experts will opine on whether or not, considering all the facts and circumstances, your treatment comported with the standard of care, and if your treatment was causally related to a spread of the infection and the need for ICU care.