Legal Bite Question of the Issue

Medicaid Trap?

By Frank Recker, DDS, JD

Q: I have a large Medicaid practice as a result of my location in a poorer area of the state. But there is no oral surgeon who accepts Medicaid within 50 miles of my office. As a result, referring a Medicaid patient to the oral surgeon results in a delay in definitive treatment of about a month or more. Many of these referrals have serious infections accompanied by severe pain. In order to minimize their pathology and pain, I have been prescribing, on a weekly basis, narcotic pain meds and antibiotics. I do make them come into my office for an exam and these prescriptions, for which Medicaid does not reimburse me. My state licensing board is investigating my prescribing practices and the number of narcotic prescriptions written for these patients. How do I take care of patients who are caught in this “Medicaid trap” without putting my DEA permit or dental license in jeopardy?

A: This is a very difficult question to answer! A patient deprived of oral surgical care because of their dependence on public assistance is placed in a no-win situation. In attempting to treat their pain and infection on a long-term basis, you also risk scrutiny by a pharmacy board, the DEA and the state dental board. But they are your patients and you don’t want to abandon them, but you could risk allegations of “substandard care” for too many prescriptions, or if you refuse to treat their emergent condition until an oral surgeon is seen. It’s a catch 22.

I think the best route is to develop an informed consent, which advises the patient of the realities of the referral situation and your limitations on long-term pain meds, in addition to any other potential options they might have. Such might be a local hospital with an oral surgeon on call, a payment arrangement to obtain immediate oral surgical care if possible, or referral to another dentist who performs more involved surgery, but who also accepts Medicaid.

I would also consult with your dental board regarding your situation and any suggestions or guidelines they might have. You are to be applauded for caring for these patients, but you simply cannot do so if it puts your license in jeopardy. Too many times I have witnessed dentists who have performed such “good deeds” only to later experience the adage “no good deed goes unpunished.”