Legal Bite Question of the Issue

Is It Worth Your License?

By Frank Recker, DDS, JD

Q: A patient absolutely insists that I perform the treatment she needs in the upper anterior quadrant, including perio, implant and restorative, but refuses to accept any treatment recommendation for the posterior quadrants. In other words if you can't see it, she isn't concerned about it, even in the presence of active disease. As long as I tell her she definitely needs the posterior work done and she signs a statement that she understands this, can I move forward and only focus on her “front teeth?”

A: Patients cannot consent to negligent treatment. Your duty is to practice within the standard of care and the standard of care requires you to exercise your professional judgment in a prudent manner. Unless the standard of care for her overall oral health does not require that the posterior work be performed first, you are okay. BUT, if the standard of care in the dental community would conclude that you were negligent in not first performing the posterior dental procedures, either for dental or medical reasons, you could be deemed liable both from a civil malpractice standpoint and, even worse, a state dental board.

My suggested response to any such inquiry is to calmly state that while you understand the desire to treat “area A” first, your licensing board could consider doing so below the standard of care and put your licensee in jeopardy. You simply have too much invested in your license to risk losing the right to practice your profession by ignoring your professional judgment. If that doesn’t cause her to change her mind, she should be told that you simply cannot treat her. I have seen multiple dental board cases where accommodating such a patient gives rise to an appearance of treating solely for financial gain, and a breach of the standard of care.