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Malpractice, Even in Conditions of Compliance with the Rules of Dental Ethics

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***Abstract*—**Despite the existence of different dental specialties, the dentist-patient relationship is unique, in the very fact that the treatment is performed by one doctor and the patient identifies the malpractice presented as part of that doctor's practice; this is in complete contrast to cases of medical treatments where the patient can be presented to a team of doctors, to treat a specific pathology. The rules of dental ethics are almost the same as the rules of medical ethics. The appearance of dental malpractice affects exactly this two-party relationship, created on the basis of professionalism, without deviations in this direction, between the dentist and the patient, but with very narrow individual boundaries, compared to cases of medical malpractice. Malpractice can have different reasons for its appearance, starting from professional negligence, but also from the lack of professional knowledge of the dentist who undertakes the dental treatment. It should always be seen in perspective that we are not talking about the individual - the dentist who goes to work with the intention of harming their patients. Malpractice can also be a consequence of the impossibility, for anatomical or physiological reasons of the tooth under dental treatment, to realize the predetermined dental treatment plan. On the other hand, the dentist himself is an individual who can be affected by health conditions, or have vices that affect the systemic health of the dentist as an individual, which in these conditions can cause malpractice. So, depending on the reason that led to the appearance of malpractice, the method of treatment from a legal point of view also varies, for the dentist who committed the malpractice, evaluating the latter if the malpractice came under the conditions of applying the rules of dental ethics. The deviation from the predetermined dental plan is the minimum sign of malpractice and the latter should not be definitively related only to cases of difficult dental treatments. The identification of the reason for the appearance of malpractice is the initial element, which makes the difference in the way of its treatment, from a legal point of view, and the involvement of the dentist in the assessment of the malpractice committed, must be based on the legislation in force, which must be said to have their specific changes in different states. Malpractice should be referred to, or included in the lectures or in the continuing education of professionals, because it serves as a method of obtaining professional experience in order not to repeat the same thing several times, by different professionals.

***Keywords*—**Dental ethics, malpractice, negligence, legal basis, continuing education, dental treatments.

I. Introduction

THE dental treatments range in both type and their quality. Along with these differences, there is also a tendency to increase malpractice, whether intentional or not. In these conditions, the dentist must be aware of the legal basis for the evaluation of the malpractice that has occurred [1]. The minimum legal knowledge on this subject allows to conceptualize the reason for the occurrence of the malpractice, whether it is based on professional negligence, or due to the concept “that's all I know and I can't do more” from a professional point of view for the presented clinical case.

The legal approach varies in different conditions to the clinical cases mentioned above. There is a different reaction against professional negligence, where the dentist "tolerated the pathology, or intervention" and everything got worse, and a different reaction against the fact that the dentist did not know professionally how to intervene for the presented clinical case. It is noted that the legal approach is different for the different clinical situations of malpractice [2]-[4].

The dental profession has some clinical cases that tolerate intervention after the appearance of malpractice, with the sole purpose of repairing the damage done to the patient, which can only be cost damage, treatment time, but also emotional damage, involvement in psychological damage, appearing in the affected patient. These interventions or opportunities for recovery intervention are more frequent advantages for dental specialties, than for medical specialties, because sometimes malpractice in medical cases can be even dangerous for the loss of the patient's life. Even the dentist's approach for recovery or dental repairs caused by malpractice are offered at no cost, or at minimal cost to the patient, to welcome the latter's approach of accepting the mistake made with the appearance of malpractice [1]-[3].

Placing the patient's interest as a priority, sometimes seems to be a characteristic of this extremely individual dentist-patient relationship, which sometimes, depending on the character of the dentist, exceeds the appropriate goals, being accompanied by pronounced hangs of conscience even for minimal things as a result of dental malpractice, such as the fall of a filling, the repair and recovery of which is rather minimal, without consequences for the patient, is understood from the patient, no-affecting any rule of professional ethics by showing the reasons and without hiding the fact.

The sensitive regulators of this very close dentist-patient relationship are the professional Codes of Ethics, with minimal changes according to different states, this presented with the additional legal interventions needed as regulators of this relationship and created or borrowed, following an episode of malpractice presented, or occurred, regardless of the fact that the case of malpractice occurred in full compliance with the

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rules of the dental ethics code [3].

II. Main Text

Malpractice should not be confused with complications of dental treatments. The conception of patients in some cases for both these concepts is sometimes confused. It is one thing to injure intentionally or unintentionally, and it is another to treat and during the treatment, a complication appears with a probability of occurrence that is also supported by the sources of the published literature. This is the moment when the dentist can be the "prey" of the patient's attack to take advantage of the presented case. Perhaps this is also the reason why patients faced long consents to be read and then signed, before the relatively not very invasive treatments. Currently, the consents for dental treatments are long, very long, and describe in detail all the possible complications of dental treatments, even those complications with a low incidence of possible occurrence, so that the professional who will offer the dental treatment is protected from legal side, because the patient was informed before the treatment started.

The consents are long, and sometimes due to the space effect on the patient's cards, they are written in small, tiring letters for the patient. Here it is the patient who falls "prey" to the dentist. The value of consent, especially when it is written and non-verbal, is never underestimated in the light of the clinical reality of the occurrence of dental complications, but according to clinical cases, it can also be used in cases of dental malpractice. Malpractice can be misunderstood or misinterpreted as a complication of the dental intervention performed on the patient [4].

The understanding and difference between these two phenomena on the part of the patient, accompanied by the increase of knowledge again on the part of patients, about their rights and protection in cases of malpractice, is the phenomenon that goes parallel to the awareness of dental professionals about being honest and reflecting, communicating with the patient and explaining whether what happened during the dental treatment was malpractice or a complication.

Concealment of facts and misinterpretation for the benefit of the professional, hiding under what is written in the part of the consent, cannot have positive results. Studies conducted at the national level show the awareness of patients in understanding their rights in order to protect against dental malpractice. The patient's right ends where the professional's right to defend and explain malpractice begins [5].

Dental prosthetics is the dental specialty where malpractice is most pronounced and the most frequent phenomenon, followed by the specialty of endodontics, despite the individual experience of the professional. These two specialties do not have much in common with each other. If for dental prosthetics it is assumed that missing tooth crowns are reconstructed with a good-visible field of view and operative field, in the specialty of endodontics, work is done with tactility on the "foundations of construction", on the roots of the tooth where it is worked, but with a limited field of view, using tactility and professional intuition.

If in prosthetics importance is given to the retention of the prosthetic reconstruction regardless of whether it is fixed or mobile, summarizing the forces that are applied to it and how they are transmitted to the oral mucosa or to the abutment teeth, in endodontics the approach and manual skills of the professional are evaluated, for manipulated in minimal operative fields under high sterility conditions [6]-[8]. But, despite the professionals' experience of over 10 years, it has been noticed that exactly these two specialties show a high level of malpractice, since the degree of probationary difficulty is higher.

The above data are based on published literature sources [5]. Deviation from the previous treatment plan can be called a professional error, because the error deepens if the treatment plan is not initially based on the correct diagnosis and correct use of oral examination techniques. These techniques include the necessary tactility techniques, probing, inspection, and percussive, but there are also techniques that are auxiliary and non-obligatory, such as radiography. Malpractice is also when the dentist makes the wrong decision as to whether additional examination techniques should be applied or not, before setting the dental treatment plan [8]-[10]. This is very specific according to the different dental specialties, that it is understood that the importance of taking radiographs before endodontic treatment is in the consciousness of every dentist regardless of the specialty, but the importance of radiographs before periodontal treatment of curettage of localized pockets in a group of teeth is not understood by every dentist, if he is not specialized in periodontal treatment, and so, he should be specialized in periodontology [10]-[13].

Let us get involved and take an example of a dental procedure, for example, teeth whitening. The rules of dental ethics include the non-implementation of this procedure for certain ages of patients who request it, and in the meantime, we present a presentation of this procedure as follows: The treatment of dental whitening of teeth is mainly classified depending on the type of procedure applied, whether it is performed near the dental chair or in home conditions. Another classification is also depending on the tooth where the whitening is performed, in devital teeth or in vital teeth.

Being included in this subclassification, the literature has a considerable number of articles already published to collect the appropriate information on the latest news in the progress and modulation of materials applied to both clinical cases. [5], [7], [12], [26].

Depending on the classification of the teeth whitening method, different years of initial applications are referred to for each of the methods. The methods of whitening non-vital teeth were applied for the first time in 1848, this year also marks the beginning of the application of whitening procedures. In the whitening of non-vital teeth in the history of this procedure is the placement of hydrogen peroxide in the form of 35% gel, and its activation with the head of a heated instrument, right in the pulp chamber [10]-[13]. This procedure is no longer performed and is not indicated. About 20 years later, the application of bleaching to vital teeth began again.

In 1868, vital teeth whitening techniques were started both in the dental clinic and in home conditions, i.e., for teeth

whitening with procedures that are applied at night. The color of the tooth should be an expression of the interaction of the hard structures of the tooth. It is known that the color of the tooth is typically the color of the dentin, which is reflected by the transparent enamel. This fact, which is closely related to race or facial features, must be made clear to the patient. Darker hair color is associated with whiter tooth color and lighter hair color is associated with darker yellower tooth color.

The colors that occur on the external surface can be classified depending on the positioning in relation to the surface level, i.e., they are colors with superposition on the surface of the tooth, such as for example plaques or stains from the remains of the Nasmyth membrane, or colors as a result of deposition of food waste inside the scratches of the enamel surface.

The internal staining of the teeth has as etiological factors mainly the endodontic treatments of the involved tooth. The enamel, being transparent, reflects the color of the dentin, which inside the dentinal tubules has absorbed pigments of dental materials used for endodontic filling, or pigments of pulpal hemorrhage during pulp extirpation in cases of acute pulpitis. Here is an example of internal stains on devital teeth. In vital teeth, the best clinical example to explain that the internal color is the deposit of tetracycline, is the treatment during the pregnancy of the patient's mother, or in the patient himself at a young age, precisely at the time of the formation of follicles of the permanent tooth. The color of tetracycline is in different tonal variables starting from yellow, to gray and blue [15]-[18].

In this picture, one can very well see the change of attitude towards this procedure and the approach of the professionals to the correct or incorrect performance of this procedure.

III. Discussion

It has to be evaluated whom of the two individuals in the dentist-patient professional relationship is the "prey" of each other in the face of malpractice [14]-[16]. Not only the patient should be seen as at risk and should the professional be punished based on civil or criminal law for the malpractice caused [8]. Professional ego is expressed by many articles written on successful dental treatments in almost all areas of dentistry.

There is more and more talk about the success of dental treatments, success that is again seen as the individual success of a dentist, in the face of a reduced tendency to speak and write articles about malpractice cases, regardless of its type, as a result of negligence or as a result of the lack of professionalism [11]-[14]. With the aim of making the dentist's profession not only supportive in the basics of individual professional skills, each dentist should take part in continuing education, always performing dental treatments in full implementation of the dental ethics code, with the aim of achieving a healthy patient-dentist relationship [15].

Malpractice among professionals is often driven by the desire to satisfy their professional ego by showcasing how they have successfully resolved a case of malpractice. However, there is sometimes a confusion or misunderstanding between malpractice and complications. Professionals also seek fulfillment by showcasing their expertise in handling clinical cases with complications, presenting lectures on relevant topics at conferences, and publishing their experiences in reputable online literature [15]-[18].

Based on what was described about the “professional ignorance”, as one of the reasons for causing malpractice, this kind of malpractice should be that type of dental malpractice, which should penalize dental professionals, more from the point of view of professional continuity [17]-[19]. Organizations such as the Order of Dentists should be normally the controller of these cases of abuse based on professional ignorance or professional negligence [20]-[24].

Both types of malpractice mentioned above lead to the failure of dental treatment due to the violation of well-defined dental treatment protocols [21] But, it is good that these cases become known in the continuing education programs of professionals, not with the specific name of the guilty dentist, so that the reference serves as negative marketing for the dental professional, but with reference to what happened and the reason why it happened, with the aim of not repeating it, if possible, by other professionals [22]-[26].

IV. Conclusion

The courageous dentist in his profession, who undertakes the solution of difficult cases, is not excluded from facing various complications to the dental treatments performed by him, but this professional dentist cannot become a victim of malpractice, if the treatments he receives are based on sound theoretical-practical bases of the profession.

Malpractice can appear at minor levels such as occasional deviations from the predetermined dental plan. Malpractice must be judged based on the reasons for its occurrence, reasons that start from professional negligence, professional ignorance, but also from the health inability of the dental professional, as a human individual.

The awareness of the previous generations of dentists towards malpractice is carried out by presenting the cases of malpractice with the sole purpose of learning and not repeating once caused cases of malpractice.

Ethics Approval and Consent to Participate

The local ethics committee ruled that no formal ethics approval was required in this particular case. This study was submitted to and approved by Albanian University Institutional Ethics Committee, date 12.11.2022, Tirana, Albania, according to national regulations.

Availability of Data and Materials

The datasets analyzed during the current study are available from the corresponding author.

Competing Interests

The authors declare that they have no competing interests.

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