Orthodontics occupies a very interesting position within the dental legal landscape, raising some issues that are peculiar to the specialty and others that are manifestations of wider issues that exist throughout dentistry. At one extreme it shares many of the medical-legal complications of treating children (in areas such as consent and the limitation of commencement of legal proceedings), while at the other it shares some of the risks that are associated with elective, cosmetic procedures carried out for adults.

**Facts and myths**

It is a popular myth that orthodontics rarely results in complaints and litigation, and a further myth is that orthodontic specialists encounter virtually no dental legal problems. It is true that the majority of cases involving orthodontics, arising from non-specialist practitioners who have not undergone any recognised formal training, are paraded in front of us into practice, where a series of finals is passed whilst complaining that patients are paraded in front of us.

The filter principle: Is every patient a finals patient?

**By Simon Hocken, UK**

“One work is to fill a large part of your life, and the only seep to be truly satisfied is to do what you believe is great work. And the only way to make your work substantial is if you don’t settle. As with all matters of the heart, you’ll know when you find it. And like any great relationship, it just gets better and better as the years roll on. So keep looking until you find it. Don’t settle.”

Steve Jobs, CEO of Apple Inc. in 2005

You remember finals, don’t you? Of course you do. Your examiners carefully selected a patient(s) for you to examine and diagnose and for whom you then presented a treatment plan. The finals patients were unlucky enough to have more than one dental problem and were usually bedded on finding all of them and your ability to determine a set of solutions for the patient. Afterwards, most of us headed off into practice, where a series of finals patients are paraded in front of us on a daily basis. Now these patients willingly pay us to make our profession financially viable but there’s more mileage in this.

The filter may have some or all of these components:

1. Will the patient like me if I tell him about all of this?
2. Will the patient come back if I tell him about all of this?
3. Will the patient be willing to pay for all of this?
4. If I persuade the patient to have the treatment plan, what happens if it goes wrong?

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The more technical the specialty, the less likely it is that patients will be in a position to judge the technical aspects of the treatment and its outcome. As a result, they will tend to judge the treatment by reference to other criteria and not least, by comparing what is being achieved, against what they had been led to expect. Not surprisingly, given the nature of orthodontics, more than half of all cases are concerned with appearance, cost and the length of time it takes.

What goes wrong?

There is a difference between the technical and clinical deficiencies and failures in orthodontic treatment that would be apparent to experienced colleagues working in the same field, and the deficiencies and failures that are more visible to, and more easily understood by patients (or perhaps their parents). Because of this, the problems of the latter variety are more likely to result in a patient complaint and therefore have the potential to give rise to complaints and claims.

In our experience, the overwhelming majority of cases arise primarily as a result of deficiencies in the initial diagnosis, case assessment and treatment plan. Most of those cases in volve non-specialists because this is where the additional knowledge and experience of the specialist orthodontist pays dividends, and also where the non-specialist can sometimes run into problems which could be said to result from an underestimation of the complexities of the case, and which treatment approach is most likely to result in the desired outcome.

Dento-legal issues in orthodontic cases

**By Drs Kevin Lewis and Jane Merivale, Dental Protection**

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**Science & practice**

Dental Protection is a company providing professional indemnity for the overwhelming majority of dentists in Singapore. Dr Kevin Lewis (Dental Protection) and Jane Merivale (Dento-legal Adviser), are regularly managing cases here and elsewhere in the Asia Pacific region. Today, they provide a two-hour session in explaining where complaints and litigation tend to arise in orthodontics.

"We agree to compromise our professional skill set and integrity in order to be liked.”

Specialist orthodontists have most of their problems in the areas of communication and consent—which includes communication with professional colleagues as well as with patients and in the case of children, their parents. In many instances the problems from this source are compounded by incomplete or inadequate clinic records of the communication and/or consent process. Non-specialists can become much more likely than specialists to create problems relating to the technical aspects of the treatment itself.

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