

Malpractice Minute

December 2013

Instrument Slips Down Patient's Throat, Resulting in Multiple Surgeries

Mario Catalano, DDS, MAGD

Background: This edition of *Malpractice Minute* discusses the hazards of failing to use all available safety measures when performing endodontic treatment. Injuries are more likely to occur when available precautions are not utilized.

Case Discussion: The patient was a 10-year-old child who had a history of behavioral problems in the dental treatment setting. The child's mother presented him for an evaluation of tooth number 3. The tooth in question had a large carious lesion and radiographic evidence of periapical pathology — and it was painful.

After noting swelling in the area, the young dentist (who was in her second year of practice) explained the treatment options to the patient's mother, prescribed an antibiotic, and scheduled the patient for endodontic therapy.

The patient arrived as scheduled for his appointment, which was late in the day to accommodate his school schedule. When he arrived, the patient appeared tired and somewhat apprehensive.

After infiltration with a local anesthetic, the doctor attempted to place a rubber dam. The patient was intolerant of the dam, and he continued to resist the doctor's attempts to place it. She finally put the rubber dam aside and decided to perform the procedure without the benefit of the rubber dam isolation. The patient was made comfortable in the chair, and the chair was reclined so the doctor could have visual access to the tooth.

During the shaping of the canals, the patient began coughing. While the chair was being raised, the doctor's hand was struck, causing a handpiece-mounted file to drop into the patient's mouth. The coughing and gagging caused the patient to either aspirate or swallow the instrument.

The patient's mother was called into the room, informed of the events that had occurred, and instructed to take the child a short distance to a local emergency department (ED). The doctor's dental assistant accompanied the patient and his mother to ensure an adequate description of the event was relayed to the emergency physician.

At the ED, an X-ray was used to locate the file. The X-ray indicated that the instrument was lodged in the patient's stomach. A gastroenterologist was summoned; after he examined the patient, he recommended retrieval of the file. During the retrieval

procedure, the wall of the esophagus suffered a small perforation. A surgeon was called, and the perforation was successfully repaired.

A malpractice lawsuit was subsequently brought against the dentist, the hospital, and the gastroenterologist. During the discovery phase of the legal case, three expert witnesses criticized the dentist's failure to use a rubber dam, opining that this was a deviation from the standard of care. As a result, all parties agreed to a settlement, with the dentist being assessed 60 percent liability.

Following the conclusion of the legal case, the dentist received a letter from the state board of dentistry, which indicated that the board was opening an investigation into the case. After months of investigation and several board hearings, the dentist's license was suspended for a short time and she was placed on probation. She was also fined and required to take continuing education hours in endodontics. As required by law, this discipline was reported to the National Practitioner Data Bank. Ultimately, it was also reported by local media.

Risk Management Considerations:

Theodore Passineau, JD, HRM, RPLU, CPHRM, FASHRM

With the benefit of hindsight, we can identify several opportunities for the dentist to use better risk mitigation strategies, which might have resulted in a much different patient outcome. The first involved the use of the rubber dam. Given the fact that extensive treatment was being performed on a posterior tooth, the rubber dam would have provided protection from exactly what happened here — the loss of an instrument into the oral cavity.

In this case, the dentist was certainly correct in attempting to utilize the rubber dam. However, certain patients may have limited or no comprehension of what a dental treatment entails, and they may resist a procedure, such as the placement of a rubber dam. Typically, these patients are very young, very old (and possibly suffering from some degree of dementia), or developmentally disabled. This patient was fairly young — but more importantly, he also had a known history of behavioral problems while receiving dental treatment.

When resistance to the dental treatment process is anticipated, the dentist should consider whether pretreatment sedation is indicated and, if so, what type of sedation will be needed. Sedation may vary from modest oral medication, to the use of nitrous oxide, to conscious (or even deep) sedation administered by an anesthesiologist. In this case, mild sedation may have helped the patient better tolerate the rubber dam.

Normally, when a portion of an instrument is lost, it is either because the instrument broke (such as the separation of a file during endodontic treatment) or because an insert became separated from a handpiece. In such cases, the foreign object is usually in the oral mucosa or the trachea/main stem bronchi — or it has been swallowed.

If the foreign material cannot be located in the mucosa, it is best to send the patient to an ED for an X-ray. If the material is in the respiratory tract, the patient will need to be evaluated for a bronchoscopy. If the material has been swallowed, the decision will need to be made whether to allow it to pass through the digestive tract or retrieve it.

In this particular case, once it was determined that the file had fallen into the patient's mouth, the situation was handled correctly, including the dental assistant accompanying the patient to the ED to provide accurate information to the emergency physician. In the event that a patient has any respiratory difficulty, it would be best to summon an ambulance.

A final point should also be considered. The facts of this case do not mention any patient education efforts or utilization of an informed consent process with the mother prior to commencement of treatment. This process should most certainly occur, and it should include a thorough discussion about the risks of the procedure and the recommendation to use a rubber dam. Further, the mother should receive detailed discharge/aftercare instructions to inform her about the immediate postoperative period.

Although informed consent for treatment does not excuse treatment that falls below the standard of care, all dental treatment is accompanied by some risk of injury. If an adverse event does occur, the patient's acceptance of treatment risks through an appropriate informed consent process might moderate his or her expectations.

Conclusion: Although no dental treatment is risk free, experience has shown that different procedures have different inherent risks. The standard of care requires protection of the patient through the use of appropriate precautions to minimize these risks.

Question: When patients resist or decline appropriate precautions prior to invasive treatment, should the dentist proceed? If so, how?

***NO PURCHASE NECESSARY.** The “Malpractice Minute Contest” is subject in all respects to the complete Official Rules available by [clicking here](#), or by sending a S.A.S.E. to “Malpractice Minute Contest,” c/o The Medical Protective Company Dental Team, 5814 Reed Rd., Ft. Wayne, Indiana 46835. Open only to an entrant who, as of the entry date, is a permanent legal resident of the 50 U.S.A. or D.C. who is at least 18 years old and a matriculated student at an American Dental Association-accredited dental education program. The Contest is void outside the eligible contest territory, and where prohibited or restricted by law. Entry period for a Contest installment begins at 12:01 a.m. Mountain Time (“ET”) on the date of publication of Sponsor’s Malpractice Minute e-newsletter and ends at 11:59 p.m. ET on the 60th day of publication of such e-newsletter. LIMIT: One (1) entry per person or address (physical or email) per Contest installment. Entry method, limits, restrictions and instructions, and prize information, requirements and restrictions are set forth in the Official Rules. Sponsor: The Medical Protective Company 5814 Reed Rd., Ft. Wayne, Indiana 46835.

[Click here to view complete Official Rules](#)