

Conclusion

Peer review offers recourse for the patient and dentist in disputes that would not constitute a legal case, because of either the nature of the complaint or the small amount of money in dispute. It also avoids the high cost of litigation for both the dentist and patient. Using peer review, the dentist may preserve his or her good reputation and integrity in the community.

Peer review is also a very credible system in that the parties in the dispute have an opportunity to speak for themselves directly and so gain satisfaction that his or her side of the story has been accurately presented. Also, with the mediator and peer review committee being dentists, the parties in the dispute can be confident that the oral health issue at hand is well understood by the mediator and committee.

In addition to its practical value, peer review is another route by which the dental profession demonstrates its accountability to the public and fulfills its responsibility, as a profession, to regulate itself. Through peer review the profession demonstrates that it gives its valuable time, free of charge, to resolve complaints about oral health care.

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How Peer Review Works And What You Can Expect From It

Overview of the Peer Review System

The intent of the peer review system is to resolve problems between the dentist and patient expeditiously, fairly and in a confidential manner. The kinds of disputes that may be resolved through peer review are complaints about the quality of care, the appropriateness of care, or the fairness of fees.

The volunteer dentists that serve on the peer review committee receive the peer review complaints and determine the appropriateness of the complaint for peer review. They contact the parties in the case, gather all necessary documentation, conduct the mediation and, if mediation is unsuccessful, conduct the peer review of the case and make a decision on the case. The Mississippi Dental Association has oversight of the operation of peer review programs throughout the state, setting policies on peer review and serving as an appeal body for peer review cases. The MDA's decision on an appeal is the final decision that is made in the peer review process.

Our peer review process is administratively separate from the Mississippi State Board of Dental Examiners. However, we do work cooperatively with them, referring some cases and accepting referrals.

The Peer Review Committee

Our Peer Review Committee members are dentists who volunteer their time to serve on the committee for a term of 3 years. Members of the committee are primarily general dentists who have qualifications and experience to make decisions that reflect standards and norms of dental practice in the community.

Impartial decision-making is crucial for an effective and fair peer review process. This means that no member of the peer review committee should have any stake or interest in the

Each party is expected to abide by the decision of the peer review committee. If either of the parties is not satisfied with the decision and can show a just cause for an appeal, the case can be appealed to the MDA State Peer Review panel. At that point, the panel of peer review chairs from each of the six dental districts review the case and decision. Just cause for an appeal may revolve around questions of whether the proper procedures were followed, whether additional material has become available for the committee, or whether bias or discrimination were evident. The State Peer Review level is the final level of appeal within the peer review process.

Compliance with Peer Review

After a peer review decision is made, both parties in the dispute are expected to comply with the decision and are requested to sign the release forms indicating their acceptance of the decision.

As a practical matter, when the peer review committee decides in favor of the dentist, the patient will be requested to pay the fee for service if that was of issue. Sometimes patients have been asked to return a dental appliance, denture or other oral health device to the dentist as part of the agreement. However, the MDA has no leverage to enforce the patient's compliance beyond this.

There is a possibility that one or both of the parties will renege on the signed peer review agreement and initiate a lawsuit. This has rarely occurred subsequent to closure of a peer review case, but in such a case a court may either consider the case anew, without consideration of the peer review decision or it may consider the case in light of the peer review decision and the individual's breach of the peer review agreement. How the peer review decision is regarded is the option of the court.

In most cases, the parties come to an agreement through mediation. Each party is then sent a letter of agreement describing the resolution. If the resolution involves an exchange of money, it is noted specifically in the letter and a form for release and satisfaction of claims accompanies the letter.

If the parties are unable to reach an agreement through mediation, both parties will receive a letter stating that mediation was unsuccessful and the case can then proceed to peer review. With the letter, both parties also receive an agreement to submit the case to peer review and to release the patient records for peer review. The dentist and the patient always have the option of declining to participate in either mediation or peer review.

The peer review phase. The peer review committee gathers the facts of the case and makes the decision on the case. In reviewing the case, the peer review committee may meet to discuss the case, may examine clinical records, talk to the patient and dentist and, if necessary, arrange for a clinical examination of the patient by each of the committee members, independently. Before examining the patient, the committee must obtain written permission from the patient.

Each peer review committee member submits a written report of his or her findings regarding the patient examination to the committee chair. The report of each committee member may be shared with the committee as a whole for the committee's decision making. The final decision of the committee is the majority decision of the committee or its consensus.

All parties in the case are notified of the peer review committee's decision and recommendations in writing. The parties in the case receive only the final committee decision.

The total peer review process, including mediation, is generally completed within 60-90 days. Any records obtained from the dentist's office are returned to the dentist and the documentation of the case is sent for file to the MDA office.

outcome of a case. To insure impartiality, committee members do not have professional or social ties to the parties in a peer review case. If a committee member does have ties that would bias his or her decision in a case, the committee member is expected to excuse him or herself from the case. In some instances, the committee chairman may opt to request that the case be handled by a different component dental society.

Additionally, the peer review committee may have specialists available to it who can be appointed to the committee as needed. A dental specialist, when being reviewed as a party in a dispute, may request a committee of like specialists. Also, the peer review committee may choose to include a specialist if it feels such special expertise is needed. The opinion of any member appointed on an ad hoc basis carries the same weight as the opinion of the permanent committee members. Ad hoc members should also be unbiased in the case and have the same general qualifications to serve on the committee as the permanent members.

Appropriate Issues for Peer Review

Appropriate issues for peer review are:

- quality of care,
- appropriateness of care,
- fairness of fees.

Quality of care refers to the skill with which a treatment is provided, using the standards which generally prevail within the professional community.

Appropriateness of care refers to the professional acceptability of planned or completed treatments, to include necessity and consistency with diagnosis. In evaluating the appropriateness and quality of care, the peer review committee member use their own clinical experience and consider the patient's oral history, existing medical conditions and the complexity of the

case and treatment. The committee may also use quality of care guidelines in deciding on questions of quality and appropriateness of care, but committee members also consider individual patient circumstances that may require deviation from guidelines.

The more time that elapses between the disputed treatment and its presentation to the peer review committee, the greater the possibility that the clinical condition which was the focus of the patient's complaint may be affected by changes in the patient's health status, subsequent treatment the patient may have had, or simply the passing of time. For this reason, our peer review program has a statute of limitations, which is two years. Generally, within two years from the date of treatment, the patient should have recognized a problem or addressed the concern of unsatisfactory treatment.

Fee disputes may also be handled through peer review. It is sometimes difficult to determine the difference between a true fee dispute and disputes in which a patient requests a refund or readjustment of a fee as compensation when complaining about the quality or appropriateness of care. Although the fee in such a circumstance can be the major object of the negotiation, it is not the reason for the original dispute; the patient initially complained about the quality of care or the appropriateness of care. By comparison, in a true fee dispute, the patient is complaining only about the fee. The patient may assert that the fee is too high or is otherwise inappropriate for the work done, even though the patient is satisfied with the quality of the care; or a patient might contend that the fee was paid for work that was not done or that the fee is different than that which was originally quoted to the patient.

Our peer review committee does not accept cases that are in litigation, but may accept cases in which both or either of the parties has consulted with an attorney. Peer review is not intended as a court of law and does not use the same rules and procedures as a court of law. The committee uses information

from both parties in its decision making, but holds the information in confidence. It is intended to offer both parties an opportunity to settle the dispute expeditiously, at little or no financial cost.

The Peer Review Process

The Mississippi Dental Association staff receives the complaint through a phone call from the complaining party and screens the call to determine its appropriateness for peer review. The staff then directs the complainant to submit a written request to initiate the peer review process. The written request requires the complainant to write a description of the dispute. The request also includes authorization from the patient to release his or her records to the chairman of peer review committee and the mediator. The written request is then forwarded to the chairman of the peer review committee. Both parties in the dispute will receive a letter from the MDA to acknowledge that the complaint has been made.

The peer review process consists of two phases:

- 1) mediation and
- 2) review by the peer review committee.

The mediation phase. Mediation is an attempt to settle the dispute through negotiation between the parties. The objective is to have the parties themselves, decide and agree on a settlement of the case. The mediator facilitates the process. After the chairman received the complaint, he or she appoints a mediator for the case generally within 10 days after receiving the complaint. The mediator is a volunteer dentist who contacts each of the parties involved. If both parties agree to participate in mediation, the mediator then begins work towards resolving the dispute by facilitating negotiation between the two parties. The mediator keeps notes on his/her discussions with each of the parties. These later become part of the mediator's report, which is submitted to the peer review committee, if the case continues on to peer review.