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A Patient Safety and Risk Management Newsletter from Fortress Insurance Company

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Updates to the Fortress COVID-19 FAQs

Fortress continues to address COVID-19 questions and assess the impact on our policyholders. The situation is rapidly evolving, and we understand the importance of keeping you informed. Updates to the [Fortress COVID-19 FAQs](#) page on June 30 include:

- New information on invoice due dates
- Links to ADA resources that offer guidance on what to do in the event a patient or staff member tests positive for COVID-19

As a reminder, the FAQs page also contains links to several authorities on the COVID-19 pandemic. We recommend that you check these sites often, as guidelines are changing. For example, in mid-June, the CDC released updated guidance for infection prevention and control for dental settings.

Teledentistry: Foundations and Resources

Richard Small, JD - President, The Richard Small Agency



In response to the COVID-19 pandemic, the US government declared a federal public health emergency and many states restricted dental care to only emergency dental procedures. These actions created an overnight dental treatment void which left many patients and providers searching for treatment options. Telehealth consultation provided a treatment option that was readily adopted by many dentists and patients.

As in-person experiences give way to virtual visits, this article highlights some of the regulations and professional recommendations that dentists should consider when offering teledentistry services.

[According to the ADA](#), telehealth is not a specific service, but rather, a broad variety of technologies and tactics used to deliver virtual medical, health, and education services. Teledentistry is a subset of telehealth that refers to the use of telehealth systems and methodologies in dentistry.

ADA Policy on Teledentistry

The 2015 [ADA Policy on Teledentistry](#) provides general guidance on the use of telehealth systems and methodologies in dentistry. Specific topics covered in the statement include information on patients' rights, quality of care, supervision of allied dental personnel, licensure, reimbursement and technical considerations.

Telehealth can include patient care and education delivered through live video connection (synchronous), store-and-forward technologies (asynchronous), remote patient monitoring, and mobile health relying on cell phones and computers modalities.

Regarding the quality of care the ADA states that with teledentistry:

The dentist is responsible for, and retains the authority for ensuring, the safety and quality of services provided to patients using teledentistry technologies and methods. Services delivered via teledentistry should be consistent with in-person services, and the delivery of services utilizing these modalities must abide by laws addressing privacy and security of a patient's dental/medical information.

State Dental License Requirement

Most states require dentists to be licensed in the state where the patient is treated. Some states grant temporary licenses for teledentistry services while other states participate in reciprocity agreements. A state-by-state summary of telehealth and teledentistry laws and reimbursement policies is available from the [Center for Connected Health Policy](#).

There are several additional sources available to assist policyholders determine if telehealth is an option for their practice including state licensing boards, professional organizations, your insurance agent and your personal legal counsel.

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Fortress policy coverage and teledentistry

Many Fortress policyholders ask if their policy includes telehealth or virtual office visit coverage. The short answer is, yes. A Fortress policyholder is covered for telehealth services when the patients are located in a state in which you are authorized or licensed to practice, and the treatment is rendered in accordance with local, state, and federal laws. As always, coverage under professional liability policies is triggered by specific patient allegations and coverage can only be determined based on the facts of a claim.

Teledentistry, technology, and COVID-19

With the declaration of the federal public health emergency, several of the accepted [technologies](#) and methods for telehealth services were expanded to include methods which may not have fully complied with the requirements of the HIPAA rules. Practices using telehealth during the pandemic should be aware that these expanded options are temporary.

The federal government has also published [numerous resources](#) for live, or synchronous, videoconferencing via a two-way audiovisual link between a patient and a healthcare provider.

Regulations governing virtual communication between dentists and patients are evolving along with coding and billing protocols. It is important to monitor federal and state regulations and professional association recommendations to ensure you are offering these services in accordance with applicable laws and standards. The next article identifies some of the risk management considerations related to telehealth services.

Telehealth: Risk Management Considerations for Your Practice

Stephen Pavkovic, RN, MPH, JD, CPHRM - Senior Risk Manager



Mr. Small's article addresses the regulations and professional recommendations related to teledentistry. This article discusses a few informed consent and clinical documentation considerations related to the delivery of telehealth services.

Informed consent process

Fortress recommends that patients sign an acknowledgement form to document their understanding of the risks and limitations inherent with a teledentistry evaluation. These risks may include privacy and administrative concerns and factors related to the limited scope of clinical information that can be exchanged through a telehealth exam. Fortress provides a Patient Acknowledgement - Telehealth Consultations Services form and a Policyholder Considerations document as potential resources for you to consider using in your practice.

If during the telehealth examination, it is determined that additional clinical services are required, a procedure-specific informed consent form can outline the patient-specific risks, benefits, and alternatives to the proposed treatment or procedure. As a reminder, informed consent is a process. It involves a discussion between the treating doctor and patient; a consent form signed by the treating doctor, patient and a witness; and notes documenting the informed consent process in the patient's chart.

To assist in determining if in-person visits are appropriate, Fortress provides the COVID-19 Pandemic - Patient Disclosure form to gather the patient's history related to virus risk exposure and to screen for safety of an in-person visit. The COVID-19 Pandemic Dental Treatment Notice and Acknowledgement of Risk form is also available from Fortress. It documents the patient's understanding of virus exposure risk from receiving dental treatment amidst the pandemic. During the telehealth examination, some dentists may decide to review these forms with their patients.



Fortress COVID-19 forms, including Spanish translations, are available via the [COVID-19 FAQs page](#). Forms can be downloaded as Word documents and edited to meet your local, state, and practice requirements.

Clinical documentation

Documentation is critical for telehealth consultations, just as it is with traditional office visits. Clinical documentation captures the presentation, examination findings, and a clinical differential diagnosis that forms the basis for a patient's treatment plan. Fortress's article, [Clinical Documentation Remains a Prudent Risk Management Strategy](#), provides reminders of the importance of detailed clinical documentation.

Specific to telehealth, it is important that the clinical documentation include the indications for the telehealth consultation and the medical information relied on for any prescribing or treatment decisions. In addition to documenting the treatment decisions,

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also consider noting in your documentation who participated in the telehealth session, the technology utilized, the length of the consultation, and any challenges specific to telehealth consultations. These challenges may include the patient's ability to follow directions during the examination and if audio or video quality compromised the consultation.

Patient safety and risk management considerations remain the same, regardless of treatment location or modality. By engaging patients in the informed consent process and with thorough clinical documentation, telehealth consultation can continue to provide a safe and important role in providing treatment options during and beyond the COVID-19 pandemic.

Summary of Useful Telehealth and Practice Resources

In addition to the information in this Guardian edition, the links below include resources to assist with the delivery of teledentistry services:

[Fortress COVID-19 Patient Disclosures](#)

[Fortress COVID-19 Pandemic Dental Treatment Notice and Acknowledgment of Risk Form](#)

[Fortress Patient Acknowledgement - Telehealth Consultation Services Form](#)

[Fortress Telehealth Patient Safety Considerations for Policyholders](#)

[ADA Coronavirus \(COVID-19\) Center for Dentists](#)

[ADA Guide to Understanding and Documenting Teledentistry Events](#)

[Telehealth Tools and Resources](#), from the National Consortium of Telehealth Resource Centers

[Teledentistry facts, position papers, and research](#), from the American TeleDentistry Association

[Telehealth information for providers and patients](#), from Telehealth.HHS.Gov

The Impacts of Cannabis Use and Dental Practice



J. Gregory Myers, DDS, JD
Myers Doyle, Houston, Texas



M. Sean Ponce, JD
Myers Doyle, Houston, Texas

As an increasing number of states are establishing laws and policies that decriminalize and legalize both medical and recreational cannabis use, it is becoming more important to understand the impact these changes may have on dental practices. Encountering and providing dental treatment to a patient that is intoxicated (or “high”), carries inherent patient and practice risks. This article will discuss some of those risks and the mitigation strategies.

Cannabis use and patient health

With increases in the use of legal and recreational cannabis, the methods of oral administration have also increased to include smoking, vaping, edibles, and capsules. In relation to dental health, oral cannabis use is associated with multiple conditions including an increased risk for caries and decay, increased risk of periodontal disease and other oral infections, poor gingival health, leukoplakia, xerostomia, and a greater risk for oral cancer. For many patients these associations are usually complicated by other contributing factors like the frequency of cannabis use, alcohol and tobacco use, and/or poor overall oral hygiene.

Tetrahydrocannabinol (THC) is the primary psychoactive component of cannabis. Along with the variety in administration methods, there can also be marked variation in THC dosing and concentrations resulting in a range of potential behavioral and psychological changes. These changes include euphoria, hyperactivity, tachycardia, paranoia, delusions, hallucinations, and decreases in attention span, judgment, and short-term memory.

Implications on patient safety

The physiological and psychological effects of cannabis use may impair the delivery of quality dental treatment. For example, administration of a local anesthetic with epinephrine to a patient that is already exhibiting tachycardia from cannabis intoxication may exacerbate the patient’s tachycardia and present additional cardiovascular risks. Additionally, intoxicated patients may react with paranoia, dysphoria, or acute anxiety during dental treatment. As such, dental practitioners can educate patients to avoid cannabis before a procedure and inform patients that their treatment may be postponed or cancelled if the patient is intoxicated. The impact of cannabis on attention span, judgment, and short-term memory may limit a patient’s ability to participate in the informed consent process since an intoxicated patient may not be able to weigh the risks, benefits, and alternatives to a proposed procedure.

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Practice considerations

Though legalization is trending across the country, patients may remain hesitant to disclose cannabis use. To assist you in evaluating a patient's cannabis use, Fortress provides a Health History form that includes a question on marijuana use and vaping frequency. Practices may also want to consider actively asking patients about cannabis use during the evaluation process and observing patients for signs of cannabis intoxication. These physical signs include glazed eyes, slow or slurred speech, dilated pupils, lack of pupil convergence, presence of a pasty substance on the tongue, lack of coordination, and, of course, the odor of marijuana. When these signs are observed a provider can educate the patient about cannabis intoxication risks and may consider delaying treatment.

Today's dental practitioners face new and different challenges. With the possibility of patients engaging in cannabis use before dental appointments and procedures, safe dental care can be promoted by educating patients to avoid cannabis before dental treatment, assessing patients for intoxication, and rescheduling treatments when indicated.

References

American Dental Association. Cannabis: Oral Health Effects. ADA Website. www.ada.org/en/member-center/oral-health-topics/cannabis. Updated January 22, 2018. Accessed February 7, 2020.

Grafton SE, Huang PN, Vieira AR. Dental treatment planning considerations for patients using cannabis: A case report. J Am Dent Assoc. 2016; 147:354-361. Abstract available at <https://pubmed.ncbi.nlm.nih.gov/26768516/>.

Portillo KM, Sanderson TR, Gurenlian JR. Oral health care for marijuana users. Decisions in Dentistry, 2018; 4(3):41-44. <http://decisionsindentistry.com/article/oral-health-care-marijuana-users/>. Accessed February 7, 2020.

The Benefits of Charting Your Exam Findings and Treatment Plans

Timothy Nemeth - Claims Analyst



This Closed Claim Summary demonstrates the benefits of properly documenting in the patient's medical record.

A 57-year-old man presented as a new patient to an insured practice. The examination notes included an assessment of a potential for RCT or periodontal therapies at #18 and 19. There was no documentation in the record for follow-up treatment or monitoring. However, in the year following the initial exam, the patient was seen on multiple occasions for routine prophylaxis. During that treatment, there was minimal clinical documentation regarding the patient's response to prophylaxis, any resolution of the periodontal disease at #19, or documentation about the follow-up treatment plans or patient education efforts.

The patient returned approximately 20 months after his initial appointment and was again examined with the insured documenting the need for restorations of teeth #2, 3, 15, 31, in addition to previously identified #18 and 19. Tooth #19 was now noted to have a 7mm pocket. Again, the clinical documentation did not identify a treatment plan, any follow-up recommendations, or patient acknowledgement of the risks for foregoing treatment.

The patient then presented emergently four months later, in acute pain relating to tooth #19. He was seen by another dentist from the same practice who confirmed an abscess at #19 with bone loss demonstrated on radiograph. Tooth #19 was extracted with no post-extraction antibiotics prescribed. Shortly thereafter, the patient was hospitalized and diagnosed with osteomyelitis. He underwent an incision and drainage for infection and required multiple surgeries, including free-flap skin grafts to treat the delayed healing.

Due to the patient's complicated course after the extraction, the patient filed a lawsuit alleging professional negligence. During the lawsuit, the lack of documentation regarding the clinical basis for the treatment decisions, details regarding the clinical progress, or the educational efforts related to educating the patient about his condition challenged the defense. The lawsuit was settled before trial with the insured's consent.



Risk Management Tips

Documenting the basis for treatment decisions and the patient education efforts regarding the clinical condition can assist with delivering coordinated care and supporting your treatment decisions in the event of litigation. To support these efforts, consider the following:

- Documenting the basis for your clinical decisions including the clinical exam findings, imaging studies, and the patient's history; and
- Establishing customized treatment plan for each patient which include the patient's compliance and responses to the treatment plan.



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Three-year credit course

Complete the course “Prioritizing Patient Safety” to earn 3 CEs and a 10% premium credit on your policy for 3 consecutive policy periods.*

In this course, closed dental malpractice claims will be analyzed to identify how and when to implement risk management and ethical principles to enhance patient safety.

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- **Understanding HIPAA**
- **Treating Challenging Patients**
- **Anatomy of a Malpractice Suit**

*All courses must be completed within 90 days of the effective date of the policy in order to receive the credit for that policy period. Maximum credit per policy period is 10%.

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Fortress Insurance Company
 425 N. Martingale Road, Suite 900
 Schaumburg, IL 60173
 800-522-6675
dds4dds.com

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