Important Notice

This is one of a series of ethical dilemmas published in the *Texas Dental Journal* between 1993 and 2005. The lead author of these dilemmas, Dr. Thomas K. Hasegawa, died tragically in 2005. The dilemmas remain an important legacy for dentistry.

Format

Each ethical dilemma was originally introduced in one issue of the *Texas Dental Journal* with the question, “What would you do?” The more expansive analysis of the dilemma was presented in a subsequent issue. The second page of this file depicts the cover of the issue containing the analysis of the dilemma, not the issue containing the briefer introduction to the dilemma. The ethical dilemmas were compiled for digital use by the American College of Dentists in 2008.

Purpose

This ethical dilemma and the other dilemmas in the series are only meant to further your knowledge and understanding of dental ethics by presenting, discussing, and analyzing hypothetical ethical dilemmas that may occur in dental settings. The dilemmas are not intended to: a) provide legal advice; b) provide advice or assistance in the diagnosis or treatment of dental diseases or conditions; or c) provide advice or assistance in the management of dental patients, practices, or personnel.

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Support

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What Would You Do?

Ethical Dilemma #50

Margaret has worked as the office manager for Dr. Derek Sanders since he began practicing dentistry 18 years ago. She has watched the practice grow and thrive as the years have passed. Dr. Sanders has always been a perfectionist, conscientious and devoted to his work, and his patients have been loyal and appreciative. Overall, Margaret admires these traits, which is why she has enjoyed working for Dr. Sanders for so many years.

Over the past year, Dr. Sanders has had to deal with many challenges. His marriage seems to be struggling, his oldest child has gone off to college and there are added pressures at work. Lately, patients are complaining to Margaret that he seems distracted and takes continual breaks throughout the appointment. Production for the once thriving practice has decreased over the last year.

The staff has also noticed a change and has complained to Margaret about his attitude and behavior over the past year. The assistant noticed the doctor has developed a slight tremor in his hands and complained that he is constantly criticizing her. Margaret herself has also observed changes. At first it was little things that were hardly noticeable and could easily be explained, but now she feels there is a definite problem. Ordering patterns for medications have changed. Drugs are ordered from multiple suppliers and they seem to be arriving more frequently. Dr. Sanders appears to get angry when an emergency patient needs to be seen at the end of the day; yet, she is asked to phone in prescriptions for emergency patients that were treated after hours.

She has also noticed that his once meticulous appearance is looking slovenly. In addition, he has become unreliable with his schedule by coming in late, taking long lunches and taking frequent restroom breaks. Margaret suspects Dr. Sanders is abusing drugs and would like to get him help but is conflicted about confronting him because she is concerned about her job. She is also concerned however, that the once thriving practice is less productive, which may result in a cutback of staff. Margaret is torn between wanting to get help for Dr. Sanders and jeopardizing her job and the entire staff.

Margaret is now faced with an ethical dilemma. Check the following course(s) of action she should take in this case and mail, fax this page, email, or send a note indicating your recommendations. What would you do if you were Margaret? Some options (check one or write your own) include:

1. Margaret should not get involved — it is not her concern;
2. Margaret should talk to the staff in the office and plan an intervention for Dr. Sanders;
3. Margaret should just continue to observe his behavior — maybe it is something else like a midlife crises and even document the events to track changes over time;
4. Margaret should contact the Professional Recovery Network, an outsourced program of the Texas State Board of Dental Examiners;
5. Other alternative (please describe):

SEND YOUR RESPONSE BY November 1, 2004 ATTENTION: Dr. Thomas K. Hasegawa, Jr., Associate Dean for Clinical Services Baylor College of Dentistry, P.O. Box 660677 Dallas, TX 75266-0677. Fax to (214) 828-8958 or E-mail to thasegawa@tambcd.edu
Ethical Dilemma

By Thomas K. Hasegawa, Jr. D.D.S., M.A.,
Merrill Matthews, Ph.D.,
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Professional Recovery Network

Ethical Dilemma #50
"The Impaired Practitioner — Intervene or Report?"

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Dentists who responded to this dilemma chose these options: 1) Margaret should talk to the staff in the office and plan an intervention for Dr. Sanders; or 2) Margaret should contact the Professional Recovery Network (PRN), an outsourced program of the Texas State Board of Dental Examiners. None of the respondents chose these options: 1) Margaret should not get involved — it is not her concern; or 2) Margaret should just continue to observe his behavior — maybe it is something else like a midlife crisis.
and even document the events to track changes over time. Dentists and staff members offered their own views on Margaret's responsibilities and actions.

Margaret is faced with a true dilemma in this case. She has known Dr. Sanders for 18 years and the concerns are serious for the patients, the staff, the practice, and her doctor. Is her intuition accurate in this case? Is she willing to risk breaking the trust with Dr. Sanders and even losing her job if he retaliates from her accusations? Will she help anyone if she loses her job and his problem persists? These questions and others lead us to reflect on the ethics of: 1) the scope of chemical dependency; 2) intervention and confidentiality; and 3) protecting patients from harm and confidentiality.

Scope of Chemical Dependency

Margaret's situation is not unique. According to recent surveys, 9.1 percent of the overall population is chemically dependent or abuses alcohol or other drugs (1). The literature on chemical dependency and professionals indicates that approximately 15 percent of professionals are chemically dependent (2). Dentists are not immune to the disease; it is estimated that the percentage may be higher for them than those they treat (3). Stress, isolation of solo practice, career dissatisfaction, access to drugs, and a genetic predisposition are factors which may play a role in the clinician's vulnerability (4). Dentists may also feel a false sense of immunity because of their education and high intelligence. The perception of the professional dentist defies all stereotypes of an addict (3).

Margaret understands that there may be consequences whether she acts or not. Her loyalty to Dr. Sanders over the last 18 years is weighed against other possible harms to patients, the practice, staff, and even herself.

Margaret is not alone in her concern for patients however. The mission of the Texas State Board of Dental Examiners (TSBDE), a self-regulating body appointed by the governor is to "safeguard the dental health of Texans by developing and maintaining programs to: 1) ensure that only qualified persons are licensed to provide dental care; and 2) ensure that violators of rules and regulating dentistry are sanctioned as appropriate (5)."

To ensure that safety, in 1985, the legislature established a peer assistance program for chemically and mentally impaired dental professionals. The program is approved by the TSBDE and is currently operated by the PRN which is part of a non-profit corporation. Funds are received through a surcharge added to license and license renewal fees. PRN works through confidentiality and trust to educate, prevent, intervene, refer, support, and monitor professionals experiencing problems that threaten their well being and the quality of their practice. PRN stresses a proactive approach, a concentration on early identification and treatment, and advocacy for its participants.

The actions of the TSBDE demonstrate that there is a concern for impaired dental professionals. A review of all of the cases filed with the TSBDE from 1977 through 1984 revealed that about 55 percent were related to the diversion of drugs for self-use or other "nondental" purposes (6). A Michigan study reported that 48 percent of people had been treated for experiences similar to untreated chemical dependency (7).

Are there advantages for involving PRN rather than have Margaret plan an intervention for Dr. Sanders?

Intervention and Confidentiality

Margaret is in a tenuous position in this case because she understands that there may be consequences whether she acts or not. Those who responded to the case provided additional advice on whether Margaret should talk to the staff and plan an intervention or contact the PRN.

While some respondents chose to have Margaret involve the staff in an intervention, others did not. A practice administrator based her decision not to involve the staff out of mutual respect and loyalty to her employer. Suspicions were just that, suspicions, and she felt that she would be more effective due to the mutual trust and her concern for his well-being to perform the intervention herself. Another dentist agreed that Margaret should intervene after hours when the rest of the staff was gone, a right she earned after 18 years as a loyal employee.

The challenge for Margaret is that while she may be acting out of loyalty to her doctor, staff, and patients, she is not trained as an interventionist. She is not prepared to deal with the denial and possible retribution if Dr. Sanders views her intervention as a misguided threat to the practice. If she does choose to intervene in this case she does so at some risk to herself.

Some respondents chose to have Margaret contact the PRN although there was some confusion about how confidentiality is managed. One respondent wrote that Margaret should contact the PRN because the potential consequences of not blowing the whistle were more dire than losing a job. One reason for colleagues not choosing to intervene is fear of negative repercussions that might ensue from notifying programs like PRN. They fear being found out by their friends or being mistaken in their suspicions.

Peer assistance programs such as PRN keep all concerned individuals' contacts confidential. A breach in confidentiality could damage friendships, professional communities, and the credibility and trust in these programs. Confidentiality is a central component of professional responsibility for dental professionals and counselors.

Ms. Holly Johnston, a counselor for PRN explains that, "there is never a time that PRN counselors would disclose the relationship of the caller to the potentially impaired dentist or the name of the concerned caller. Furthermore, it is not the belief of PRN staff that everyone reported has a problem. However, members of the PRN staff do feel it is their responsibility to help the possibly impaired professional investigate the concern of impairment by obtaining an unbiased evaluation. The benefit of utilizing PRN is that it allows the impaired professional to seek help and obtain recovery while remaining anonymous to the TSBDE."

Colleagues often feel that they "owe it" to the dentist to intervene themselves rather than contacting PRN. Many times they believe by not contacting PRN, they are maintaining the impaired professional's con-
fidentiality thereby reducing the perceived harm of reporting the believed chemically dependent dentist. In Ms. Johnston’s professional experience this is not a good choice because it often is not effective. There is a great deal of training and skill required to complete a successful intervention. Additionally, many times the nature of the reported problem may not be related to substance abuse disorders but rather mental health conditions. Members of the PRN staff are licensed and trained to make these distinctions as well as break down the denial if a problem does exist. In addition, PRN staff members know which treatment centers specialize in treating healthcare professionals and which local evaluators are skilled in detecting problems with professionals.

Even with the expertise of the PRN counselors and this shield of confidentiality, why should anyone intercede on the life of a dentist due to a concern for chemical dependency?

**Ethical Responsibilities**

The ethical themes emerging in this case include protecting patients from harm, protecting the confidentiality of those who report their concerns, and protecting the confidentiality for those in treatment for chemical dependency.

The ADA has identified five fundamental principles of ethics that form the basis for the Code. One of the principles that apply to this case is nonmaleficence or “do no harm (6).” In this principle the dentist has a duty to refrain from harming the patient. The ADA Code regarding a chemically impaired colleague states:

“It is unethical for a dentist to practice while abusing controlled substances, alcohol, or other chemical agents which impair the ability to practice. All dentists have an ethical obligation to report any impacted colleague to seek treatment. Dentists with first-hand knowledge of a colleague are practicing dentistry when impaired have an ethical responsibility to report such evidence to the professional assistance committee of a dental society (8).”

Patients expect to be treated competently, and an impaired professional jeopardizes this standard. The Texas Dental Association’s Principles of Professional Conduct explains this as, “Professional competence is the just expectation of each patient (9).” An impaired professional jeopardizes this standard.

Another ethical theme involves the rights of the dentist as it relates to the responsibility to report an impaired dentist as it relates to confidentiality. Whether reporting or in treatment, health care professionals have a right to confidentiality, just as the patients they treat. They are expected to protect the patient’s confidentiality and may only breach this responsibility in specific circumstances such that a failure to disclose would be a threat to public safety. Counselors like those at the PRN are held to the same standard. The obligation of confidentiality stems from the second principle cited in the ADA Code and healthcare ethics as respect for patient autonomy (8,10). Counselors must protect the confidentiality of their referrals on these serious matters in order to respect their autonomy. Counselors in programs like the PRN are obligated to protect the confidentiality of their clients from the TSBDE unless their impairment threatens public safety (5). Confidentiality, then, is maintained for those who make the report and set aside for those practitioners who are or may be a threat to public safety.

**Conclusion**

Margaret is in a dilemma in this case because she understands there may be consequences whether she chooses to intervene with Dr. Sanders’ possible chemical dependency or not. But if she decides that the situation warrants an intervention — and the circumstances lead to that conclusion — she should realize that she is not trained to undertake the intervention herself. It is a serious consideration for Margaret or anyone else, not specifically trained, to have an intervention with Dr. Sanders. This is serious business with lives, jobs, and patients’ health all at stake. Margaret is ethically justified in contacting a counselor at the PRN to request a professional assessment and intervention if needed.

**REFERENCES**


**EDITOR’S COMMENT:**

Responses to the ethical dilemmas are views of the contributors and consultants and not Baylor College of Dentistry, the Institute for Policy Innovation, or the Texas Dental Association. This is not to be taken as legal advice. If you have legal questions, seek competent legal counsel.

Address your comments to Dr. Thomas K. Hasegawa, Jr, Office of Clinical Services, Baylor College of Dentistry. P.O. Box 660677, Dallas, TX 75233-0677, Fax to (214) 828-8568, or E-mail to thasegawa@tambcd.edu.

**NOTE:** Readers are invited to submit topics to be considered in the Ethical Dilemma column. Contact the editor with suggestions or for further information. Recommendations in these cases are not intended to be legal advice. If you need legal advice, seek consultation from an attorney.

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