



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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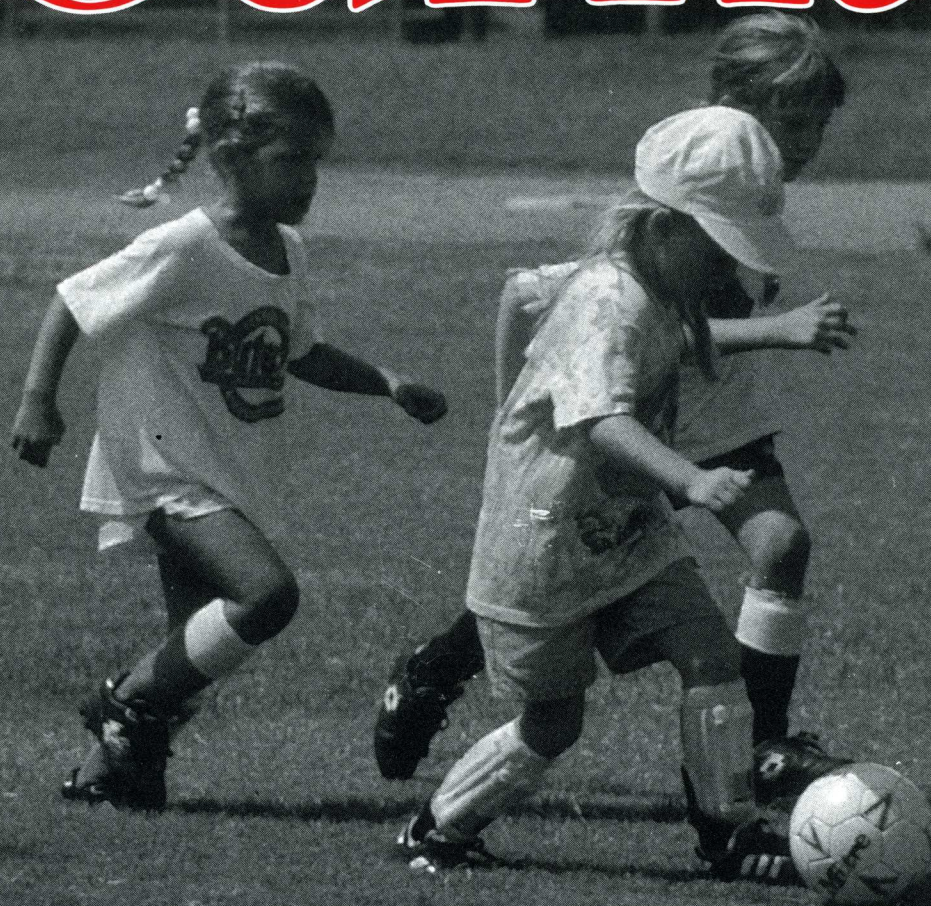
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Prevention of Oral Sports-Related Injuries

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Oral Injuries In Sports: A Review of the Literature

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dispute resolution program, p.3 & 9, 1993.

9. American Dental Association, Council on Dental Care Programs. National Peer Review Reporting System, 1992 Survey Results.
10. American Dental Association, Council on Dental Care Programs. 1992 National Peer Review Reporting Calendar Year 1991 Data (Texas)

CONCLUSION

Dr. Boley's ethical dilemma asks us to consider how we value our personal and professional responsibility to protect the health of the public and the integrity of our profession. A decision to report a colleague is one of the most agonizing dilemmas that dentists encounter and requires an extraordinary measure of wisdom, courage, and integrity. However, whether the dentist derives his or her decisions by principles or by consequences, since our duty first is to the patients' welfare rather than our colleague's career, evidence of manifest incompetence demands that we take steps to address it.

EDITOR'S COMMENT: Responses to the ethical dilemmas are views of the contributors and consultants and not Baylor College of Dentistry, the National Center for Policy Analysis or the Texas Dental Association. Address your comments to Dr. Thomas Hasegawa, Department of General Dentistry, Baylor College of Dentistry, P.O. Box 660677, Dallas, TX 75266-0677 or fax to (214) 828-8952.

What Would You Do?

Ethical Dilemma #3

Chad is a new patient in your general practice. He is fifteen years old, in good health, with only episodic dental care in the past even though his family has dental insurance. Chad presents with several small carious lesions, which is remarkable considering his high plaque index and (???) diet. During the summer, he rides with his father who drives a cookie truck and Chad admits to a heavy diet of cookies.

Besides the small carious lesions, there is a large occlusal lesion on #19 and a 2mm periapical radiolucency at the apex of the mesial root. There is a history of a painful episode "months" ago, but Chad is asymptomatic. Your diagnosis after clinical and radiographic evaluation is pulpal necrosis with chronic apical periodontitis. The prognosis for nonsurgical root canal therapy is good because of an uncomplicated canal anatomy and excellent restorability. Chad also presents with a seriously compromised occlusion. He has a Class II malocclusion with moderate-to-severe anterior open bite. Chad only contacts his molars in maximum intercuspation, so maintaining these teeth is important to his current function and for future orthodontic care. Your treatment recommendations include a thorough preventive program, including diet analysis, orthodontic evaluation, root canal and restorative therapy.

Chad and his mother are in your office for the consultation appointment. Both parents work and his father was unable to come to the consultation. You present your findings and Chad's mother questions the necessity of root canal therapy, citing both the poor experiences of her friends and also the cost. You explain again the importance of this tooth, especially with Chad's compromised occlusal function, but she seems unable to make a decision as to whether to allow root canal therapy for Chad. At this point, she turns to Chad and asks "what do you want, a root canal or would you rather have the tooth pulled?" Chad replies "let's pull it mom." His mother agrees.

Now you are faced with an ethical dilemma. What do you think you should do? Check the course of action you would follow and forward this page as instructed below.

1. — You decide to follow the desires of Chad and his mother and extract the tooth.
2. — You decide to follow the desires

of Chad and his mother and extract the tooth after having her sign an informed consent for treatment.

3. — You again emphasize the importance of maintaining his tooth because of his compromised occlusal function but she insists that the tooth be extracted. You explain to her that you will not treat Chad but will see him for emergency care until she can find another dentist.
4. — You recommend that decisions as complicated as this one should be made by both parents and that you will be available to discuss the therapy with his father. You agree to provide treatment if both parents agree to either the root canal or the extraction.
5. — You offer to his mother the option to seek a second opinion from an orthodontist. Chad is evaluated by the orthodontist who agrees with maintaining #19. His mother insists that the tooth be extracted and you agree to extract the tooth after having her sign an informed consent for this treatment.
6. — You offer to his mother the option to seek a second opinion from an orthodontist. Chad is evaluated by the orthodontist who agrees with maintaining #19. His mother insists that the tooth be extracted and you explain to her that you will not treat Chad but will see him for emergency care until she can find another dentist.
7. — Other alternative (please explain).

SEND YOUR RESPONSE ATTENTION Dr. Thomas Hasegawa, Department of General Dentistry, Baylor College of Dentistry, P.O. Box 660677, Dallas, TX 75266-0677 or fax to (214) 828-8952

Ethical Dilemma

TDA Council on Ethics and Judicial Affairs

by Thomas K. Hasegawa, Jr., D.D.S.

Consultant Merrill Matthews, Ph.D.

Consultant Gary Coleman, D.D.S., M.S.

"Let's pull it, Mom"

Response to Ethical Dilemma #3

Your 15-year-old patient Chad (October issue) and his mother are discussing the treatment plan you have proposed, a plan that includes a thorough preventive program, orthodontic evaluation for Chad's severe Class II malocclusion, a root canal for #19 and restorative therapy. You explained the importance of maintaining the molar, but Chad's mother asks him "What do you want, a root canal or would you rather have the tooth pulled?" Chad's reply is the title of this response.

What you, the dentist, decide to do for Chad should be weighed against a host of factors such as: should Chad have responsibility for making this decision, or should Chad's father be included in the discussion? Is the decision based on the fear of the root canal treatment, or questions of cost (although they are insured)? Is it important to attempt to educate his mother again, or is the dentist's primary duty to have the parent sign a consent to treat form? Do dentists have any special obligations to children, or should dentists always do what parents demand? And, will the decision be harmful to the patient?

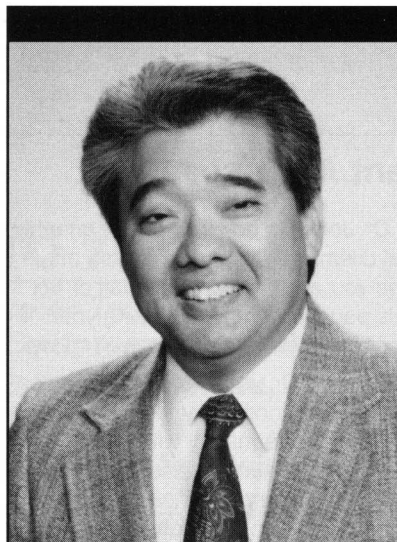
Readers were split between those dentists who **would extract** and those dentists who **refused to extract** Chad's molar. Those who **would extract** either discussed the case with Chad's father (option #4), who consented to the treatment, or sent Chad to an orthodontist (option #5) and would extract in spite of the orthodontist's recommendation to maintain the molar. Those who **refused to extract** sent Chad to an orthodontist (option #6) for a second opinion that affirmed that the molar should be maintained.

Respondents' opposing views illustrate the difficult ethical issues in treating the child dental patient. An overview of informed and proxy consent, the question of harm, and paternalism

may provide some perspective on the issues in this case.

INFORMED AND PROXY CONSENT

Informed consent is based on the moral view that competent adults should have their autonomous requests respected; they have a right of self-determination because,¹ as the patient, they are the expert in understanding their own values and priorities.² Therefore, competent adult patients have the right to make decisions that affect their health, including the right to refuse life-saving procedures such as blood transfusions or to insist that you extract



Hasegawa

rather than restore a tooth, as in Chad's case (though the health care professional also has the right to refuse the request).

What buffers decision-making in informed consent is the responsibility of the dentist to benefit the patient by not inflicting harm,³ by preventing and removing harm and by providing beneficial treatment.⁴ This conflict between respecting the autonomy of the patient while doing what is in the best interest of the patient is a common concern for health professionals. Informed consent

seems to bring into conflict the issues: Is the dentist always obligated to do what the patient requests, or must the patient always do what the dentist recommends? Add to this dynamic predicament the ethical issues of proxy consent for children, and you broaden the margins of concern.

Proxy consent for children contrasts sharply with informed consent for adults because patients under the age of 18 have **no autonomous rights of decision making** other than those recognized by the state in special circumstances (e.g., marriage). Adults, usually the parents, are authorized to act for the child's best interests. However, although a competent adult may refuse a life-saving blood transfusion, the courts have not allowed parents to make this same decision for children. Justice Rutledge put it this way: "Parents may be free to become martyrs themselves. But it does not follow that they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make the choice for themselves."⁵ Each state, for example, acting in its capacity of *parens patriae* — "has the sovereign right and duty to care for and protect the child from neglect, abuse, and fraud during minority."⁶ This sovereign right to protect and care for children by overruling a parent's objections is usually evoked in situations where imminent danger or the high risk of death to a child is possible, situations not common to dental practice. Consistent with the doctrine of *parens patriae*, dentists in Texas are designated as mandated reporters of suspected cases of child abuse and neglect and may be charged with a Class B Misdemeanor for failure to report suspected cases.⁷ In Texas, as in most states, dentists are granted immunity as mandated reporters.

Proxy consent intertwines the elements of the best interests of the child, First Amendment rights of the parents

or guardians, the state's capacity of *parens patriae* and the responsibility of dentists as mandated reporters. One issue central to understanding the case is the question of harm accompanying decisions to treat Chad.

A QUESTION OF HARM

Readers expressed opposing views regarding the possible harm for Chad resulting from the extraction. One dentist wrote: "When more than one good treatment choice is available, I think the patient's wishes must be honored. However, I believe we should never become so compliant that we become ac-

complices in a harmful treatment choice." Another dentist wrote: "It's an imperfect world and Chad and his parents have been informed adequately of all the options. They just chose a bad option." The dentists agreed that the root canal was the preferred treatment, although they were split between those that viewed extraction as an acceptable, or unacceptable, alternative.

Part of the difficulty in Chad's case is assessing the amount of harm caused by extracting, rather than restoring, his tooth. The prognosis for maintaining the tooth with root canal and restorative treatment is good. Chad's Class II

malocclusion adds more weight to the decision to maintain the molar because his anterior open bite and molar occlusion support the need to maintain #19 for orthodontic treatment to establish appropriate function. The consultation with the orthodontist confirmed this assessment. Appropriate function is a key element in this case, as dentists are not required, and may ethically refuse, to provide care that would leave a patient with a significantly impaired or painful oral function.⁸

If an adult makes a decision that the dentist views is not in the best interest of the child, how can the dentist ethically justify refusing to provide the treatment?

WHAT WOULD YOU DO?

Ethical Dilemma #5

Confidentiality for a Pregnant Adolescent?

Mary Smith, a 15-year-old girl, came into a dental clinic for a recall appointment. She had been a patient of Dr. Virginia Jones for many years. While waiting in the clinic's radiology area, she saw a sign instructing females to inform their dentist if they were pregnant. Mary became upset and asked Dr. Jones why the sign was there. Eventually she confessed that she was pregnant and asked Dr. Jones not to tell her mother.

Dr. Jones felt she had an obligation to inform the mother of Mary's condition. Mary was not legally independent, and parents had to give consent for any treatment that Dr. Jones would propose. Because Dr. Jones knew Mary's parents, Dr. Jones was convinced that it would be beneficial to Mary if her parents knew and could provide care and support during this difficult period for her life. (Courtesy of Rule, J. and Veatch, R. *Ethical Questions in Dentistry*, Quintessence Publishing Co., Inc., 1993, p 143. All names in the case are fictitious; case printed with minor revisions).

Dr. Jones is now faced with an ethical dilemma. Check the course of action you would follow and mail or fax this page, or a note indicating your choice, as instructed below.

1. _____ Dr. Jones should try to convince Mary to discuss her pregnancy with her mother. Dr. Jones also should tell Mary that if she doesn't inform her mother, she will.
2. _____ Dr. Jones should contact Mary's mother and inform her that Mary is pregnant.
3. _____ Dr. Jones should try to convince Mary to discuss her pregnancy with her mother. Dr. Jones will not inform Mary's mother and will try to delay dental treatment.
4. _____ Other alternative (please explain).

SEND YOUR RESPONSE ATTENTION

Dr. Thomas Hasegawa, Department of General Dentistry, Baylor College of Dentistry, P.O. Box 660677, Dallas, TX 75266-0677 or fax to (214) 828-8952.

JUSTIFIABLE PATERNALISM

If a dentist imposes his or her views on a competent adult patient, the dentist is acting paternalistically — treating the patient in a fatherly manner as would a parent. However, proxy consent for children is a special circumstance because of the absence of the child's legally recognized autonomy. Paternalism for children has been justified **precisely** for the purpose of "treating children in a 'fatherly' (and 'motherly') manner," especially in situations involving the proper treatment of infants and very young children.⁹ In Chad's case, the dentists who refused to extract the molar could argue that the refusal is an act of justifiable paternalism, and as one reader stated, "Refusal to remove the tooth in this case makes a strong ethical statement which might possibly cause the patient and his mother to change their minds."

CONCLUSION

It is evident, from this brief overview, that treating the child dental patient, as opposed to an adult patient, places an increased weight of decision-making on the dentist. The child becomes by law, and perhaps by practice, silent. The dentist must decide how to

manage the hosts of factors in each case — protecting the best interests of the child, the tension between beneficial and harmful therapeutic choices, the First Amendment rights of both parents and children — against their appropriate role as a health professional. When parents or guardians make poor or foolish decisions for their children that are harmful and thwart appropriate function, the dentist is ethically justified in refusing to render treatment. ■

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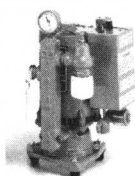
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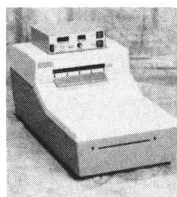
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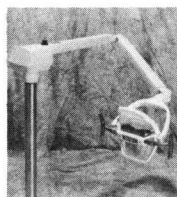


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