

MDC

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You and Your Dental Practice



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President's Message



Greetings to all readers of this bulletin.

We have come to the end of 2019 and I would like to share with you the focus of the nation's healthcare plan.

The nation's healthcare plan for the future will be focused on:

- 1. Quality and safety of healthcare;**
- 2. Illness to wellness;**
- 3. Healthcare back to communities, families and individuals;**
- 4. Inclusive innovation and smart solutions;**
- 5. Collaborative partnerships; and**
- 6. Public-private integration.**

Quality healthcare is an investment, and now and in the future our healthcare will be driven by quality of care. We need to continue enhancing the quality of dental healthcare, in order to enhance wellness in the individual, who will then have the ability to consume healthy foods without any hindrance.

With this in mind and with the new Dental Act that has been passed in Parliament, procedures are underway to set up the Specialist Division of the Dental Register under the Malaysian Dental Council. Regulations to enable an individual to be registered as a dental specialist in a particular field have been drafted and it is my fervent hope that

these regulations can be implemented soonest. The regulations will further enhance the quality of dental healthcare in Malaysia, with the added bonus of weeding out bogus specialists.

Besides this, even among general dental practitioners the quality of dental healthcare provided will be enhanced via the various regulations related to the new Dental Act. There is also provision for Dental Therapists to be registered and work under supervision of Dental Surgeons.

In the dental healthcare field there are a large number of dental surgeons in the private sector. It is my hope that in the future there can be more public-private integration, with a common aspiration of providing quality dental healthcare in our beloved nation.

I take this opportunity to wish a Merry Christmas to all Christians and a Happy New Year to the dental fraternity in Malaysia. Let's all be agents of change and, in tune with the nation's healthcare plan for the future, continue to provide high quality dental healthcare in Malaysia!

DATUK DR. NOOR HISHAM BIN ABDULLAH

From the Editor's Desk

We would like to congratulate Dr Doreyet Jemun on his appointment as Principal Director of Oral Health, by which designation he becomes the Registrar of the Malaysian Dental Council. This Bulletin features an interview with him, where he shares the direction he will take us in the year to come. He brings with him 30 years of service in the Oral Health Programme and we look forward to his guidance in bringing us to the next level.

On 26th September the dental fraternity was shaken with the news about a robbery and near fatal assault on one of our colleagues. This happened right at the dental chair, just after treatment. The assailant was none other than the patient himself. Out of grave concern for their safety and well-being, some practitioners are contemplating installing close circuit television in their surgeries as well as having live audio recording. There are of course legal issues that the dental fraternity needs to take cognisance of, so that both the practitioner's and the patient's rights are protected. In this issue of the Bulletin we feature a

write-up on visual and audio recordings and the implications of the actions that a practitioner may wish to undertake.

In this issue of the bulletin, as in most of our issues, we have featured a disciplinary case that has been investigated by the Preliminary Investigation Committee, and which then proceeded to an inquiry by the Malaysian Dental Council. Such cases draw attention to some of the complaints that originated from patients or practitioners, or where officers of the enforcement units have acted as the complainant. Such cases serve to remind practitioners to remain cautious when delivering dental care so that the patient's best interest is always safeguarded and that the provision of dental treatment complies with the requirements of the Code of Professional Conduct. Let us continue to maintain the high standard of professionalism, which we are justifiably proud of.



As the year comes to a close, on behalf of the Editorial Board, I wish our readers a Merry Christmas and a Happy New Year.

**DATO' PROF. DR. ISHAK
BIN ABDUL RAZAK**

The Dental Act 2018

Demystified

The Dental Act 2018 (the Act) was gazetted on 26 June 2018, after being passed in Parliament and received the Royal Assent. When the Regulations are approved and signed by the Minister of Health, the Act, together with its Regulations, will be implemented.

The implementation of the Act has been long awaited by the profession, but not everyone has the same response, expectation and understanding of the provisions of the Act. It is expected that the provisions will affect different sectors and individuals to varying degrees. This article is aimed at clarifying the provisions and, hopefully, increasing understanding and allaying fears.

Malaysian Dental Council

- The membership of the MDC has increased from 24 to 26, with the increase of elected members from Peninsula Malaysia from 6 to 8.
- There is a stipulation of private and public participation in some sections, ensuring that at least 10 members will be from the private sector.
- The registered dentists no longer have their 2 seats on the Council, and these have been given to the dental therapists.
- To serve as a member of the Council, a dental practitioner must be registered and practiced in Malaysia for at least 7 years.
- A dental surgeon shall not be qualified to be appointed, nominated or elected as a member of the Council if he –
 - ⇒ has been found guilty of any offence involving fraud, dishonesty or moral turpitude, or any offence punishable with imprisonment;
 - ⇒ is an undischarged bankrupt;
 - ⇒ his name has been removed from the Dental Register or any other register of dental practitioners;
 - ⇒ has been suspended from practice – for 6 years from expiration of suspension; and
 - ⇒ has been reprimanded – for 3 years from reprimand.



Registration of Dental Practitioners

- Registration is open to Malaysian citizens only.
- All applicants must show proof of having passed the Professional Qualifying Examination (PQE).
- Registration fee has increased from RM150 to RM300.
- The Certificate of Registration must be displayed at the Principal Practising Address, if it is a private healthcare facility.

Registration of Specialists

- All applicants must –
 - ⇒ be registered under Division I as dental surgeons;
 - ⇒ hold a post-graduate qualification specified by the Council; and
 - ⇒ be recommended by the Dental Specialists' Evaluation Committee.
- The registration fee is RM1,200 per specialty (practitioners registered with the National Specialist Register are exempted from paying the fee).
- The Certificate of Registration as a Specialist must be displayed at the Principal Practising Address, if it is a private healthcare facility.

Fitness to Practice Panel

- If the Council have information that a practitioner is not fit to practice, they may require him to appear before a Fitness to Practice Panel.

Practice by Dental Therapists

- Dental therapists can work in the private sector, under the direct supervision of a dental surgeon.
- A dental therapist can only carry out the procedures in the Fifth Schedule and a post-basic dental therapist can only carry out the procedures in the Fifth and Sixth Schedules.

Practising Certificates

- Applications for Annual Practising Certificates (APC) must reach the office of the Council by **1 November** of the year prior to the year for which the application is made.
- Applications must be accompanied by –
 - ⇒ evidence of sufficient Continuing Professional Development points;
 - ⇒ evidence of Professional Indemnity Cover;
 - ⇒ evidence of approval or registration under the Private Healthcare Facilities and Services Act 1998 (PHFSA) for all private healthcare facilities to be included in the APC; and
 - ⇒ a fee of RM100 for each private healthcare facility to a maximum of RM300, though there is no maximum on the number of clinics.
- Practitioners who do not apply for their APC shall be deemed to be suspended from the date the current APC lapses.
- The Registrar must be informed of any change in home or practising address, within 30 days of any change.
- Any notice, which is to be served or sent to a practitioner will be served or sent to the Principal Practising Address.

Sick Certificates

- Sick Certificates can only be signed by a dental surgeon.



Community Service

- A dental surgeon may carry out community service at a location other than the address on his APC only with the written permission of the Registrar.
- The community service cannot be for –
 - ⇒ more than 7 consecutive days; and
 - ⇒ a total of more than 14 days in a year.

Body Corporate

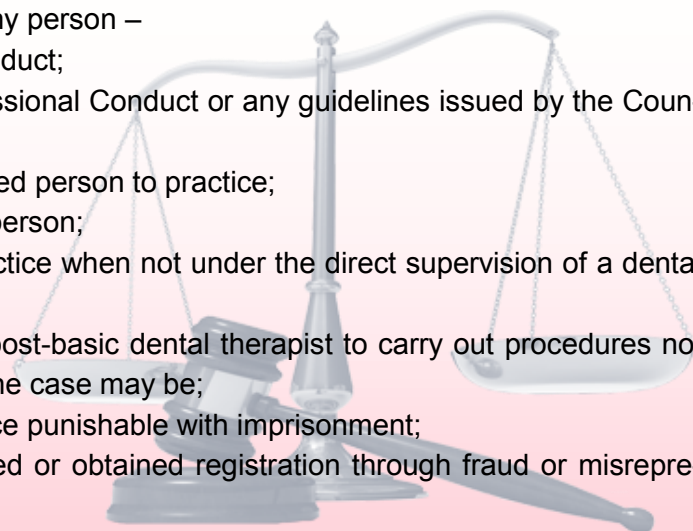
- A body corporate may be formed to carry out the business of dentistry, if –
 - ⇒ it only carries out the business of dentistry; and
 - ⇒ at least half the members of the Board of Directors are dental surgeons.
- Exemptions are given to –
 - ⇒ hospitals or ambulatory care centres;
 - ⇒ dental faculties;
 - ⇒ local authorities; and
 - ⇒ where the dental clinic is set-up solely to treat employees and is not for profit.

Exemptions from Registration

- A person may practice dentistry without registration, if he –
 - ⇒ is undergoing a course of study in dentistry;
 - ⇒ is employed in the government service for that purpose; or
 - ⇒ has been granted permission by the Council, during preparation for the PQE.

Disciplinary Proceedings

- The Council has disciplinary authority over any person –
 - ⇒ who has been guilty of infamous conduct;
 - ⇒ who contravenes the Code of Professional Conduct or any guidelines issued by the Council;
 - ⇒ who allows or enables an unregistered person to practice;
 - ⇒ who practices with an unregistered person;
 - ⇒ who allows a dental therapist to practice when not under the direct supervision of a dental surgeon;
 - ⇒ who allows a dental therapist or a post-basic dental therapist to carry out procedures not on the Fifth or Sixth Schedules, as the case may be;
 - ⇒ who has been convicted of an offence punishable with imprisonment;
 - ⇒ who was not entitled to be registered or obtained registration through fraud or misrepresentation;
 - ⇒ whose name has been removed from a Register outside Malaysia; or
 - ⇒ who has contravened any provisions of the Act.
- All complaints will be considered by a Complaints Committee, which may recommend that the complaint be sent
 - ⇒ to a Preliminary Investigation Committee or a Disciplinary Committee;
 - ⇒ directly to the Council or the Board; or
 - ⇒ to the Principal Director for enforcement under the Act or any other Act.
- A Preliminary Investigation Committee will consist of 7 members.



Offences

- Any unregistered person who practices dentistry is liable for a fine not exceeding RM300,000 and/or a jail term not exceeding 6 years.
- Any practitioner who employs an unregistered person is liable for a fine not exceeding RM300,000 and/or a jail term not exceeding 6 years
- Any practitioner who allows, enables or practices with a person who is not registered is liable for a fine not exceeding RM300,000 and/or a jail term not exceeding 6 years
- Any practitioner who employs a person who does not have a valid practising certificate is liable for a fine not exceeding RM100,000 and/or a jail term not exceeding 2 years
- Any practitioner who allows or enables a practitioner to practice dentistry without a valid practising certificate is liable for a fine not exceeding RM50,000 and/or a jail term not exceeding 1 years.
- Any practitioner who knowingly practices dentistry with a person who does not have a valid practising certificate is liable for a fine not exceeding RM20,000 and/or a jail term not exceeding 6 months.

Enforcement

- Enforcement officers are issued with an authority card, which they will produce during any enforcement activity.
- Practitioners have a duty to assist the enforcement officers.
- Enforcement officers have all the powers of a police officer, and the power to seal premises, forfeit goods and prosecute in court.

Compulsory Service

- Every new registrant will be issued with a written notice from the Director General of Health, stating the place and duration of their compulsory service.
- Those who fail to report for duty or do not complete their compulsory service will be issued with a show cause letter.
- Failure to answer the show cause letter or a reply with an unacceptable reason, will result in removal from the Register.

Fees

- All fees that may be charged by the Council are listed in the Fourth Schedule.

The provisions listed above are only those that are important and pertinent for most dental practitioners in daily practice. This is our profession and our Act, and to actually know the details and understand why the Dental Act had to grow from 7 Parts and 50 Section in 1971 to the present Act with 9 Parts and 104 Sections, we should read the entire Act and understand the spirit and intention behind it.



*by Dr. Elise Monerasinghe
SEGi University, Kota Damansara*

Disciplinary Proceeding

YEAR OF COMPLAINT : 2017

FACTS OF THE COMPLAINT

- : a. A complaint was made to the MDC by Mr K vide an email dated X/X/2017 against Dr A and Dr B.
- b. Mr K said that it was brought to his attention that Dr A and Dr B were promoting their practice via discount/gift vouchers through Wxxxx Member Rewards Booklet.
- c. Mr K requested the MDC to carry out a full investigation regarding his concerns and take the necessary action.

FINDINGS OF THE PRELIMINARY INVESTIGATION COMMITTEE (PIC)

- : After one (1) hearing, the PIC made findings based on the oral evidence and documents available in the record of complaint and found the following:
- a. Dr A and Dr B had breached the Code of Professional Conduct and The Guidelines and Provision for Public Information 2014.

CHARGES AGAINST THE RESPONDENT

- : After due deliberation made by the PIC, the committee framed a charge against Dr A and Dr B.

Head 1

You have breached:

- i. The Code of Professional Conduct clause 1.11 (c) which states "He should not charge or offer to charge special reduced fees or discounts, or to offer to discount his fees for the purpose either of inducing persons to become his patients or of obtaining the payment of fees promptly or within a specified time."
- ii. The Code of Professional Conduct clause 10.3 (b) (i) which states "Dental practitioners are advised to be extremely discerning when dealing with third parties in the provision of dental care, and to ensure no canvassing."
- iii. The Guidelines and Provision for Public Information (2014) of Malaysian Dental Council, in particular clause 3.10 (b) (i) which states that "Dental practitioners are advised to be discerning when dealing with third parties who provide dental care programmes and they must ensure that there is no canvassing."

The said publication and distributions of discount vouchers have appeared to be of a character that could reasonably be regarded as likely to bring the profession into disrepute.

RESPONDENT'S EXPLANATION : Dr B was present at the inquiry without Dr A.
Dr B pleaded guilty to the charge.

RECOMMENDATION OF THE PIC : The members of the PIC unanimously agreed that there is a case to answer to the charge and recommended that Council hold an inquiry as provided for in Regulation 29 (Dental Regulations 1976).

DECISION OF THE COUNCIL : During the Council inquiry, Dr A and Dr B pleaded guilty to the charge.

In respect of the charge, the Council found Dr A and Dr B guilty under Section 32(2)(b) of the Dental Act 1971.

The Council heard and considered Dr A and Dr B's plea in mitigation and imposed the punishment provided for under Section 33(1)(c), in that Dr A and Dr B were reprimanded.

“Teamwork makes the dream work”

An Interview with Dr. Doreyat Bin Jemun

by Dr. Jade D’Silva

“Never regret a day in your life, good days bring you joy, and bad days give you experience”

It is with this sentiment that Dr. Doreyat bin Jemun, the Principal Director of Oral Health, has navigated the tortuous roads in an exceptional thirty-three year career. “It’s not about how much you do in your life but how much you love what you do that counts.” Dr. Doreyat says. He credits an innate sense of passion and devotion to his work as the cornerstone of his success.

“I look forward to making the necessary changes to better equip us for advancements in dentistry,” he reveals when asked about his role as the Principal Director, “I believe in the importance of keeping in touch with updates and developments, and transforming with the times.”

Although Dr. Doreyat places a strong emphasis on the future of dentistry, he still maintains a profound respect for his formative years and he fondly recalls the many life lessons in diligence and perseverance that served as the foundation of his career.

Dr. Doreyat’s career had its start in 1986, the year he

earned his Bachelor of Dental Surgery from the University of Malaya and reported for duty at his first post at PKB Rengit in Batu Pahat. As a native of Johor, Dr. Doreyat spent much of his early years serving in public dental clinics in his home state and immersing himself in community service. His extensive experience in primary oral healthcare was instrumental in his decision to pursue dental public health, and in 1997, he was awarded a Master in Community Dentistry by the University of Malaya.

On returning to public service Dr. Doreyat was promoted to District Dental Officer of Kluang, then Mersing and finally Muar, before being called on to serve in the Ministry of Health as the Deputy Director

of Primary Dental Health Care, in December 2010.

Dr. Doreyat then returned to the ground as the Deputy Director of Health in the States of Negeri Sembilan, Melaka and Johor. In June 2018 he returned to the Ministry of Health, where he served first as the Director of Oral Health Regulation and Practice, after which he was appointed as the Principal Director of Oral Health, a year later in 2019. His many leadership roles over an expansive career in public health have given him an in-depth knowledge of the oral health delivery system in our country and its shortcomings.

With declining periodontal health plaguing the geriatric population and a worrying prevalence of early childhood



carries in children, Dr. Doreyat's principal focus is the strengthening of oral healthcare services for the elderly, special needs patients, toddlers and preschool children.

"I support the idea of a dedicated team of dental hygienists that can be trained specifically to tackle the issue of gingivitis in school children and we hope that this improves the effectiveness of our approach," he says. "Data accuracy needs to be improved so that we can strategize more effectively, there needs to be a standardized method in the diagnosis and treatment of oral diseases," he declares.

He also feels a deep sense of compassion for rural communities and is determined to reduce oral health inequalities faced by the marginalized populations, by improving access to oral health care through a more targeted approach. He ascertains that it is only through the development and expansion of oral healthcare facilities, that access to oral health delivery can be maximized. He is confident that this will result in an increase in the utilization of dental services, which will in turn improve the oral health status of Malaysians.

"There needs to be a focus on prevention," he expresses, "There has to be a paradigm shift from curative to preventive dentistry." Referencing statistics obtained from a recent NOHSA survey, Dr. Doreyat is troubled by the fact that only 1

in 4 adult Malaysians visited the dentist, "Oral health literacy among Malaysians needs to be improved."

"This is not without its challenges." Dr. Doreyat admits, his voice taking on a more serious tone. With a realistic understanding of the obstacles he faces, he hopes to tackle these with practicality and efficiency. He believes that the dental fraternity should work in tandem with the larger medical community to provide a comprehensive method of delivering oral health awareness to the public.



One of the many avenues by which he hopes to achieve this is by consolidating the network between various stakeholders and working in partnership with them to advocate that common oral diseases be included in the list of NCDs (Non- Communicable Diseases) in Malaysia.

"Furthermore, Malaysians need to be aware of unlicensed persons performing illegal procedures that adversely affect the oral health of their customers." He cautions the public on receiving dental treatment in unregistered or unlicensed facili-

ties and encourages dental practitioners to be more vigilant in keeping abreast with Malaysian Dental Council regulations, "I look forward to the new Dental Act 2018, which prohibits the practice of dentistry by unregistered persons, falsely impersonating a practitioner and the fraudulent procurement of a certificate," he warns, "and I support new regulations that permit us to take appropriate action against illegal dental practice," he affirms, referencing sections 62 through 65 of the Dental Act 2018.

Indeed, this is a pivotal time to be the Principal Director of Oral Health, one that Dr. Doreyat regards with earnestness and responsibility. With the recent passing of the Dental Act 2018 there is an incredible demand on the leaders of our profession to bridge the gap between the past and the future of dentistry in Malaysia. Dr. Doreyat a strong proponent of innovation and change, aims to steer the precarious transition from conventional dentistry to digital dentistry, and he encourages Malaysian dentists, therapists and dental technicians to upgrade, update and hone their



skills, to keep up with technological advancements in the field.

“These days, there’s a reduced requirement for taking dental impressions,” he reveals, “remarkably, the patient’s oral condition can be digitally recorded and this can then be transmitted electronically to laboratories worldwide for crown and bridge fabrication,” he continues, “I want to ensure that our dental technicians are not left behind and can compete with these demands.”

Dr. Doreyat believes in a steadfast approach to providing the adequate training and tools to allow for the successful transition into the digital era. “Innovation is very close to my heart,” he conveys, “I believe innovative staff leads to an increase in productivity.” He hopes that this will promote an optimistic attitude towards work and a culture of efficiency and

effectiveness.

“It is crucial to understand the importance of job satisfaction and I support leaders who advocate an innovative environment and who see the value of this through increased staff motivation and creativity,” he says, “additionally, team leaders must make an effort to build a strong foundation from the ground up,”

“Teamwork makes the dream work,” Dr. Doreyat adds enthusiastically, quoting John. C. Maxwell.

Dr. Doreyat affirms his strong belief in a workforce that uplifts and inspires one another and works towards a unified goal. He reinforces his belief that as a team we can accomplish all that we set out to do, no matter how tedious the path, and says that he draws his inspiration

from oral healthcare workers across the country, who work tirelessly to provide the necessary dental treatment to the public and recognizes their strong work ethic. “Treat people the way you want to be treated. Talk to people the way you want to be talked to. Respect is Earned, Not given” he quotes the life philosophy he lives by. “We need to treat people with respect in order for them to respect us.”

When referencing his role as Principal Director of Oral Health, Dr. Doreyat aspires to push the envelope and bring Malaysia to the forefront of advancements in dentistry. It is his wish that Malaysia be a leader in this field and that the dental fraternity feel a sense of pride and patriotism in our accomplishments as a nation. He also encourages the new generation of dentists to think outside the box and achieve success through determination and diligence.

“Be good, yet firm. Be firm, yet humble. Be humble, yet truthful. Be truthful, yet sincere” he says, his tone resolute.

Through his example, Dr. Doreyat challenges us to find strength in unity, fulfilment in our aspirations and pride in our profession. Above all, he hopes to inspire a culture of novel thinking, originality and creativity, as he steers us into the new decade.

Dental Enforcement Challenges

Challenges in Enforcement

There are two major legislations governing dental practice in Malaysia. With the implementation of the Private Healthcare Facilities and Services Act 1998 (PHFSA) in 2006, enforcement in private dental clinics officially began 13 years ago. On 26 June 2018, the Dental Act 2018 (Act 804) was passed in Parliament. ***Provisions for enforcement are in Section VII of the Dental Act 2018.*** Whilst the whole dental fraternity should be familiar with the provisions of the Dental Act 2018, those in private practice must also continuously update themselves and comply with the provisions of the PHFSA and its Regulations.

The Metamorphosis

The metamorphosis of dental enforcement teams is evident. We have grown from a small group of senior dental officers, chosen to ensure registration of all private dental clinics under PHFSA 1998 within a stipulated time frame, to an independent dental force, empowered formally with official authority cards and efficiently coordinated by the Enforcement Section, Oral Health Programme, Ministry of Health Malaysia. Currently, there are 52 dental officers with an expanding scope of enforcement. These dental inspectors do not only monitor compliance to the existing rules and regulation, they also address and are fully involved in issues related to illegal dental practice. Notwithstanding, every state dental enforcement team continues to collaborate with their respective *Cawangan Kawalan Amalan Perubatan Swasta (CKAPS)* to ensure compliance with rules and regulations with regards to protection of public health, welfare and public safety.

The Challenges

With the advent of the Dental Act 2018, ***only a dental practitioner registered with Malaysian Dental Council (MDC) can practice dentistry and offer dental services.*** The Dental Act 2018 has in many ways stepped up to the needs of this demanding field of healthcare, especially in this age of dynamic advancement in the field of dentistry, with the need for continuous monitoring of public safety, while ensuring



the whole fraternity, covering all aspects of dentistry, has the right legal perspective. One example is the ongoing pressing issue of Fake Dentistry or the practice of “dentistry” by an illegal dentist, that is still sporadically popping-up in society. The enforcement of various sections of the act such as; prohibition of practice of dentistry by unregistered persons, falsely impersonating as a practitioner and employing a person who is not a practitioner, should in many ways give strength to the enforcement officers to overcome this issue and ensure that the public and dental practitioners are aware of this serious issue. Table 1 shows the number of complaints and information on “Fake Dentistry” reported in 2018 and 2019 (till September).

Table 1: Practice of “dentistry” by a fake dentist

Time Frame	No of complaints/ information received regarding Fake Dentistry
Jan - December 2018	119
Jan – September 2019	76

Source: Oral Health Programme, MOH

In this digital era, we face new challenges with the onslaught of illegal marketing and selling of fake dentistry items / services on-line, for example; “fake and real braces”, fake dentures, fake arches. The biggest surprise is the gullibility of our community. Thus far, the school going cohort is the most vulnerable, as they fall prey, in their bid to get cheaper orthodontic treatment - i.e. fake braces offered at low prices and fashionably and attractively advertised online. These clients actually resort to getting their braces fixed by these illegal practitioners at their own homes, home stays, hotels and motels in non-sterile and dubious conditions. Despite these difficulties enforcement activities have been carried out, and 16 cases of fake braces are being prosecuted in court.

Table 2: Practice of “Fake Braces” [The numbers are different from the table before]

Time Frame	Number of Complaints Received	Number Of Enforcement Activities	Number of Cases Prosecuted
Jan - December 2018	76	16	5
Jan – September 2019	53	3	3

Source: Oral Health Programme, MOH

One of the main challenges in modern day enforcement is the growth of internet health and cyber business / online services including dental services. The social media is an open market for buyers who want fast or cheap treatment. Cybercrime committed through fake braces services or computer-oriented crime involves a computer and a network. It may be used in commission of a crime or maybe the target. Enforcement officers have had to collaborate with Cyber Security Malaysia to secure the evidence to be used in court to charge an offender. The expansion of communication technology does make criminal investigation more complex and may either be very helpful or hinder crime solving. It has become an important part of the evidence in present day crimes.

Social media gives the offender an element of anonymity and makes it difficult to prosecute the criminals or to prove the crime. The evolution of worldwide internet accessibility has created information without borders and this has exposed home-based individuals to more opportunities for personal enrichment (positive) or victimisation / illegal dental treatment, and has also provided opportunities for unguarded people to be targeted.

It is best to introduce community policing to educate the public on the advantages of social media and, more importantly, the dangers lurking in cyber space. The enforcement section must continue to collaborate with oral health promotion teams to create awareness and promote safe dental practice within their various programmes. Recently, the war against illegal dentistry has intensified. The National Oral Health Promotion Week was launched on 7 September, 2019 with a clear cautionary theme: *Doktor Gigi- Pastikan Yang Ori!* Posters on this subject were displayed simultaneously at all dental clinics nationwide where they will remain until we can be rid of this menace.

Enforcement Made Better (Part VII of the Dental Act 2018)

Enforcement officers/ authorised officers now have more powers under the Dental Act 2018. Better enforcement teams will benefit the Rakyat. The Act addresses issues, especially those of illegal dentistry and in the process smooths the path for good dentistry in Malaysia. At the same time, it also enhances the health of the public.

Once again, this remains to be seen as the overall intention of the Act was to allow for more effective regulation of the practice of dentistry. Despite the challenges, the enforcement teams have the responsibility to ensure the safety of patients. Entrusted with the duty of inspection and monitoring dental practitioners, the team will take the necessary action within the provisions of the Acts.

“All of us who work in law enforcement want to keep people safe. That is the heart of our jobs; it is what drives us every day.” Jeff Sessions

by Dr. Sheila Rani Ramalingam

VISUAL AND AUDIO RECORDINGS IN THE DENTAL CLINIC



The recent incident of a dental practitioner being robbed and slashed by her patient has shocked the dental fraternity and the whole nation. The 57-year old female private dental practitioner suffered a near-fatal gash on her neck in the incident, which occurred on 26 September 2019 in Petaling Jaya.

The incident started with a patient who came in for root canal treatment at 9.30am but used another person's identity card to register. The whole treatment took about one and a half hours. The patient sat quietly on the dental chair throughout the session. Once completed, the suspect came from behind the dental practitioner, slashed her neck and robbed her of her handbag and quickly fled with at least RM2,000 in cash and important documents belonging to the dental practitioner.

The dental practitioner suffered a five-centimeter gash on her neck, which barely missed an artery. She was rushed to a private hospital nearby and was warded for a few days. An investigation by the police found that a knife was used to slash the victim.

The suspect was detained by the police 8 days after the incident and was remanded for 7 days for further investigation.

This incident has prompted a question on whether visual and audio recording are necessary in the dental surgery, citing its importance in protecting the practitioners and their staff from any similar incidents. The need for visual and audio recording in a dental surgery is clear and the conditions for its usage need to be outlined.

The Ethics

Visual or audio recordings of patients are often made for security or other legitimate purposes. However, a dental practitioner must handle such recordings ethically without compromising the patient's privacy, dignity, confidentiality and autonomy. Dental practitioners must not place security cameras in places where the patient's privacy and dignity will be compromised. It is important to let the patient know if a camera is in

use in the clinic. Dental practitioners, who use security cameras for routine surveillance, must ensure that the presence of a camera is obvious. In this regard, the CPC provides that a clinic with a visual and audio recording system must display a notice informing the public of the presence of the recording system before they enter the clinic.

Dental practitioners must also ensure that access to the recordings is limited to authorised persons, for legitimate purposes only (such as security staff and agencies) and that they keep the recordings confidential.

Consent

Consent for recording

Another key issue with regard to visual and audio recordings is that all recordings must only be done with the patient's consent. The patient must be asked clearly whether they will allow a recording to be taken or not. The Council strongly suggests that consent for such recordings be taken separately from the general consent for treatment and be taken in writing. Patients must be allowed to view or hear the recordings, if they wish. If patients modify or withdraw their consent at any point of time, this must be respected. The patients also have the right to know the reason why the visual and audio recordings are made. If they are not happy with the answer given by the practitioner, it could be said that valid consent was not taken.



Consent for Storage

Once a recording has been made, it does not follow that the recording could be kept freely and perpetually by the dental practitioner. If a dental practitioner wishes to keep the recording, a specific consent for the storage of the recording is needed. Further, dental practitioners are required to take reasonable care to ensure that the recording is secure and that no unauthorised persons have access to it. Such recordings must be accorded the same level of confidentiality and protection accorded to dental records.

Consent for Transmission

It is a common practice in hospitals or clinics that patients' details are shared during case discussions for effective treatment planning. The discussion could be between the dental practitioners and staff within the same hospital/clinics or even with staff from other hospitals/clinics. While details about certain conditions of a case could be shared and discussed between practitioners, it does not confer the same degree of permission that audio and video recordings could be shared with other people without specific consent from the patients concerned. Therefore, a specific consent for the transmission of the recordings is needed and no unauthorised person should have access to it. Clearly, a transmission to social media platforms such as Facebook or WhatsApps groups is a clear violation of patients' confidentiality. Therefore, the Council has taken a stand to prohibit this, in order to protect the patient's dignity and autonomy.

Consent for Publication

Audio or visual recordings of patients are sometimes used for legitimate purposes that advance healthcare, such as dental education and promotion, research and publication. In such cases, specific consent of the patients involved must be obtained. Specific consent from the patients is also needed if visual or audio recordings are used anywhere in the public domain (such as advertising, public lectures or any kind of media output). Unless patients agree to be identifiable, the dental practitioner must ensure that patient confidentiality and privacy will not be breached even if consent has been obtained.

If patients are minors or have diminished mental capacity, where possible, their consent must still be obtained. Notwithstanding their condition, this group of patients can at times give positive and reasonable consent for themselves. If that is not possible, consent may be obtained from parents, guardians or those with legal authority to decide for them.

The overriding point is that, in all situations, recordings should not be made without the patient's knowledge or consent. Secret recordings are obviously not permitted, unless there are special circumstances, which justify this. This should only be done if it is in the best interests of the patients (and obviously not just in the best interest of the dental practitioner).

Other issues

There will also be a situation where patients themselves or accompanying persons wish to record their consultation with the practitioner. In this case, a dental practitioner may accede to this, based on their judgement of the situation. However, practitioners making secret recordings of consultations or treatments with patients, merely for the purpose of protecting themselves from possible complaints, is obviously not permitted. Despite taking consent and, where necessary, specific consent, the dental practitioner must take every reasonable measure to remove all identifiable characteristics (unless the patient has consented to be identifiable) and to ensure that patient confidentiality and privacy will not be breached. However, it does not provide that a dental practitioner can freely publish or transmit any visual or audio recording of an unidentifiable patient without first obtaining his consent.

Conclusion

In conclusion, visual and audio recordings are permitted with strict conditions as they contain sensitive information of patients. Specific consent for their recordings, storage, transmission and publications are required. Notwithstanding that, dental practitioners must also handle such recordings ethically, without compromising patients' privacy, dignity, confidentiality and autonomy.

by Col. Dr. Mohamad Asri bin Din

Head, Specialty of Restorative Dentistry & Prosthodontics

Hospital AngkatanTentera Tuanku Mizan

Kuala Lumpur



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necessarily reflect the opinions of the Council.**

CONTACT US

Malaysian Dental Council
E301, Level 3, Block 3440
Enterprise Building 1
Jalan Teknokrat 3
63000 Cyberjaya
Selangor

Tel: +60(3) 8318 6440
Fax: +60(3) 8318 6121
E-mail: mdc@moh.gov.my
Website: <http://mdc.moh.gov.my>

ADVISOR

Dr. Doreyat bin Jemun

EDITOR

Dato' Prof. Dr. Ishak bin Abdul Razak

ASSOCIATE EDITORS

Maj-Gen Dato' Dr. Mohamad Termidzi bin Hj Junaidi (R)

Dr. Teerunavookarasu A/L Rajaratnam

Dr. Husna binti Abbas

Dr. Sivakama Sunthari A/P M. Kanagaratnam

Dr. Elise Monerasinghe

Dr. Valencia E Jesudoss

Dr. Jade D'Silva

Dr. Suziyana binti Sudin