

# **Ethics Case Analysis: Writing off Co-payments**

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Regardless of personal feelings, society has a tendency to place labels on individuals. One specific label, which is often sought after by many, is a professional title. In a broad sense a professional is one who has gained in-depth understanding and knowledge of a particular topic which is unattainable to the masses. The level of comprehension, which the professional has obtained, is verified by a governing body. Once this label is obtained, the public has a sensible reason to believe that the professional is well trained in their designation and will perform their duties for those who seek their expertise with integrity, compassion and in an ethical manner. Dr. Welie, professor for Center of Health Policy and Ethics at Creighton University Medical Centre, Omaha, Nebraska, explains that the title of professional is ultimately granted by the public; therefore, each professional must exist to serve the public's interest (Welie, 2004). Working with this definition of professionalism, dentists are potentially deserving of the professional status. Dentists are oral health doctors focused on diagnosing, treating and preventing a wide range of disorders of the oral-facial complex (American-Dental-Association, 1997). Additionally, in order to practice in Canada one must be licensed in full accordance with the regulations, thus proving merit of the dentist's professional title (Canadian-Dental-Association, 2005). Within any profession, there are bound to be scenarios which require ethical and moral reflection and dentistry is no exception.

Throughout the course of one's career it is reasonable to assume that an ethical or professional dilemma will arise. In a perfect society in which all follow the rules and guidelines, ideal solutions are more evident. However, when an actual predicament

arises, the ethical or professional issues must be confronted. One particular prominent issue which plagues dentistry involves the collection of co-payments. For the purpose of this essay, the following issue will be examined: A recent dental graduate becomes a new associate at a dental practice. The financial terms of the verbal agreement with the principal dentist is to receive 40% of the fees collected from the patients. However, after many months the associate habitually notices a pay check which does not reflect its true amount. It is discovered that the office is not collecting the 20% co-payment and routinely writing off the balance. This essay will identify the professional ethical and legal issues involved for oral health care providers from a Canadian viewpoint and present a professional solution for the associate dentist.

The Royal College of Dental Surgeons of Ontario (RCDSO) outlines core values and a code of ethics for all Ontario Dentists to follow (RCDSO, Code of Ethics, 2004). The major ethical and professional issues involved in this scenario are autonomy, beneficence, non-maleficence, justice and integrity.

The autonomy of the patient is being compromised since the front desk is regularly writing off co-payments without making an honest attempt to collect the remaining balance from insured patients. If the patient is not being told to pay their portion of the fees, they are not given an option to make their own decision to pay or not to pay. It may be that the patient does not understand their insurance coverage and is being misled to believe that they are 100% covered for treatments.

When the co-payment is not collected it saves the patient money and the principal dentist views this as an act of beneficence. He may justify this action as relieving some of the financial burden to his patients. Therefore, they will remain content and return to his office for further treatment. The beneficence to the patient is quite large in this circumstance since they can always receive the best treatment available without having to worry about the financial burden of top-notch health care. However, the short term benefit to the patient is not without consequence.

Harm is being caused to other dentists in the community, the associate, the insurance company, and non-insured patients. Therefore, the principal dentist is displaying acts of maleficence. Additionally, by causing harm to those groups and individuals the principal dentist is responsible for the injustices which are occurring. Other dentists in the area, who follow the guidelines, may be falsely portrayed by patients as selfish and 'money hungry'. The associate, in this scenario, is not being properly compensated. Unfortunately, without a written agreement or a discussion of practice philosophies, misunderstandings such as these are likely to occur. The harm to society may materialize downstream with increased dental fees and higher premiums resulting in dental plans being overly costly for employers to burden (Delta-Dental). Additionally, uninsured patients are presumably paying 100% of the dental fees while the dentist only collects 80% from insured patients.

Ultimately, the principal dentist is exhibiting a lack of integrity. He is not trustworthy as he is deceiving both the insurance companies and his associate.

Furthermore, he is displaying lack of fairness towards his uninsured patients. One may make the claim that it is not the primary intention of the principal dentist to cause any harm; yet, as a practising dentist, it is his responsibility to be aware of the implications of his actions. In this particular scenario, there is no justifiable excuse since the office is routinely writing off co-payments.

Although the principal dentist is behaving in an unprofessional manner causing an injustice to others, he is also legally liable for his actions. In Ontario, according to the Dentistry Act, 1991, under the RHPA (Regulated Health Professions Act) he is displaying professional misconduct (RCDSO, 2005). The failure of the principal dentist to attempt to collect the co-payment from the patient violates section 2, paragraph 34 of the Dentistry Act, 1991, and as such, the dentist is subject to investigation and possible legal action. Under this Act, “the fee charged is to be the fee that the dentist expects to collect” (RCDSO, 2005). Hence, the legal obligation of the dentist is to inform the insurance company that he is willing to accept 80% of his fee as full payment for those specific patients. It is evident there is no reasonable attempt to collect the co-payment. Therefore, in addition to professional misconduct, the dentist is also committing insurance fraud. When a dentist commits an act of this nature he or she is subject to disciplinary action by the RCDSO which may include complete loss or temporary suspension of dental registration and legal action by the insurance companies for committing insurance fraud (Ontario-Dental-Association, 2010). Of course, another distinct possibility is that the dentist will not be punished for his actions and benefit in the form of more patients and less pay to his associate. Additionally, the associate is

legally required to report the principal dentist for professional misconduct as outlined in the RHPA Dentistry Act of 1991 (RCDSO, 2004). Therefore, the associate may be subject to similar disciplinary actions as the principal dentist for being aware of this misconduct and not following the mandatory regulations.

The RCDSO recognizes that society has granted a certain level of trust to all dentists. Therefore, the RCDSO has devised a code of 15 ethical principles which hold Ontario dentists to a professional level of ethical conduct (RCDSO, Code of Ethics, 2004). In this particular scenario, the principal dentist is in major violation of codes two and six and minor violation of code eleven.

**Code 2: Be truthful, obey the law, and provide care with respect for human rights and dignity and without discrimination.**

**Code 6: Provide unbiased explanation of options with associated risks and costs, and obtain consent before proceeding with investigations or treatment.**

**Code 11: Accept responsibility for the care provided by authorized dental personnel**

Code Two clearly states to “obey the law”. By routinely writing off the co-payment the principal dentist is in direct violation of the Dentistry Act of 1991 as previously explained. This is professional misconduct and insurance fraud. The RCDSO can subject the dentist to disciplinary action and the insurance company can pursue legal action since the dentist misrepresented the full amount in which he intended to collect. Also, Code Six is being broken since the dentist is not providing an unbiased

explanation of the true costs. Given that he is not collecting the co-payment from certain patients his true costs is only 80% of what he claims.

Code Eleven requires the principal dentist to be fully of aware of any acts of misconduct which take place in his or her office. Technically, it is not clear whether the front desk is writing off the 20% co-payment with or without the principal dentist's knowledge. Nevertheless, according to Code Eleven, the principal dentist is still liable for these actions.

When any dilemma or ethical situation arises all members involved have a choice to make: to act or not to act. However, before jumping to any conclusions, a careful ethical analysis must first take place. A practical decision-making tool for such ethical dilemmas is the UCLA Decision Making Model (Atchinson & Beemsterboer, 1991). The following steps involved are: identify the ethical problem, collect information, state the options, apply ethical principles to the options, make the decision and implement the decision. The main ethical dilemma involved is justice versus beneficence. By not collecting the co-payment a great injustice is being suffered by many parties as previously outlined and this must be weighed against the beneficence to patients who are not being fully billed. The associate ought to be absolutely certain as to any wrong doings which are actually occurring. If the front desk is consistently writing off the 20% co-payment this must be verified prior to proceeding with any action. In the associate's particular position the fundamental choices are to do nothing, report the principal dentist

to the RCDSO immediately, or speak with the principal dentist in a professional manner regarding this discovery.

As a recent graduate one can reasonably assume that the associate has little business experience working as an actual dentist. It would be quite easy to not act on the information recently discovered and to turn a blind eye to the situation. This would avoid conflict with the principal dentist along with possible legal hearings in which the associate may be called to testify. The risk of future tension in the dental community may be a problem the associate does not wish to experience. Conversely, the associate may decide to react in a different manner.

According to the RHPA Act, 1991, there are mandatory reporting guidelines in place which require professionals to inform authorities when they have reasonable knowledge of a colleague who is displaying professional misconduct (RCDSO, 2004). Therefore, by the strict letter of the law, in Ontario, the associate has thirty days to file a report with regards to the professional misconduct involving the principal dentist. The Procedural Code ensures that no action can be taken against the associate for filing the report with honest intentions (RCDSO, 2004). Although this option of immediately reporting the principal dentist is following stringent adherence to the law, it is not necessarily the best, primary option. Being part of the dental profession comes with a sense of camaraderie; therefore, one must be fairly certain of all of the facts before acting.

The approach I would follow, and recommend for the associate, initially involves a private discussion with the principal dentist. The principal dentist deserves the respect of being spoken to before any further action is taken with regards to this particular scenario. After all, it may be possible that the principal dentist is unaware that the front desk is normally not attempting to collect the co-payment. The best approach is to have a rational, calm, and informative discussion with the principal dentist explaining the professional implications, as well as the legality of the principal dentist's actions, the downstream implications to dental insurance, cost to patients, and the associate's wage which all necessitate discussion. The principal dentist has an obligation to uphold the RCDSO code of ethics and follow the Dentistry Act of 1991 under the RHPA. If the principal dentist is a reasonable person he will understand the associate's concern for justice and realize the ramifications of his faulty actions. In the event that the principal dentist is unreceptive to the associate's concern he should respectfully explain to the principal dentist that he has no choice but to report him due to the mandatory reporting requirements of the RHPA Act of 1991. After careful analysis of the ethical issues involved, the actions of the principal dentist are unfair to all parties involved and outweigh the beneficence to selected patients.

The outcome of the associate's decision is dependent on the receptiveness of the principal dentist. Assuming the principal dentist was unreceptive to the associate's concerns and he filed the report, his professional career should not be in jeopardy. The associate is assured immunity upon filing a report in good faith (RCDSO, 2004); yet, there still may be some consequences for his actions. The principal dentist may make

life miserable for the associate in hopes that he quit since he will most likely feel betrayed. Also, the principal dentist may make it known of the associate's actions which may deter other dentist from hiring him in the future. Conversely, the associate may be lauded for his actions by honest dentist as news travels of his integrity and courage to stand up for justice. Sincere dentist who have pure intentions want what is best for their patients and the profession. Hence, future dentist should be proud of the associate for upholding the integrity of their profession since all patients, regardless of their oral health provider, have the right to be treated fairly. The principal dentist, on the other hand, will most likely not reciprocate this sentiment and may contain uneasy feelings towards the associate. It is fair to assume that their professional relationship may be forever tarnished. Additionally, there may be some dentists who are disturbed by the fact that the associate reported the principal dentist, yet, if they feel this way it is possible that they are guilty themselves of committing similar acts.

The main driving force behind the rational to speak with the principal dentist and ultimately file a complaint stems from the Principle Approach according to O'Toole. (O'Toole, 2006). The Principle Approach aims to reach a solution to benefit all parties involved while simultaneously being fair or just. The associate has a duty to bring justice to this situation since many are being treated unfairly, including: uninsured patients, the insurance company, other dentists and the associate himself. The principal dentist is displaying a complete lack of regard towards others simply by not collecting the co-payment. Hence, it is unreasonable to expect these individuals to suffer simply because the principal dentist is writing off the co-payment. Utilizing the Principle Approach to

convince others of a particular viewpoint is ineffective against individuals who are not concerned with the consequences of their actions (O'Toole, 2006). The principal dentist has most likely been writing off co-payments long before the associate arrived. He has yet to see any consequences of his actions and has most likely enjoyed some of the benefits by increasing his patient base. By primarily arguing from the viewpoint that it is 'unjust' to behave in this manner may seem unthreatening to the principal dentist. Therefore, the associate would have to emphasize the downstream consequences in the form of legal action, lower insurance coverage for patients and poor publicity to get through to the principal dentist.

Realistically, ethical dilemmas can be overlooked when dentists do not follow a formal decision-making process. However, if one acts with honest intentions of upholding the core values of the profession then they ought to be deserving of the title "professional". Being part of any profession should be viewed as an honour. Dentists have a social contract with society to display certain core values which should not be compromised. Approaching each moral dilemma through the UCLA Decision Making-Model will aid one in making better decisions. The privilege and respect which comes with the title of Dentist is one which must primarily be upheld by those who follow the professional values that define our profession. Although some dentist may not see the harm in writing off the co-payments, it has been made evident, through a careful analysis of the professional ethics at play, that serious unprofessional consequences are indeed probable.

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