



G26 A Dental Malpractice Case Involving a Potentially Broken Dental Bur

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Learning Overview: After attending this session, attendees will have reviewed organizational requirements for an expert witness in a malpractice case. Additionally, attendees will have reviewed skills required for preparation of both depositions and expert trial testimony. Attendees will be learning a systematic approach for preparing materials in a malpractice case. Included will be preparation for a deposition and/or trial, as well as how and when a research project can assist in this preparation.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by reviewing the need for a detailed review of materials provided by attorneys, checking for disparities in records, and the potential use of research projects to validate opinions to be presented in both deposition and trial testimony.

This case review of a dental malpractice lawsuit involves an aspirated dental bur. The case was sent for review based on a paralegal's internet search related to aspiration cases. Guidelines for evaluation of the case will be reviewed, including, but not limited, to the information provided by the attorney. The original information provided included the patient's age and health status. Records requested and later obtained included dental radiographs of the patient along with defendant dentist treatment notes. Hospital records were ultimately provided in addition to a photograph of an aspirated surgical dental bur adjacent a ruler. The photograph provided of the aspirated dental bur was compared to the measurements of a new surgical dental bur.

The dental radiographs, in addition to the defendant dentist records, will be discussed, as will alternate treatments that legally should have been presented to the patient. The technique utilized to review the dental records from the defendant dentist, including his radiographs, his depositions, and hospital records, will be discussed. Inconsistencies within the records provided will be brought forth. Safety measures that were available and should have been provided to protect the patient's airway from the aspiration of the dental bur will be discussed.

Ultimately, a research project was conducted to clarify the standard of care among oral surgeons regarding patient protection against aspiration of foreign objects during surgical dental extraction procedures. The technique for setting up this research project will be reviewed, and the findings and value will be discussed. Preparation for expert depositions will be reviewed, including disclosures of exhibits required. The need to provide all exhibits at the time of the deposition will be reviewed.

Also discussed will be the need for the expert to review the case with the plaintiff attorney, the expert's responsibility for assisting in setting forth questions for the plaintiff attorney, the type of questions that should be provided for the plaintiff attorney to be used with the defendant dentist and his experts at the time of their depositions and later in the courtroom, and questions relating to the standard of care for oral surgeons providing surgical extractions and the requirements of a general dentist to adhere to the same standards.

Malpractice, Dental, Research