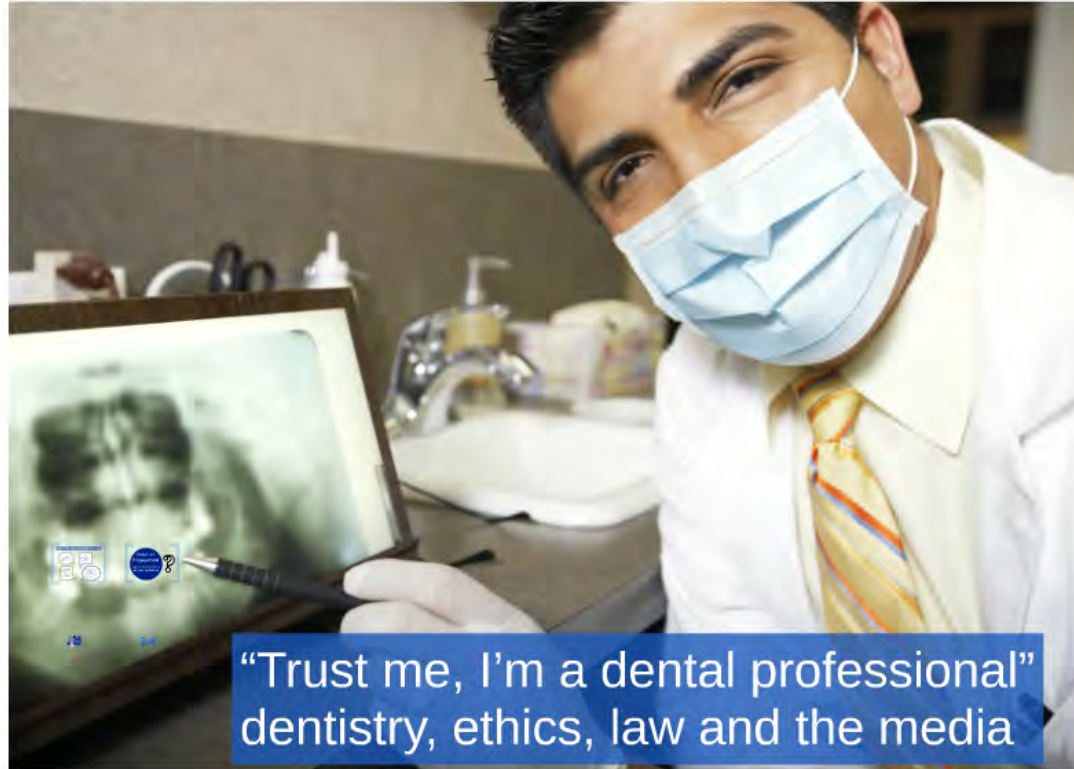
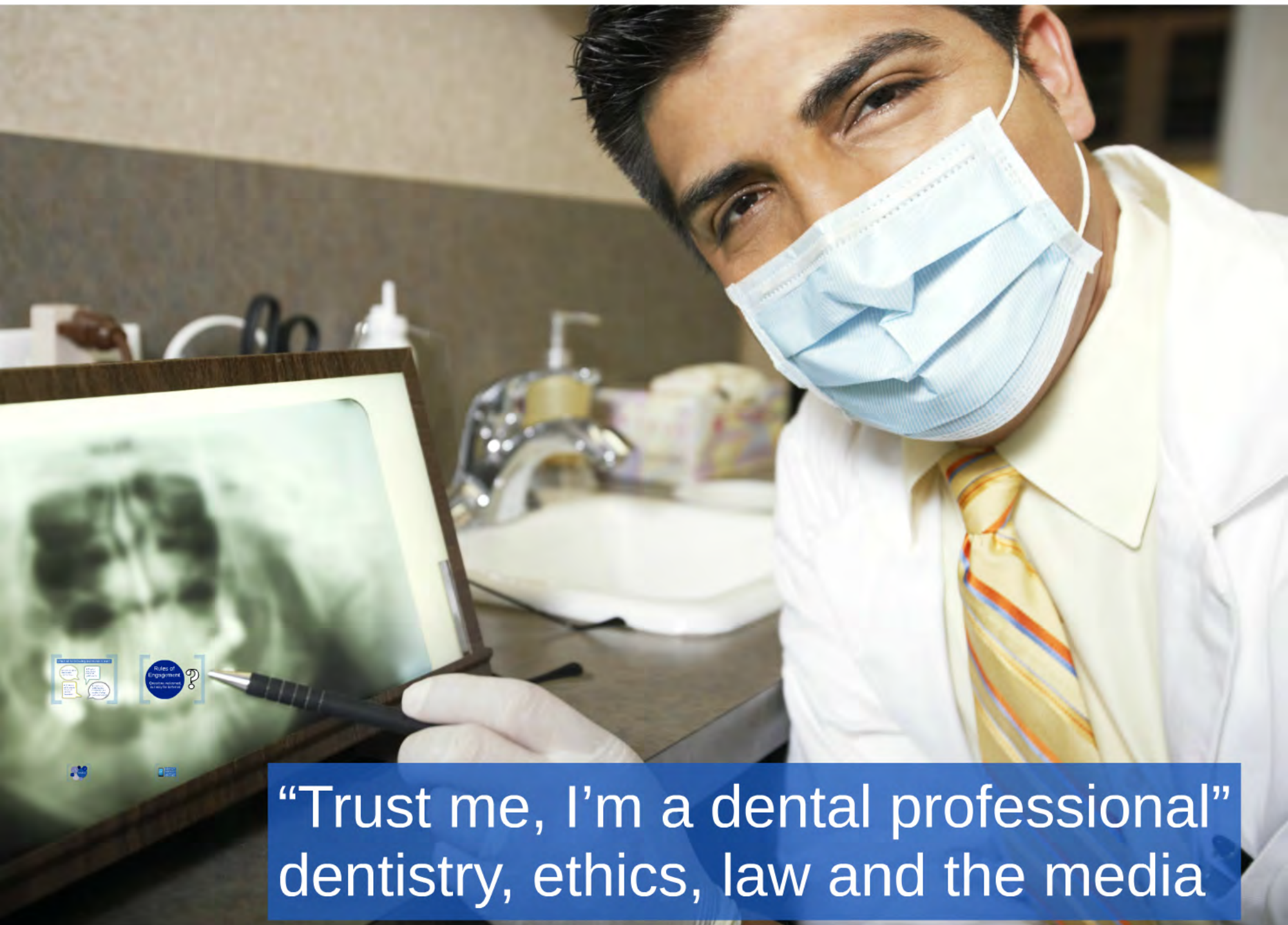


Victoria
27 October 2015



Jerome Marburg, Registrar/CEO
Dr. Chris Hacker, Complaint Investigator

Volunteer Video



"Trust me, I'm a dental professional"
dentistry, ethics, law and the media

Which of the following statements is true?

A. Patients can access their dentist's complaint history

B. If a patient sues a dentist, CDSBC will publish about it

C. CDSBC can only investigate the concerns included in the complaint

D. CDSBC must publish discipline decisions when there are adverse findings made against a dentist

Rules of Engagement

Questions welcomed,
but may be deferred



The Courts and the College



Civil actions (malpractice)



Professional regulation

Role of the Courts



- Civil: Person vs. person disputes
 - Patient vs. dentist
 - Remedy is compensation – usually money
 - Usually claims that the dentist was negligent, caused harm (damages) to the patient
 - Insurance driven

Role of the College

Authority

Entry

QA

Illegal Practice

Complaints

Care

Consequences

Publication

Expectations

**Regulating
dentistry
in the public
interest**

Authority

Health Professions Act

- The College is one of over 20 under the *Health Professions Act*
- Only has the powers given in the legislation
- Dentists Regulation provides exclusive title and scope of practice

Sets entry standards for the profession

- Education
- Experience
- Examination



Establishes standards for practice and continued registration

- Quality Assurance (lifelong learning)
- Standards of Practice and Code of Ethics
- Standards & Guidelines: Sedation, Recordkeeping, Infection Prevention and Control

Enforcement against illegal practice



- Public interest protection
- Public health
- Is complaint-driven
 - Wu
 - Shapoval
 - Huang
 - Guan
 - And others...



Complaints

CDSBC receives, investigates and resolves complaints

Investigating/resolving complaints is our single largest cost driver

- College  money
- Profession  reputation

Written
complaint
received



Intake panel
accepts for
investigation



Investigate
complaint



Written
complaint
received



To whom it may concern, I am also ~~not~~ sure of the date, June or July?
 I am expecting a response to my complaint.
 My name is [redacted]. I am on disability for an
 induced stroke. I also had three teeth knocked out when this happened.
 I had at Dr. [redacted] office do some work on the remaining teeth, they x-rayed
 my one last tooth on the one side. I needed this last tooth to chew, the x-ray
 showed the nerve was dead, the filling fell out and was chipped, I was not in
 pain. Dr. [redacted] office wanted to pull. I said no. So I went to the tooth guy
 in [redacted] that helps people with tooth problems for help? I phoned
 to book a filling procedure, I asked how much was left on my card card
 They told me there was lots on my card card, they said they would book
 an appointment to fill my tooth. When I came for the appointment on June 2
 the office switched dentists and gave me some other dentist
 I did not know? she tried to bill me for more x-rays when she
 had the x-rays in front of her? I told her NO, you do not
 need to bill extra for nothing! she would not let me sign a waiver
 to fill my tooth, she did not ask, but tried to start pulling
 my chipped tooth. I explained I was not in pain and I did not
 book that procedure! also my disability card was empty
 The Dr. [redacted] office first lied to me telling me my card
 had lots on my care card, tried to bill me for more x-rays, change
 the dentist, changed the procedure, he was trying to pull my
 tooth when I said NO. after when I phoned back they
 told me I was billed for a non-emergency procedure that
 is not aloud, for a non-emergency, they lied to me, tried to
 over bill on a empty card, and switch doctors, this is not
 acceptable to me and is dishonest. I want justice!

June 23, 2014

College of Dental Surgeons
Suite 500 - 1765 West 8th Avenue
Vancouver, BC V6J 5C6



Sorry I didn't send a letter sooner. I was waiting to get my final results from Dr. [redacted]. After Almost a year, my spleen has almost returned to its normal size and surgery will not be required for its removal. I also am almost back to normal once I get my muscle tone and weight back which I lost during the infection.

I now know after my near death experience with Streptococcus Mitis caused from my dental experience, it is absolutely necessary to have Antibiotic Prophylactics (Premeds). When I was eleven to twelve years old I had Rheumatic Fever, which effected my heart and forced me to stay in bed for one year. I also had a full knee replacement in 2008. I have always had to take Premeds prior to any dental work or anything invasive done to my body as a precaution to prevent infection. This was my first dentist experience with no premeds and it almost cost me my life (a bad call made by my dentist).

On March 7, 2013 I went for a consultation visit with a new dentist, Dr. [redacted]. We discussed future work that I required and at this time I requested premeds for future dentistry and he informed me that the policy for giving premeds had been changed. I was concerned as I had always taken them in the past because of my past medical history. But, hey, he is the doctor.

On March 21, 2013 I had a major procedure done which required him to cut through my gums, no premeds. Admittedly, I was prescribed Amoxicillin after the procedure was completed. However, I feel that the problem would not have occurred if I had received antibiotics into my system before the cutting had started.

My knee was so sore no one could touch it. A MRI was done and because of my two falls, when I had the high fevers, I had mashed up the soft tissue so badly that the surgeons could hardly believe it. I am now on the list for replacement.

Ultrasounds showed that my spleen, because of the blood infection, was three times its normal size. At this time they thought it would have to be removed. A bone marrow biopsy was done to rule out blood cancer.

Ultra Sounds, X-rays, More Blood Tests Than I can Count, Echo-Cariograms, MRI, Gastro Scopes, Colonoscopies, Bone Marrow Biopsy, Being on Intravenous for eight weeks, FIVE Blood transfusions and a EIGHT WEEKS AND TWO DAY stay in the hospital, it was the consensus of the Hematologist, Infectious Disease Specialist, Surgeons and Doctors that this infection was caused by NO PREMEDS BEFORE DENTISTRY.

In view of what had happened, I firmly believe your no Antibiotic Prophylactics policy should go back to the way it was. I would never want anyone to have the problems and suffering that I had for the past year.

I've enclosed a letter I sent to [redacted], Insurance Adjuster for [redacted]. I have since received an e-mail from him and they deny any fault. I am at a loss as to what I should do now. I feel there should be some compensation for the year I lost and the extra expenses incurred. I will appreciate any advise from you. There also is a disc copy of Doctors reports that were involved in my case. If more is required, please let me know.

Yours truly,

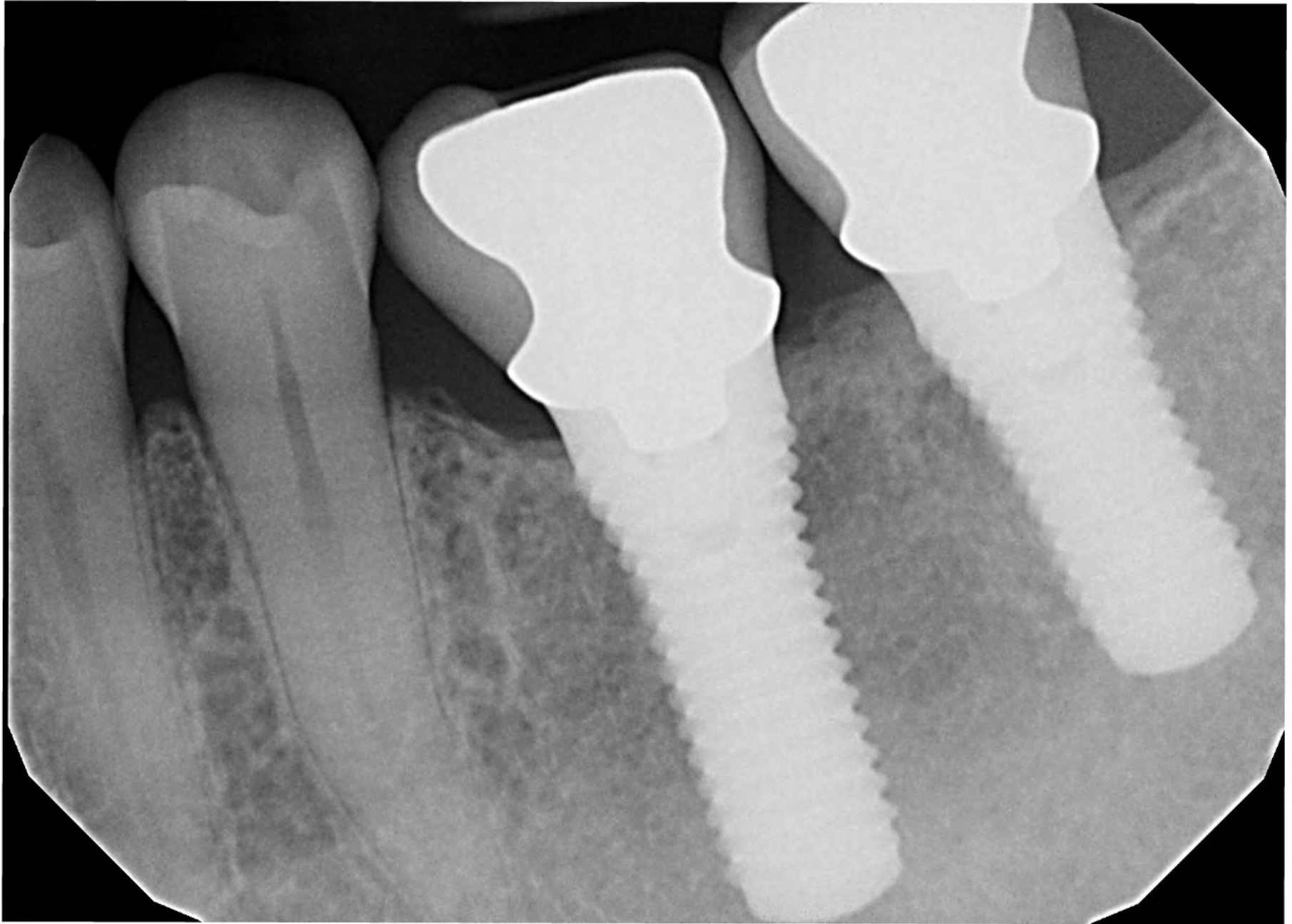


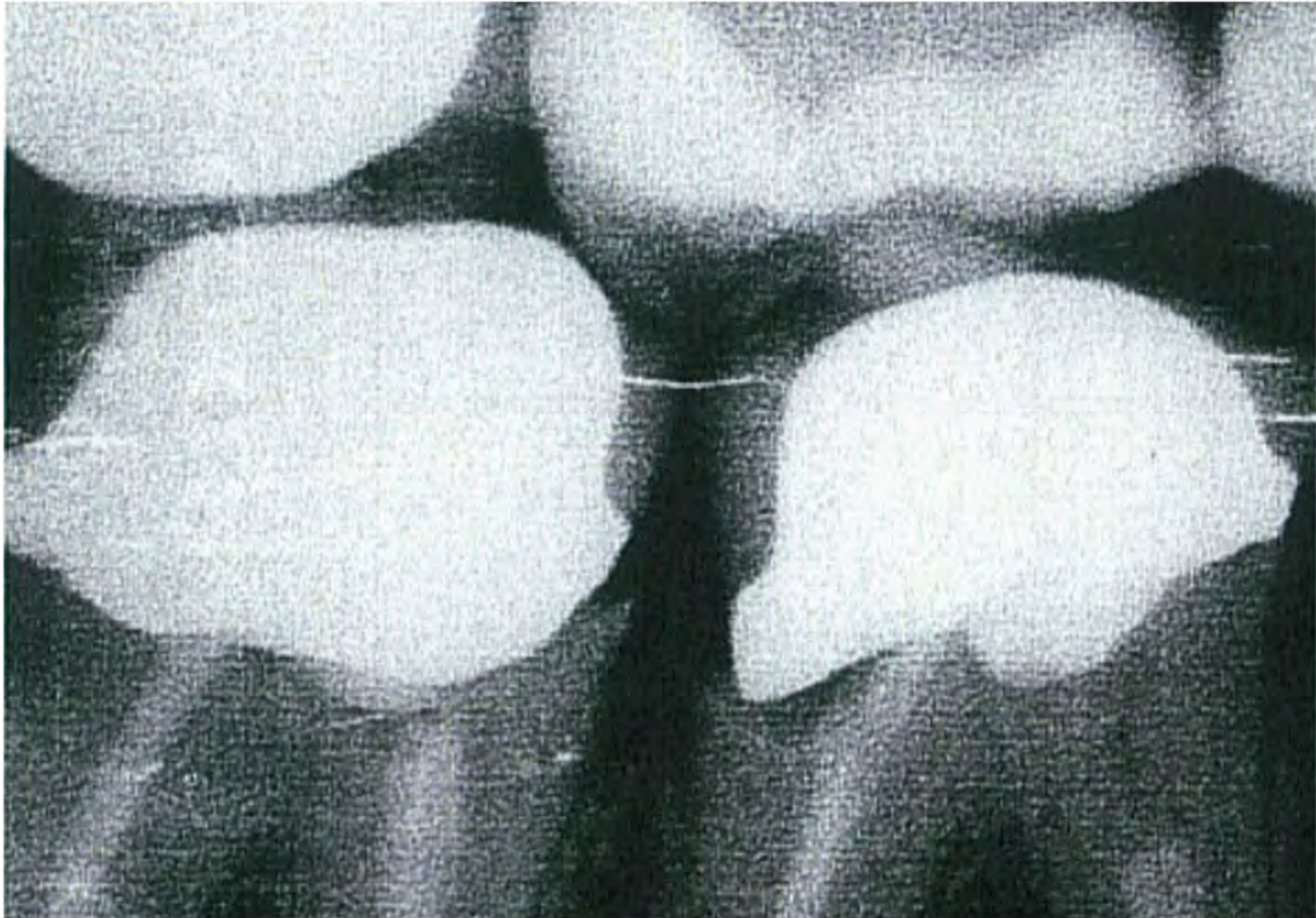
Intake panel
accepts for
investigation



Investigate complaint



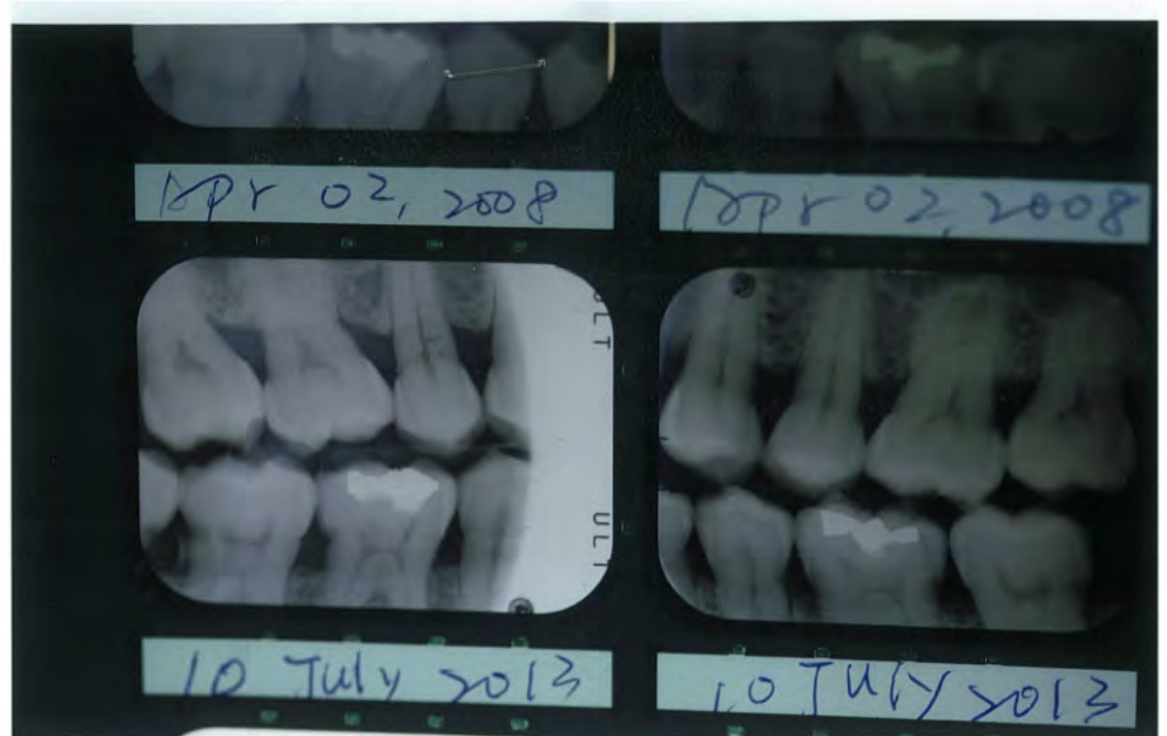
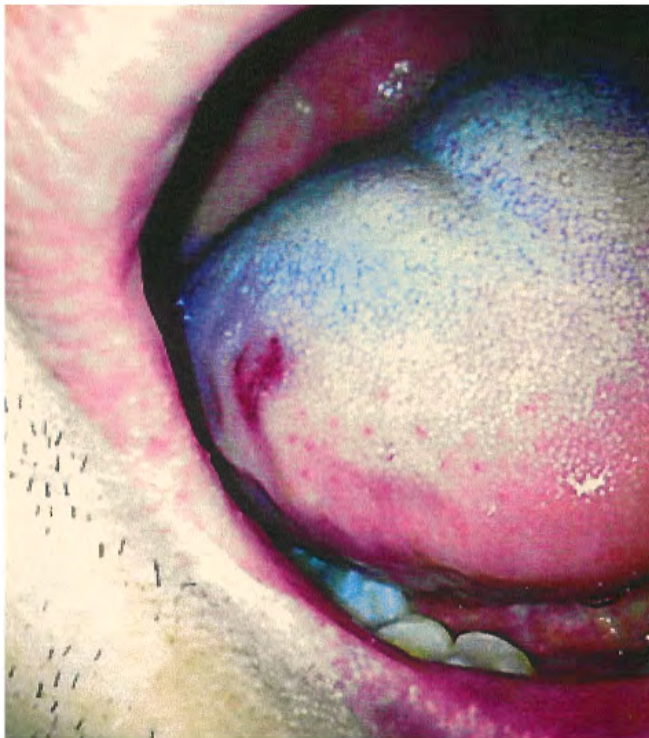




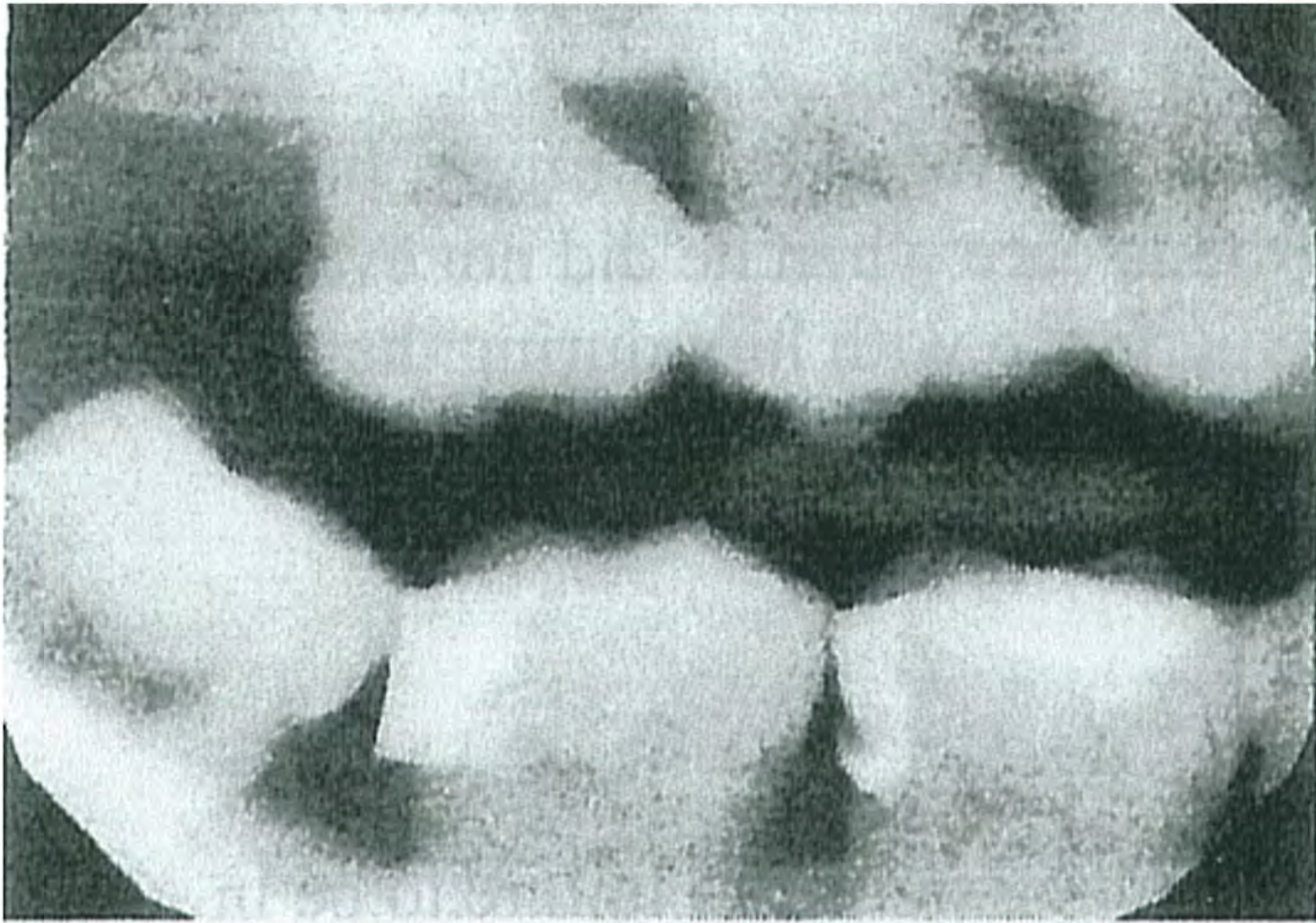
Scope of investigation:

- Can change as the facts become known
- Obligated to follow the facts as they arise
- Incompetence is sometimes revealed through the investigation of an unrelated complaint
- Standard of care may have been met for the original complaint concern, but the investigation might reveal concerns in another area.

Case #1: No empathy for bitten tongue



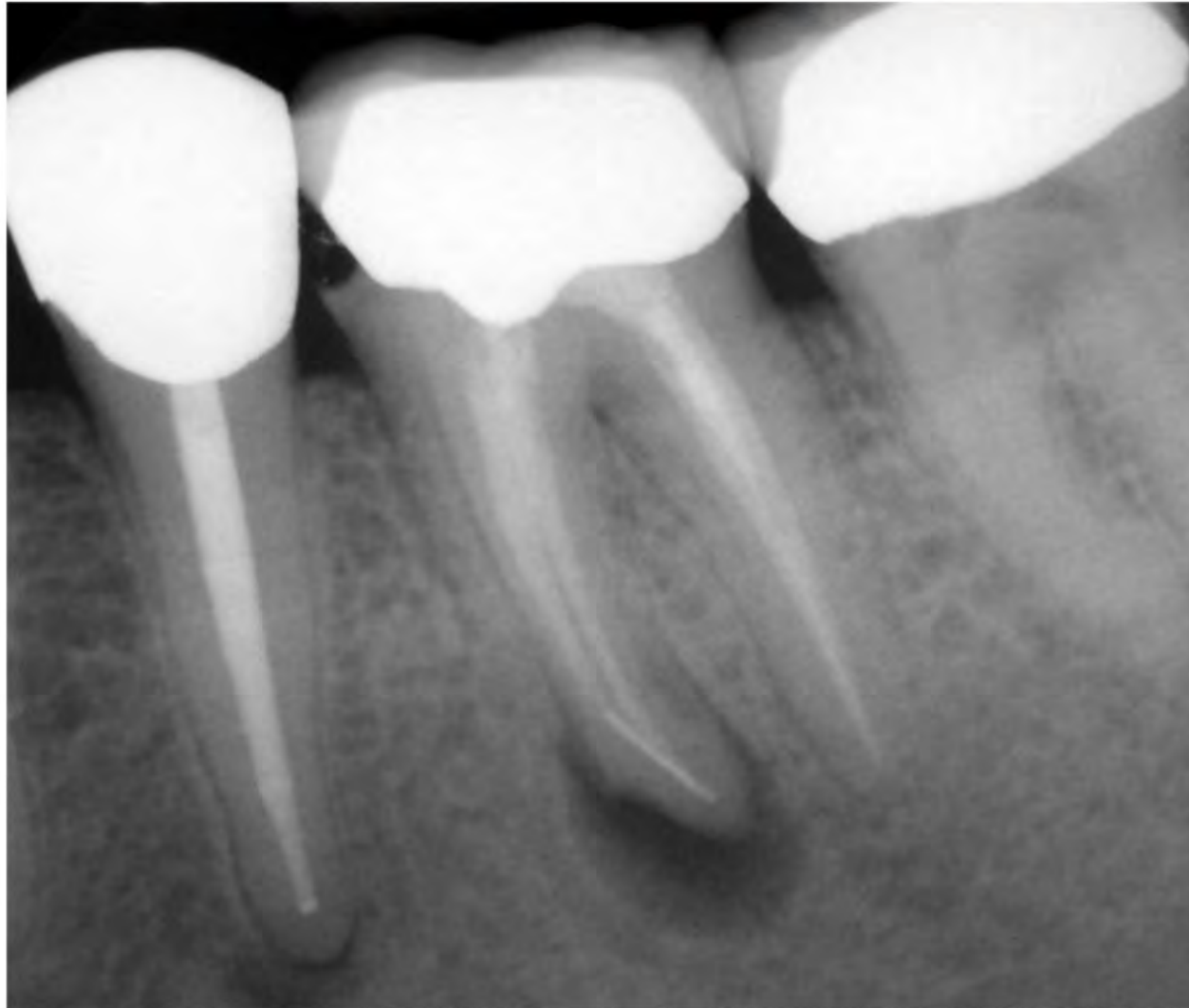
Case #1: No empathy for bitten tongue



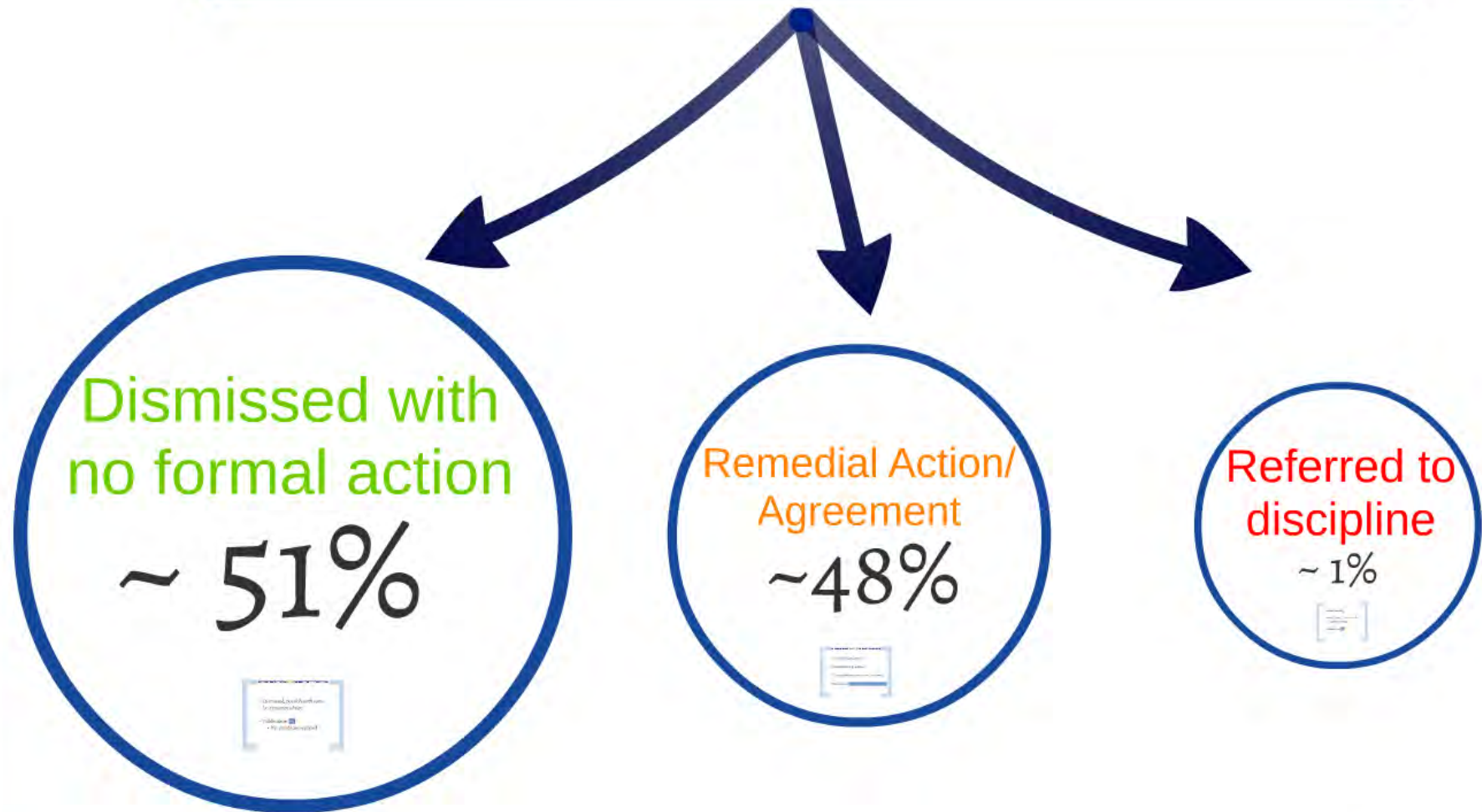
Case #2: Broken File



Case #2: Broken File



Inquiry Committee Decides



Dismissed with
no formal action

~ 51%

- Dismissed, possibly with some best practice advice
- Publications: 100
 - But trends are reported

- Dismissed, possibly with some best practice advice
- Publication: **No**
 - But trends are reported

Remedial Action/ Agreement

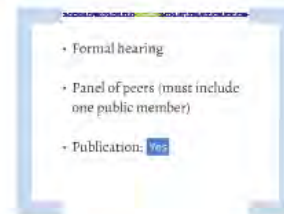
~48%

- Resolved by agreement
- Remedial action required
- Conditions/limitations may be imposed.
- Publication: Yes (must announce, some not)

- Resolved by agreement
- Remedial action required
- Conditions/limitations may be imposed
- Publication: Yes (most anonymous, some not)

Referred to discipline

~ 1%



A screenshot of a form, likely from a university's disciplinary process, enclosed in a light blue border. The form contains three bullet points: 'Formal hearing', 'Panel of peers (must include one public member)', and 'Publication: Yes'. The word 'Yes' is highlighted in a blue box.

- Formal hearing
- Panel of peers (must include one public member)
- Publication: ☒ Yes

- Formal hearing
- Panel of peers (must include one public member)
- Publication: **Yes**

Health matters:

- self-reports and reports from other health professionals are not treated as complaint/discipline files
- patient complaints may be treated as a complaint but we protect the registrant's privacy

A close-up photograph of a black analog clock with a white face. The clock is positioned on the right side of the frame. The background is a blurred black computer keyboard. A blue rectangular box is overlaid on the bottom left of the image, containing white text.

15 minute break

Care

Have the professional standards been met?

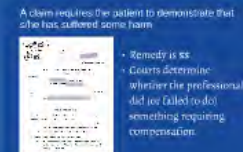
Incompetence is different from **negligence**



- Unqualified or unable to perform a particular task or function
- Typically involves a pattern of substandard care



- A single negligent act or a mistake does not mean a person is incompetent
- But could lead to a finding of negligence



A claim requires the patient to demonstrate that s/he has suffered some harm

**SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY**
AUG 06 2014

FORM 1
(Rule 3-1(1))

NO. [REDACTED]
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN: [REDACTED] by her mother and
Litigation Guardian, [REDACTED]

AND: [REDACTED] PLAINTIFF

DR. [REDACTED] DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the Plaintiff for the relief set out in Part 2 below. If you intend to respond to this action, you or your lawyer must

(a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

(a) file a response to a civil claim in Form 2 and a counterclaim in form 3 in the above-named registry of this court within the time for response to civil claim described below, and

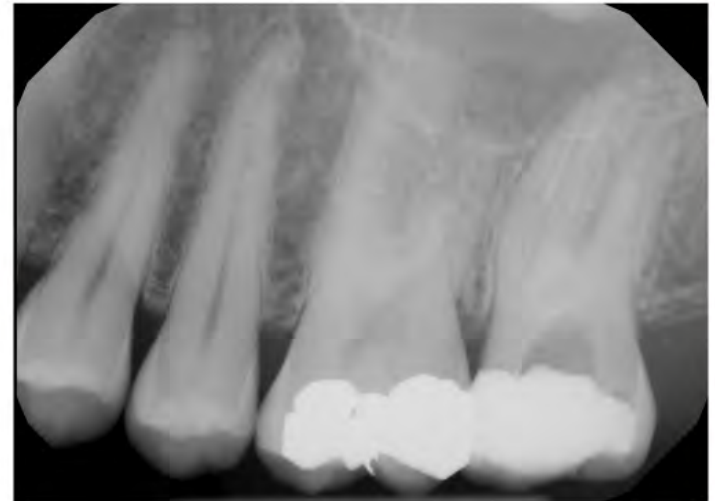
- Remedy is \$\$
- Courts determine whether the professional did (or failed to do) something requiring compensation

Case Study: Three broken files

A.



B.



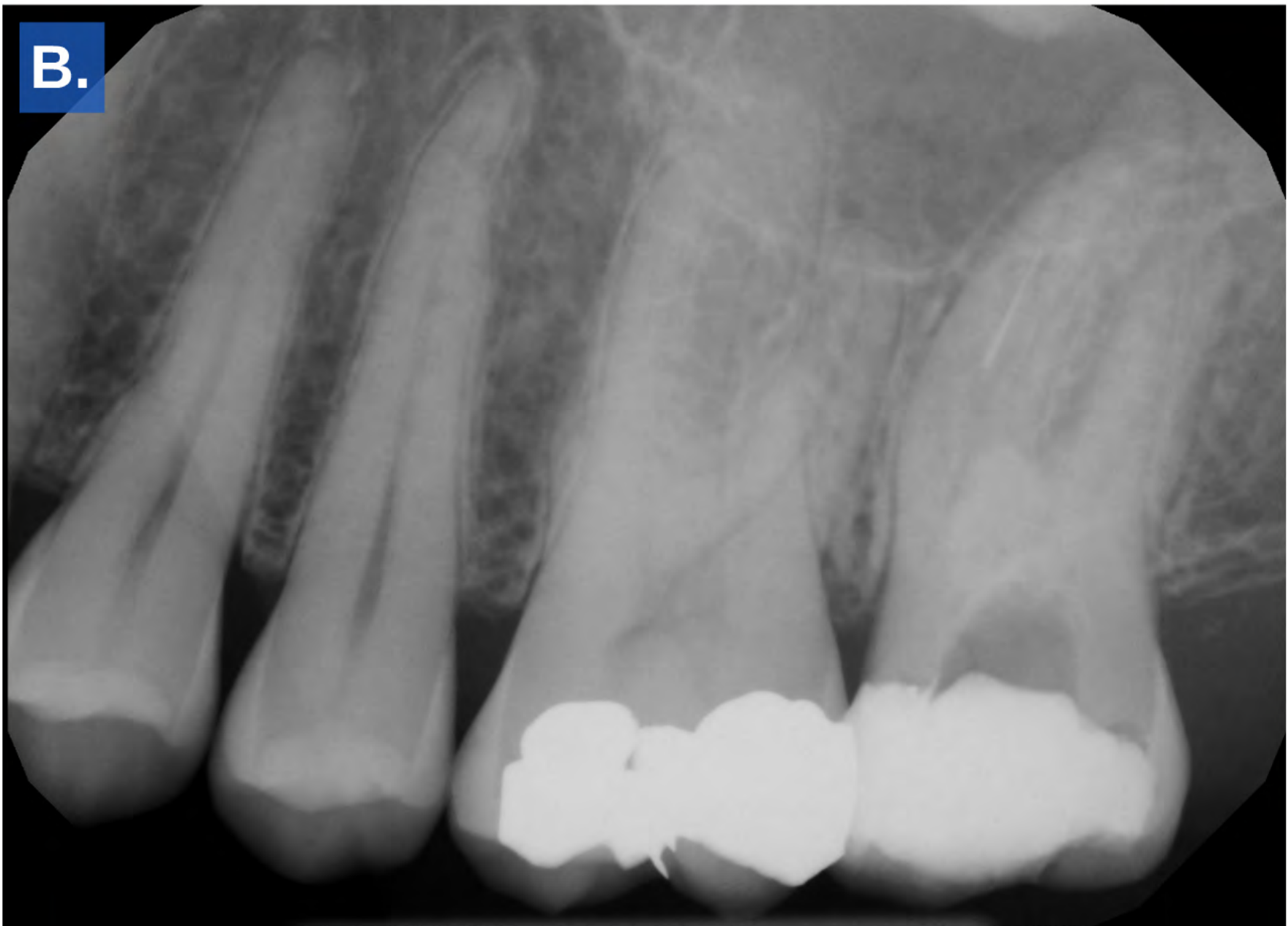
C.



A.



B.



B.



C.

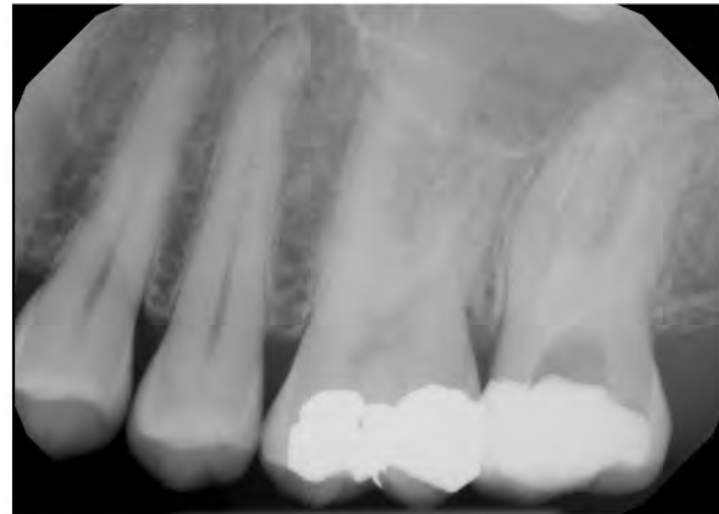


C.



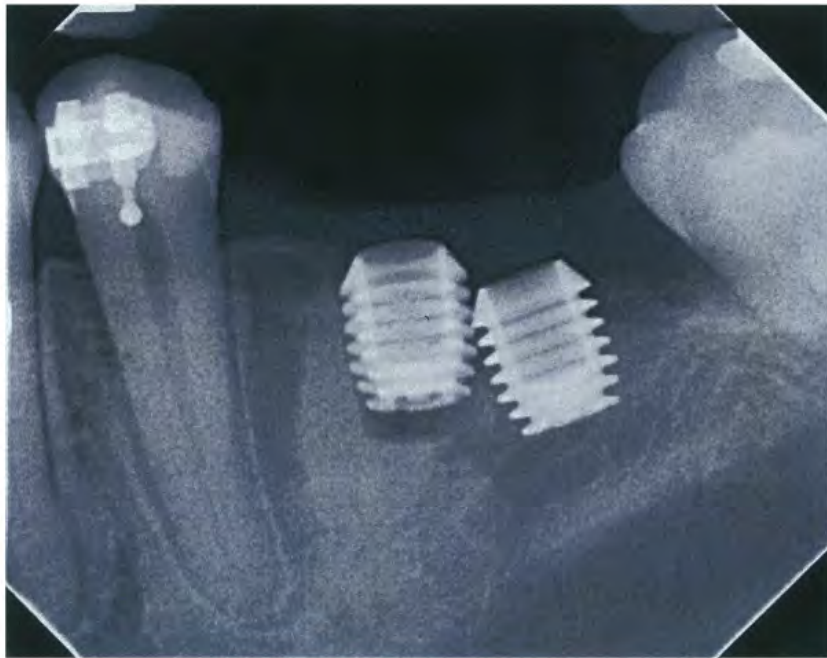
Case Study: Three broken files

Three different outcomes



Which of these two radiographs would raise concerns? (A) or (B)?

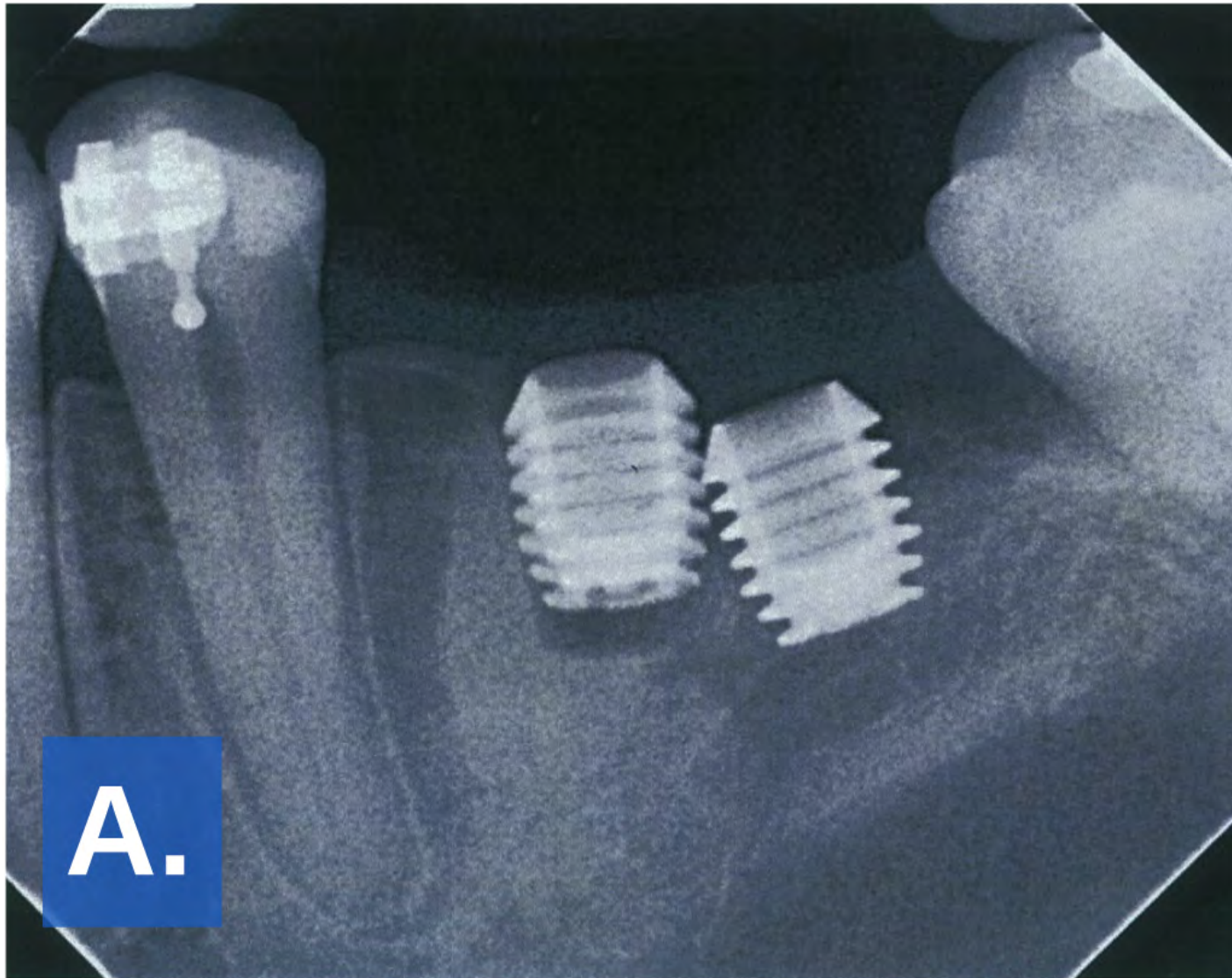
Case Study: Implants



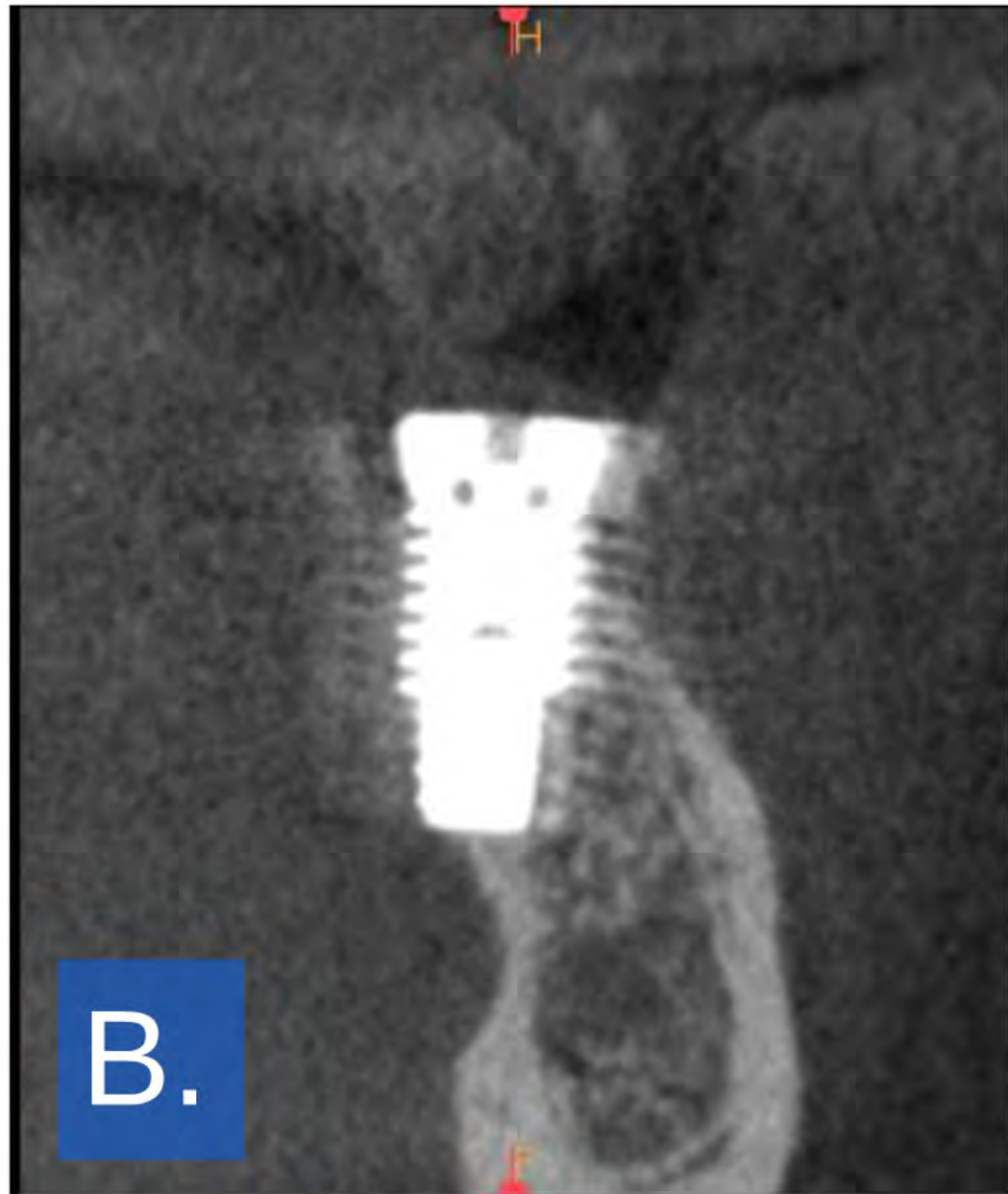
A.



B.







A Case of Negligence

UPDATED | Cancer patient demands dentists provide transparency

Dying B.C. woman believes ruling body unhelpful in informing public

CBC News | Posted: Nov 13, 2012 6:01 AM PT | Last Updated: Nov 14, 2012 11:13 AM PT

A Case of Negligence

CDSBC investigation: *"The dentist admits an error was made in not sending the sample to pathology. He states he has taken steps to implement a protocol within his office to ensure this cannot happen again."*

CDSBC deals with professional competence and will look to determine:

- Is it an isolated incident?
- Is the regular process adequate?

The Discipline Committee:

- Has the power to impose penalties ranging from remedial action to removal from practice
- No jurisdiction to award compensation to unhappy patients

Discipline Hearings

- CDSBC conducts discipline hearings when the matter is impossible/inappropriate to resolve by agreement
- Discipline hearings are public
- Formal process, much like a court hearing
- Decisions are public

Discipline Hearings



Competence / Incompetence

“The Panel concluded that in 29 instances, the dentist's practice was incompetent.”

Discipline Result:

The Discipline Panel Penalty Decision ordered:

- Cancellation of his registration
- Costs paid to CDSBC in the amount of \$95,000.00
- Successful completion of all years of a general dentistry program and the National Dental Examining Board examinations

Is the doctor's **conduct** appropriate and ethical?

- Code of Ethics
- Patient-Centred Care and the Business of Dentistry (draft principles)
- Building the Dentist/Patient Relationship
- Patient relations (boundaries)

Code of Ethics

Preamble

The ethical behaviour of dentists, dental therapists and certified dental assistants (CDAs) is one of the most important factors in the delivery of quality patient care and is one of the public's primary expectations of professionals. Continued public trust in the dental profession, and in the principle of self-regulation, is dependent on individual dentists, dental therapists and CDAs maintaining these standards of ethical conduct.

Core Values

The Code of Ethics is comprised of 5 Core Values followed by 13 Principles that build on these Core Values

Autonomy

Understand and respect patients' rights to make informed decisions based on their personal values and beliefs

Beneficence

Maximize benefits and minimize harm for the welfare of the patient.

Compassion

Act with respect, sympathy and kindness to all patients while addressing their concerns and alleviating their pain.

Fairness

Treat all individuals, patients, colleagues and third parties without prejudice or discrimination in a just and equitable manner.

Integrity

Be truthful; behave with honour and decency while upholding professional standards.

Code of Ethics

Autonomy

Understand and respect patients' rights to make informed decisions based on their personal values and beliefs



Integrity

Be truthful, behave with honour and decency while upholding professional standards.



Beneficence

Maximize benefits and minimize harm for the welfare of the patient



Fairness

Treat all individuals, patients, colleagues and third parties without prejudice or discrimination in a just and equitable manner.



Compassion

Act with respect, sympathy and kindness to all patients while addressing their concerns and alleviating their pain.



Autonomy

Understand and respect patients' rights to make informed decisions based on their personal values and beliefs





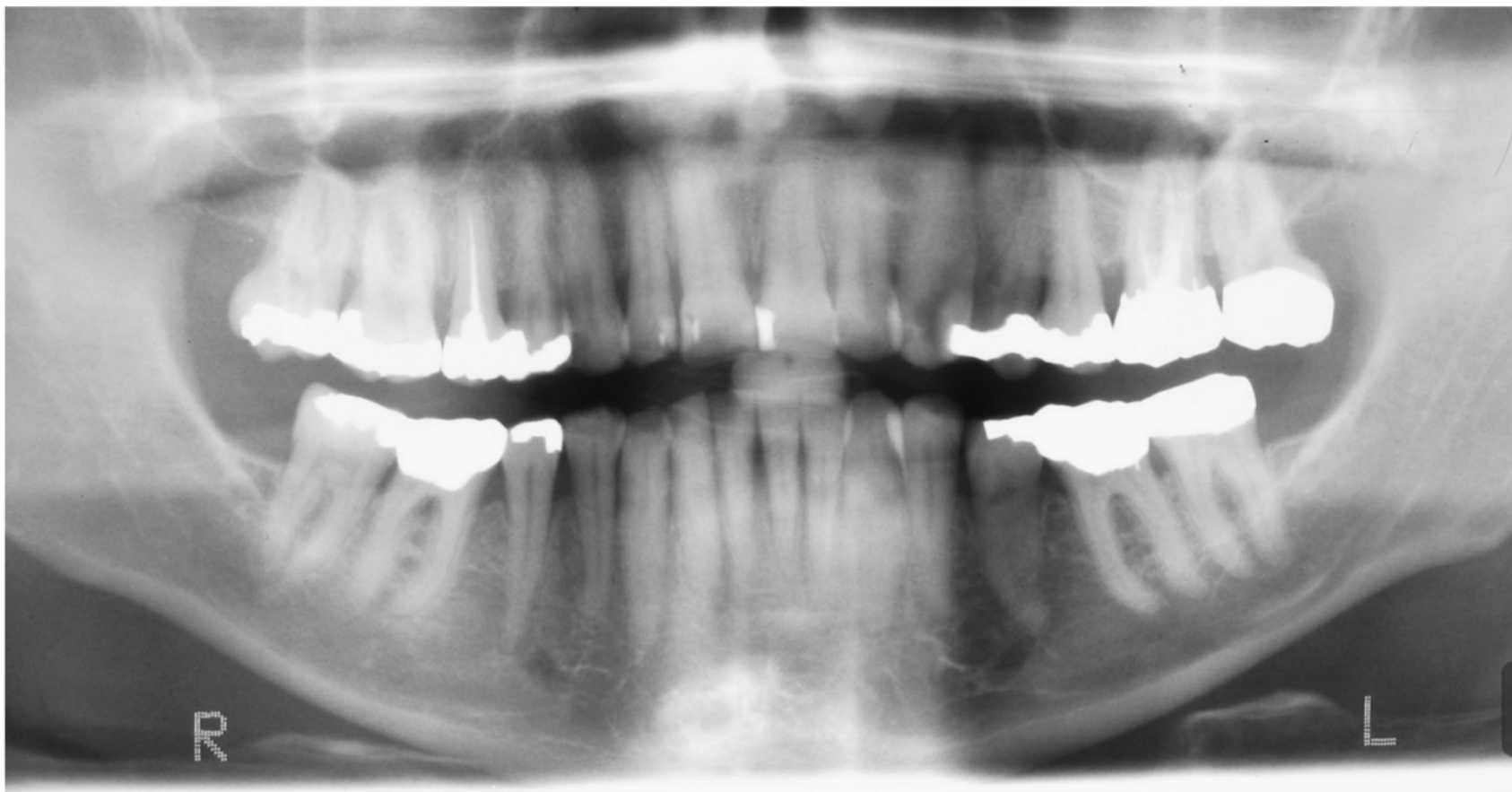




Beneficence

Maximize benefits and minimize harm
for the welfare of the patient







Compassion

Act with respect, sympathy and kindness to all patients while addressing their concerns and alleviating their pain.





Fairness

Treat all individuals, patients, colleagues and third parties without prejudice or discrimination in a just and equitable manner.



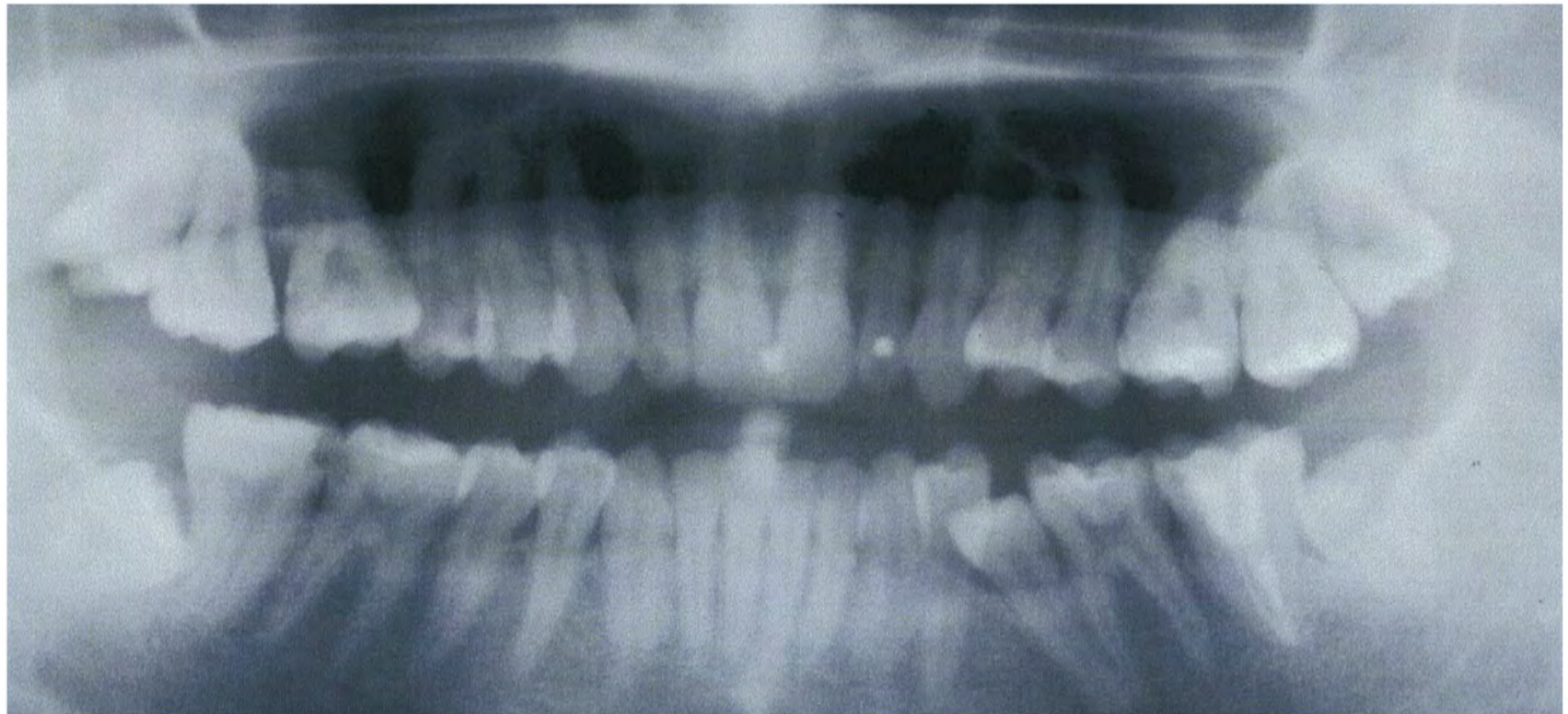


Integrity

Be truthful; behave with honour and decency while upholding professional standards.







Other helpful CDSBC resources:

Principles of Patient-Centred Care and the Business of Dentistry

- **Dentists' Obligations & Responsibilities vs. The Patients' Perspective**

Building the Dentist/Patient Relationship

The Dentist's obligation to the patient:

- Stay current in practice
- Provide safe environment
- Put the patient's health first
- Provide only dental services needed for oral healthcare
- maintain & safeguard medical records

The Patient's responsibility to the dentist:

- Tell dentist concerns & ask questions
- Give accurate information / medical history
- Be active participant in oral healthcare

Publication

What can the public reasonably expect CDSBC to publish about its registrants, and what can registrants expect from CDSBC?

Why do some patient complaints remain private while others end up on the 6:00 news?

B.C. dentist leaves patients with more than a toothache

Panel finds evidence of incompetent practice and unprofessional conduct

BY TARA CARMAN, VANCOUVER SUN OCTOBER 20, 2012

May 14, 2013 Updated : May 14, 2013 | 7:07 pm

 Adjust Text Size 

Dozens of former patients file lawsuit against Surrey dentist

By Cara McKenna
The Canadian Press exclusively for Metro

In most complaint cases, the name is **not** published, even if there is a published summary of the complaint

- Publication of name when:
 - citation (a notice of hearing) is issued
 - resolution of a "serious" matter
- Third parties may request that the name be withheld

“She asked that the required publication of this complaint be anonymized to protect her children, one of whom suffers from an anxiety disorder, and provided information regarding their vulnerability.”

Anonymous Certified Dental Assistant (CDA)

November 15, 2013

A dentist complained that the CDA had sent fraudulent claims to an insurance company. The funds were repaid by the CDA. The CDA resigned her certification with CDSBC and signed an agreement that she would not apply for reinstatement as a CDA and that she would not work in a dental office. She asked that the required publication of this complaint be anonymized to protect her children, one of whom suffers from an anxiety disorder, and provided information regarding their vulnerability. The Inquiry Committee agreed the publication would be anonymous. However, the Committee indicated that if she breaches the terms of the agreement, it might direct the College to republish the resolution of this complaint with the CDA's name.

“The dentist’s name is being withheld at this time due to a family member’s health.

His name will be published at a later date.”

Birdi, Hardeep

Vancouver and Coquitlam, B.C.

Dr. Hardeep S. Birdi, a certified specialist, admitted to altering copies of patient records as part of his application to the College to provide moderate sedation to patients. Dr. Birdi made a number of material changes to the documents he submitted to CDSBC, including changing the name of the surgeon, the assistants, the vital signs monitoring records, and in one case, the drug administered. He attempted to mislead the College because he was fearful he would not receive approval to provide moderate sedation in his office.

Dr. Birdi acknowledged that his actions were completely inappropriate and expressed remorse, indicating he was under a number of financial and personal pressures at the time which he felt contributed to his lapse in judgment.

The Inquiry Committee considered this to be a serious matter under the *Health Professions Act*, and for this reason, ordered that a summary be published pursuant to section 39.3 of the Act.

Dr. Birdi understands the ethical concerns raised by his conduct and has agreed to the following:

- (a) That he will never repeat the conduct in the future and will ensure all of his communications with the College are forthright and honest;
- (b) A reprimand;
- (c) Payment of a fine in the amount of \$15,000;
- (d) Completion of the Professional/Problem-Based Ethics Program for healthcare professionals, at his own cost; and
- (e) Donation of 40 hours of his professional services to a non-profit organization in the Lower Mainland.

*Originally Posted: August 19, 2014 (name withheld)
Updated: March 4, 2015*

Increased demands for transparency

- Government
- Public

News / Canada

Doctors, dentists, pharmacists: The mistakes you can't know about

STAR INVESTIGATION: Want to find out if your health-care provider has a caution-free record? You're out of luck. The warnings given to them are being kept secret by their regulatory colleges because they aren't required to tell you about them

In Ontario, enormous pressure on regulators to provide more information

"The public told us they want to know three things: criminal convictions, status of a practitioner's license and complaints that result in discipline and/or educational action."

(RCDSO 2014 public-register consultation)

Expectations

Competence and good conduct are what the public cares about

- Distinguishing characteristic of a profession is the obligation to put the public good ahead of personal gain
- The patients' interests come first

Public is generally very suspicious of monopolies / self-regulated professions

- Perception of protecting our "members"
- Increased awareness of professional groups
- Increased demands for transparency
- In return for monopoly rights of title and practice come obligations

Increased demands for information about their dentist

- Rating websites: RateMDs / Rate my dentist
 - Dentists' ethical obligations
 - Astroturfing
- Public wants to know not only what the discipline decisions may have been but also if there are complaints and the outcomes of those complaints

Dental advertising is everywhere, but does any of it help the public to choose a competent and ethical practitioner?

- Dental advertising impacts the public perception of the profession (often negatively)
- Ethical conduct extends to promotional activities and advertising

Misleading

- *"Dr. _____ is qualified for all of your dental needs"*
- *"Find the Fountain of Youth in [city]"*

Takes advantage of fears

- *"[Our dental office] is a silver and mercury-free zone"*

Comparative

- *"Bringing world-class dentistry to [city]"*
- *"[Clinic name] sets a new standard for dental practices in [city]"*

Qualifications

- *"Dr. _____ has achieved the status of Elite Invisalign Premier Provider, due to her extraordinary level of experience with invisalign based on the # of patients she has treated."*

Induces a course of treatment

- *"Free digital x-rays *with new patient exam and cleaning."*
- *"Enjoy \$1,000 off any full orthodontic treatment!"*

Money

- *"If you have insurance we will cover your out of pocket portion!"*
- *"We charge substantially less than oral surgeons or periodontists who also perform some of the procedures that we do."*

Advertising and promotional bylaws

CDSBC has drafted new advertising and promotional bylaws:

- Round 1 consultation with the profession resulted in tremendous feedback
 - Clear theme: even the playing field
- Redraft consultation (round 2) closed
March 23, 2015

Courts have supported the need to regulate advertising:


Restrictions are necessary to ensure "a high degree of professionalism and the protection of the public from irresponsible and misleading advertising"

(Yazdanfar v. College of Physicians and Surgeons of Ontario)


Ethical Compass




(Archie E. Patterson - Ethics in Forestry, 1994)



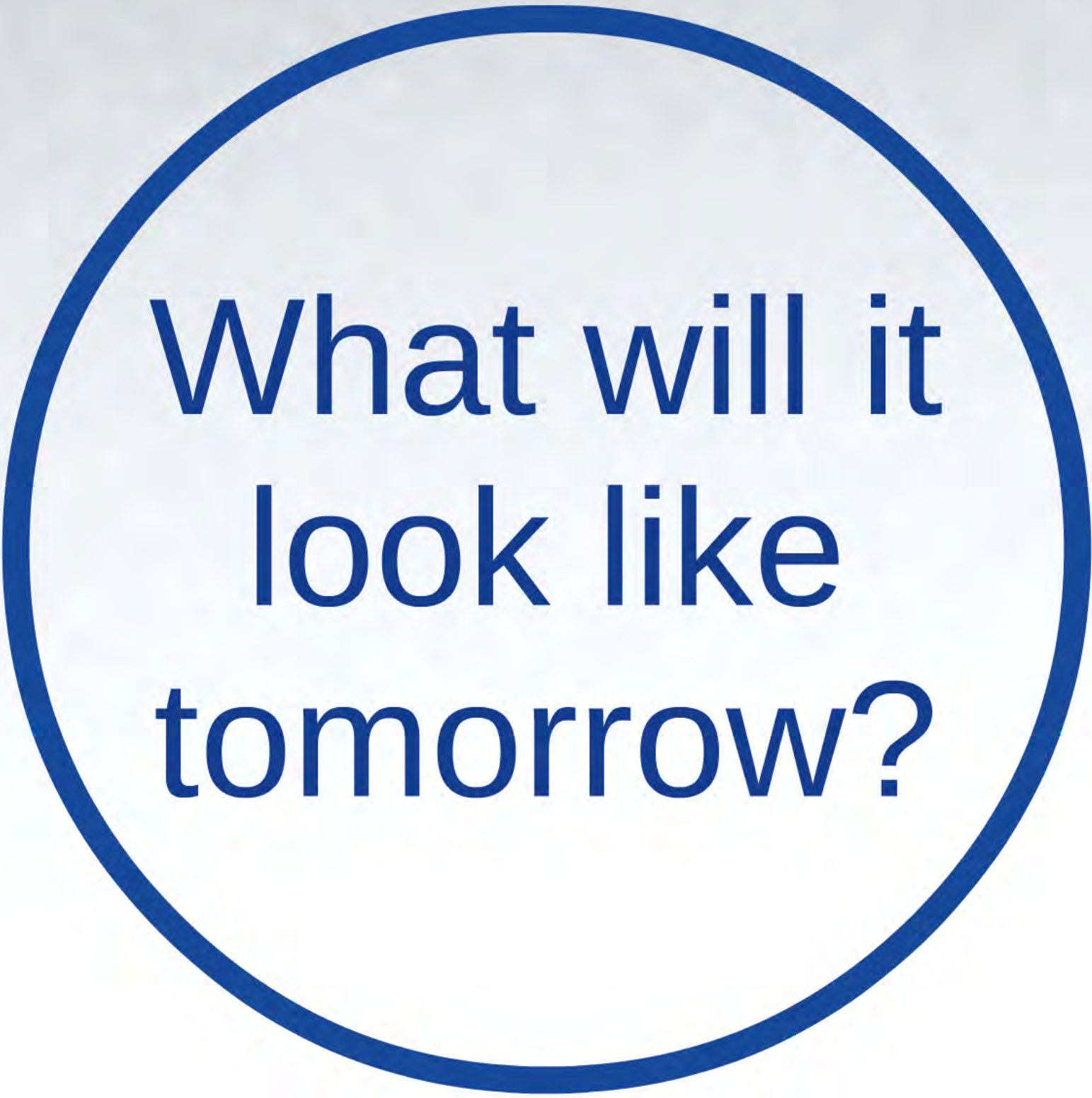
What does
my
conscience
tell me?



What if
everyone
did/did not
do it?



What if
everyone
knew?



What will it
look like
tomorrow?

Three lies and a truth

A. Patients can access their dentist's complaint history

B. If a patient sues a dentist, CDSBC will publish about it

C. CDSBC can only investigate the concerns included in the complaint

D. CDSBC must publish discipline decisions when there are adverse findings made against a dentist

Questions



Course slides available:
www.cdsbc.org/course-slides