

# Dental photography: medico-legal considerations

Phil Wander concludes his series with advice on record keeping and the duty of care

**T**HE camera is the eye to better practice: communication is one of the topics that regularly feature in the risk management publication produced by the Dental Protection Society.

Poor communication has long been recognised as a contributory factor (or even a sole cause) of approximately 80% of the complaints that are handled by Dental Protection

on behalf of its members.

We tend to use dental “jargon” all day long, when talking to other members of the team. It can be easy to forget that these terms and details used to explain the treatments you are about to provide for patients will be meaningless, unless they have been first “translated” into non-dental terms.

Photographs and words together

make for better presented treatment proposals and plans. Misunderstandings and doubts are less likely to occur. A photograph mirrors the operator’s confidence in his skills and treatments. Offer choices and show

what can be done, rather than simply telling what can be done.

Photographs can also help you to audit and evaluate your dentistry, and enhance your record-keeping – this is vital in maintaining best practice standards and avoiding litigation. Good records mean that a practitioner does not have to rely on unaided memory, and has a true recording of what occurred. Not only do records form the basis for improvement, they also help to keep practitioners safe.

A photograph can help to harness a patient’s expectations, especially if the photographs can be taken home for further consideration.

Simplified dental photography equipment, such as the Dürr VistaCam intra-oral camera system (pictured, top right), can be readily used for a “tour of the mouth”, as well as being able to highlight features in close-up, such as hairline fractures, caries and failing restorations (see photos below).

Legal documentation of cracks in teeth – for instance the ones we often find under old amalgam fillings



– provides evidence for any potential legal queries.

Magnavu (Clark Dental) replaces the need for loupes, microscopes and illumination. It enables the dentist to benefit from 23x optical and 46x digital magnification, providing access to clear, crisp views of the treatment site, while working in an ergonomic posture.

MagnaVu uses a high-resolution digital colour CCD camera chip to produce and capture clear, precise images, both still and video.

Filming patients undergoing complex dental procedures, especially when they are under sedation, can be very useful to allay patients’ misapprehensions of their treatment while they are not fully awake. This serves as a useful record and aid to self-protection; however, it must only be undertaken with the expressed consent of the patient involved.

It is also important to obtain written consent if you intend to use the image of a patient for publications of any kind, whether internal or external to the practice (see **sample consent form, overleaf**). This is particularly important when photographing minors: the consent of their parent or guardian is absolutely essential.

Nikon’s latest camera, the Nikon D5000, incorporates a movie mode and a date and time imprint, where the date and time are imprinted in the lower right hand corner of the image. This can be particularly useful in medico-legal archiving documentation.

If submitting photographs for legal proceedings, the photographs must be in RAW format. This is a large **Continued on page 18**

## The dentist’s duty of care

The following advice was kindly provided by Brian Edlin, head of Dental Services, Leeds, Dental Protection:

If a patient is being photographed by their own dentist, that particular dentist has a duty of care to act on anything abnormal he or she sees from the image, in the same way as he or she would behave when spotting an anomaly through a routine dental examination.

However, if the patient is being photographed by another dentist who may have an interest in dental photography but who is not actively responsible for the care and treatment of that patient, then they may not actually have a ‘duty of care’ to act on anything abnormal.

Therefore, should an allegation of negligence be levelled at the photographing dentist who fails to identify and refer a patient for treatment, either directly or indirectly, because of an abnormality, then it could be argued that there is no direct duty of care: the dentist was merely asked to take a photograph of the patient’s face or mouth. However, any registered dentist has an ethical duty to take the appropriate action in order to act in the patient’s best interests.

In considering the issues of both consent and patient confidentiality, the photographic subject may have sustained recent trauma and not wish this to be disclosed to their own dentist (or whoever has asked for the photograph to be taken). However, if the photographer notices some form of pathology which they feel should be brought to the attention of both the subject and their dentist, discussions should take place in a subtle and diplomatic way to obtain the consent of the subject to disclose the dentist’s findings.

It would be prudent for the photographer to keep a record of any consultation during which the subject is photographed, and to make adequate notes within these records of any discussions which took place.

In summary, the dentist taking the photograph should act in the subject’s best interests, but be aware of the need to obtain the subject’s consent to disclose any information to another party regarding discoveries made during the process.

The use of photography in dentistry has become more important as patients undertake non-therapeutic treatment to improve their dental and facial appearance, and it is advisable for the dentist to take pre-operative and post-operative photographs so that a record can be made of the clinical process.

This is often useful when it comes to treatments such as tooth whitening and direct composite bonding, where the result may not be permanent (as opposed to veneers or crowns, for example). Often these photographs can allay any patients’ fears that their expectations have not been met.

Photographs taken in a clinical setting are considered to be part of a patient’s clinical records, and therefore come under the remit of the Data Protection Act. With this in mind, the dentist should ensure the safety and security of these records: they should be filed either manually or on a computer in such a way that they cannot be accessed by unauthorised personnel.

It is important to note that if you wish to illustrate examples of your work on a practice website or for any publication within your practice, it is essential that the patients featured in your photographs give their consent, without coercion.



DURR

FULL PAGE

**Tooth Prep with Paul Tipton**

**Part 7: adhesive bridgework**

**A**N analysis of the literature regarding resin-bonded prostheses is more straightforward than that concerning conventional fixed partial dentures.

Most resin-bonded prostheses are single-tooth replacements and reported results are not as influenced by large prostheses as they are with conventional replacements.

The same criteria of bridge design apply equally to adhesive bridgework as conventional bridgework, such as retentive requirements, occlusion and hygiene, etc.

**Failure**

Dislodgement is the overriding cause of failure of resin-bonded replacements (Al-Shammery, 1989) and if double abutments are used this can lead to rapid caries (Figure 1). Results suggesting that overall long-term retention may be unpredictable failures ranged from

10% over 11 years (Barrack, 1993) to 54% over 11 months (Hansson, 1994).

Although combined long-term retention rates of resin-bonded prostheses appear problematic in many reports, certain selected variables show greatly improved success rates.

Restorations placed on tooth preparations having definite guide planes, proximal grooves and occlusal rests performed better than those with little or no preparation (Creugers, 1991).

The original concept of reversible resin-bonded fixed prostheses must be reconsidered if predictable retention is to be achieved. Current design parameters require that retainers more closely resemble traditional partial coverage restorations retained by resin cement (Burgess, 1989).

Luting agents and metal surface preparation techniques appear to have significant effects on retention rates. Panavia EX (Morita,

Japan) coupled with aluminium oxide abraded retainers showed improved retention (Hussey, 1991). Cement fatigue as noted by Wood and Thompson (1993) or cement washout as defined by Boyer (1993) might best explain unexpected long-term failure after short-term success.

**Success variables**

Occlusal forces, enamel surface area and isolation feasibility are factors that probably contribute to divergent success rates in specific locations in the arch.

Maxillary anterior prostheses demonstrate the highest retention rates (Verzijden, 1994). Prostheses placed later in experimental periods usually fared better than those initially seated, indicating that operator skill and experience are influential variables (Creugers, 1991).

**Cantilever design**

Chang (1991) has reported increased failure rates when the number of



FIG 1



FIG 2



FIG 3

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file similar to a negative, which can show whether the image has been altered in any way. Any alteration of the image (such as colour alteration, image enhancement and other "retouching") would not be acceptable in a court of law.

With an SLR camera, it is very simple to copy "film" x-rays, and produce a digital copy. The x-ray film should be placed on a "light box", or taped to a window.

The camera's auto-exposure mode should be set: flash is not used. A tripod may be necessary to steady the camera, and the image can be changed to black and white

in a suitable image manipulation computer software program.

**Advances in technology**

SLR camera bodies are becoming smaller, but include features such as video capability in full HD (high definition). Compact cameras and camcorders are improving in quality, and both have the ability to take reasonable still photographs and high-quality videos.

The future is now: perhaps there will be a time when a miniature camera will be incorporated into a dental handpiece. Even "robotic dentistry" could take place, with



*Having the date and time imprinted is useful in archiving documentation*

the operator being distant to the patient, as is happening in medical surgery situations.

Dental photography can be your passion or pastime. Each can brighten your work and outlook, and the rewards are richly tempting. You become more observant and self-critical as your skills develop and impact on your practice. A keen eye and the correct equipment are invaluable. Previous photographic experience helps, although its lack is no barrier to fun and success.

In conclusion, when taking any dental photographs, one should always bear in mind the purpose of taking the photograph: is it for documentation, patient records, publication, marketing, treatment planning, diagnostics or even for artistic purposes, for example?

Remember: you can never take too many photographs! Always look round the edges of the viewfinder, not just at the centre – this applies to all photography. Pay attention to detail and take your time. Your photograph should have impact, as well as recording a clinical situation, and convey an appropriate message to its viewer.

You need patients as well as patience, both in taking and "making" the final image. Dental photography can be both scientific and artistic – just like dentistry – and above all, it is lots of fun.

- Photos courtesy of Durr Dental

**SAMPLE RELEASE/CONSENT FORM**

I am willing to have my teeth photographed and understand that the pictures may be used for promotional and educational purposes

NAME.....  
ADDRESS.....

.....  
.....

I confirm that I am over 18 years of age

Signed.....  
Date.....

**Dr Philip Wander**

has over 40 years' experience in both NHS and private practice. He is currently giving a series of courses on "Shoot your patients to build your practice". For further information, e-mail info@dentalphotos.co.uk.

