

Guidelines for Contract Relationships

March 2017

A Joint Message from the SDAA, SDHA & SDTA



GUIDELINES FOR CONTRACT RELATIONSHIPS

PURPOSE

The Saskatchewan Dental Assistants' Association (SDAA), Saskatchewan Dental Hygienists' Association (SDHA) and Saskatchewan Dental Therapists Association (SDTA) are often asked for advice and direction on contract relationships with dentists. This document has been developed to provide clarification and guidelines to assist those members entering contractual relationships.

It is the mandate of each regulatory body to ensure that safe, competent knowledge based oral health care is provided to the people of Saskatchewan. Regardless of the relationship (employment or contract), a high standard of care must be maintained and provided for in a patient-centered, comprehensive manner.

The intent of the contract between a dentist and dental assistant, dental hygienist and/or dental therapist is to provide an alternative relationship to the typical employment arrangement and allow for oral health care to be provided in alternative settings or delivery methods. It is meant to be a CONNECTION – a consultative and referral source to ensure comprehensive, patient centered care.

LEGISLATION

In accordance with *The Dental Disciplines Act (1997) (The Act)*, section 25, a dental assistant, dental hygienist and dental therapist may only perform the practices that he or she is authorized by subsection 23 to perform where he or she is employed by or practices under contract with: a dentist, or an employer (listed in section 25(1)) that employs or has established a formal referral or consultation process with a dentist.

Section 25 provides for both employment and contractual relationships. The intent of this section is to permit alternative practice settings or delivery methods to ensure access to care for the people of Saskatchewan, provided the dental assistant, dental hygienist or dental therapist has established either an employment relationship or a contractual relationship that meets the requirements of the legislation. It is critical that there be no additional actual or perceived barriers or restrictions to in one's ability to provide oral health care services.

EMPLOYMENT DEFINED: Within the meaning of authorized practice in *The Act*, the term 'employed by' is relevant when a dental health professional:

- Is an employee of a dental clinic that provides services through a corporation under The Professional Corporations Act; or
- Is employed by an organization/agency that is defined as 'employer' in section 25(1) of the Act.

If the person is an employee, then the employer has a number of obligations towards that employee, which include contributing to employment insurance, deducting from the employee's income for income tax and Canada Pension Plan and contributing to payments for Canada Pension Plan and Workers Compensation.

If a dentist (or an employer listed under section 25) employs a dental assistant, dental hygienist or dental therapist, that employer is responsible for the work done by the oral health professional. The employer will generally be vicariously liable if he/she is negligent. The dental assistant, dental hygienist or dental therapist may also be liable if he/she is negligent.

CONTRACT DEFINED: Within the meaning of authorized practice in *The Act*, the term “**under contract with**” is applicable when an oral health professional is not employed by a dentist or an organization/agency as described above. This oral health professional:

- May be contracted to provide services by an employer listed in section 25(1) of *The Act* (his/her name will not be on the payroll); or
- May be contracted to provide services by a dentist (his/her name will not be on the payroll).

If the oral health professional “practises under contract with” an employer or a dentist that person will generally be self-employed.

This oral health professional is required to work under contract with an employer listed in the *Act* or with a dentist who:

- Is not the owner/co-owner of the business owned by the oral health professional;
- Is not employed by the oral health professional (who owns the business); and
- Carries no financial responsibility or has no management obligation for the business owned by the oral health professional.

COMPREHENSIVE PATIENT-CENTERED CARE

Comprehensive, patient-centered care is a core principle within the educational programs and standards within health care professions. It is expected that all oral health care professionals provide care that considers the whole patient; with their individual needs being the basis for treatment provided, and each patient being a partner in the decisions made.

COMPREHENSIVE CARE

The word comprehensive has many meanings relating to the oral care we provide.

- It relates to the concept that nothing in the human body exists or functions in isolation. Although we provide care generally in the head and neck region, the mouth is connected to, is influenced by and is influencing the whole body. Factors such as general health, medications, nutrition, stress, and self-care habits are all important in understanding the connection between one’s oral and overall health.
- In comprehensive care, we look at the mouth as more than teeth and gums; it includes other intra and extra oral tissues, the muscles of the face, and the joints used for chewing and movement, for example.
- Providing comprehensive care requires a team of care providers. This team might include dentists, dental hygienists, dental therapists, dental assistants, denturists, oral health specialists, physicians, nurses, pharmacists, nutritionists, social workers, educators, and care coordinators. We cannot provide adequate care independently; the patient may require many care providers to ensure the most effective, comprehensive care.

PATIENT-CENTERED

This principle has the core value that each patient is a unique, whole person and patient-centered care is a relationship-based partnership with patients and their families. It requires an understanding and respect for each patient’s unique needs, culture, values, and preferences. Patients are actively involved in the process of oral health care, recognizing that patients and families are core members of the care team, ensuring that they are fully informed partners in establishing care plans and treatment provided.

Comprehensive care does not need to be provided under one roof, but it does mean that the comprehensive needs of each patient are adequately addressed. This is accomplished by:

- Being aware and acknowledging that you, alone may not be able to attend to all of a patient's needs.
 - For example, dental assistants, dental hygienists and dental therapists cannot provide comprehensive care to a patient alone:
 - Consultations with medical professionals may be required for general health or medication concerns;
 - Patients should be referred to dentists, or other oral health professionals as necessary; and,
 - Patients should be referred to specialists or other health care providers as necessary.

STANDARDS

It is imperative that all oral health professionals be aware of, and comply with the legislation and standards set out by their respective regulatory body. In accordance with section 4 of *The Act*, it is not the right or responsibility of any legislation, standards or guidelines developed by the College of Dental Surgeons of Saskatchewan (CDSS), SDAA, SDHA or SDTA to restrict the ability of another oral health profession to perform his or her scope of practice, impose standards on a member of another oral health profession, and most importantly reduce access to care for the people of Saskatchewan. As a result, it is a priority that all organizations work collaboratively to ensure a high standard of care and mutually acceptable policies.

CONTRACT GUIDELINES

Due to the fact that contractual relationships may differ depending on the specific arrangement, and oral health services may be provided in a variety of settings and by many delivery methods, individual contracts between dentists, and dental assistants, dental hygienists and dental therapists must exist to define the relationship between them. Contracts should set out respective responsibilities, including financial arrangements, in order to meet the legislative requirement; a properly worded agreement can go a long way towards avoiding disputes.

It is not the intent of the SDAA, SDHA or SDTA to prescribe the contract details/parameters, but in order for comprehensive, patient-centered care to be ensured, a contract between a dentist or an employer defined in section 25 of *The Act*, and a dental assistant, dental hygienist or dental therapist, should address the following topics:

1. The names of the parties involved
2. Start date and expiry date for the contract; whether the agreement has a definite term or will extend indefinitely until terminated;
3. Under what conditions the contract can be terminated and with what notice;
4. Definition of the relationship:
 - a. That both parties are bound by a contractual relationship and no employment arrangement exists
 - b. The responsibilities of each party
 - c. Identification of who has ownership of what
 - d. Identification of who is responsible for equipment, supplies, maintenance and repair, etc.

5. Patient Records:
 - a. Identification of the owner of the patient records, including which party has responsibility for those records if the contract is terminated, and what right, if any, the parties have to review those records
 - b. An acknowledgement that legislation/guidelines related to confidentiality and client information is complied with and protected
6. Radiographs:
 - a. Identification of the ownership of the equipment
 - b. Process for other oral health professionals to review radiographs to ensure comprehensive care
7. Patient:
 - a. Protocols for informed consent
 - b. A description of the referral arrangement
 - c. A description of the consultation arrangement
 - d. Documentation of completion and/or recommendation for a comprehensive examination
8. The financial relationship
9. Liability/Responsibility:
 - a. The dental assistant, dental hygienist or dental therapist is practising as an independent contractor and is responsible to make all necessary payments for income tax, CPP and WCB.
 - b. Each party can provide evidence of adequate professional liability insurance.
 - c. The responsible party can provide evidence of adequate commercial liability insurance, if applicable.

PRACTICE REVIEWS

It is at the discretion of the SDAA, SDHA and SDTA to review the practice of members as necessary. Collaboration should be attempted between all oral health profession groups where practice reviews are concerned.