THE DENTAL SOCIETY OF GREATER ORLANDO

Journal

WINTER/SPRING 2020

Technology

DIAGNOSING THE ALVEOLAR PROCESS FOR IMPLANT PLANNING

Sink Your Teeth Into This

WHEN HEROES MATTERED

President's Message

MAKE IT COUNT!

2020 DENTISTS' DAY ON THE HILL

DENTAL SOCIETY OF GREATER ORLANDO
AN AFFILIATE OF THE CENTRAL FLORIDA DISTRICT, AMERICAN & FLORIDA DENTAL ASSOCIATIONS
SERVING ORANGE, OSCEOLA AND SEMINOLE COUNTIES

DENTAL SOCIETY OF GREATER ORLANDO MEMBERSHIP MEETING RESERVATION FORM

Thursday, April 23, 2020

PRESENTATION

Eric Hanson

"What You Need to Know About Drugs (Rx) used in Florida Dental Offices"

Installation of Board of Directors 2020-2021
Election to Election and Installation

WINTER PARK COMMUNITY CENTER

721 W. NEW ENGLAND AVE, WINTER PARK, FL 32789 COCKTAILS @ 6:00P.M.
BUFFET DINNER @ 6:45P.M.

RETURN FORM NO LATER THAN
**** Thursday, April 16, 2020****

FAX: 407-895-9712 or email sharonhamilton@dsgo.org

NO COVER SHEET NEEDED

Name of Doctor_____
(Please Print)

Spouse or Guest_____
(Please mail check or bring that evening for $35.00)

What's Inside

You're Invited

DSGO Members are invited to the Central Florida Medical Group Managers Association meeting Wednesday, March 18, 3:00 p.m.-5:00 p.m.at Sorosis of Orlando 501 E. Livingston Street Orlando 32803
Topic: Bringing Awareness to child trafficking and ways to prevent trafficking at your practice.

Please RSVP to cfmgma@gmail.com

Like us on Facebook!
www.facebook.com/theDSGO

WELCOME NEW MEMBERS

Dr. Michelle Bargfrede
4267 W Lake Mary Blvd.
Lake Mary, FL 32746
954-309-3775

Dr. Rachna Ranjan
136 Parliament Loop #1000
Lake Mary, FL 32746
407-324-4220

Dr. Lauren Maas
2670 Garden St.
Titusville, FL 32796
321-267-7970

Dr. Jaisri Thoppay
7151 University Blvd.
Unit 110
Winter Park, FL 32792
407-636-6003

Doctors Ferguson, Shah, Dhaliwal, Davidson and Wright enjoying an evening at the Women in Medicine and Dentistry event held at Adjectives hosted by the Physicians Society of Central Florida

Dr. Jason Battle and Dr. Don Thomas at the House of Delegates meeting.

Dr. Charles Blair speaks to DSGO members.

Attendees at the House of Delegates meeting.

Sharon Hamilton, Kelly Millett, and Regan Snell at the Dr. Charles Blair membership meeting.

Make it *Count!*

Happy New Year! I hope this President's Message finds you all well and productively busy with your practices. Just past the midpoint of our DSGO year, much has already happened, and more is yet to come. Our annual CE course was held on Friday, January 31st at the Alfond Inn. Nearly 120 registrants attended and walked away with insightful information from Dr. Charles Blair whose presentation was titled – Stay out of Jail: Avoid Coding Errors and Excel in Insurance Administration. Dentist's Day on the Hill was Tuesday February 4th and it was my first time attending. I came away thankful for the experience, which will not be my last, and beyond appreciative of those who spearhead our efforts in Tallahassee. Please take a moment to thank and support your colleagues that willingly take time away from their families and busy practices to represent organized dentistry and advocate on your behalf in Tallahassee. Special mention goes out to Drs. Bernie Kahn and Dan Crofton who willingly take on the responsibility of organizing our presence while on "The Hill". They have my respect and unwavering support. Our FDA Lobbyists are exceptional; rest assured, our member dues are put to very good use.

Your FDA supports the following legislative issues:

- Dental Student Loan Repayment Program & Donated Dental Services Program (funding)
- Community Water Fluoridation (funding)
- Titles for Health Care Practitioners (supports legislation that authorizes disciplinary action be taken against health care practitioners who knowingly misrepresent their professional title, without having a valid license or certificate to expand their practice in that specific area)
- Expedited Credentialing
- Insurer's Recovery of Overpayment to Providers (shortening Clawback period to 12 months)
- Increase Medicaid Dental Funding
- Maintain Educational Standards for Internationally-Trained Dentists

Your FDA opposes the following legislative issues:

- Dental Therapy Legislation
- Medicaid Reimbursement for Dental Hygienists

Every year, you have the opportunity to "represent" organized dentistry in Tallahassee. I highly encourage you to do so. Even if you are unable to make the trip to Tallahassee, you can still be involved by contacting your respective State District Senators and Representatives and letting them know where you stand on the issues at hand.

On a lighter note, last October DSGO hosted a long overdue social event titled "Fall Festival", held at the Winter Park Farmer's Market. I would like to thank all that attended this function. A BIG THANK YOU to our corporate sponsors: Orlando Oral & Facial Surgery, Horvat and Cohen Periodontics & Implant Dentistry, McIntosh Orthodontics, Distinctive Dentistry on Maitland, Pediatric Dentistry of Central Florida and Spraker Wealth Management. A special thank you to Sharon Hamilton and Kelly Millet who worked hard to make sure this party was a success. Good friends, good food, music and libations; it was great!

As of the time of this writing, still to come are our two remaining member meetings. Our February Member Meeting is scheduled for Thursday the 27th at the Citrus Club. Our very own Dr. Don Tillery will lecture on an innovative topic: Robotically Assisted Dental Implant Surgery. Don is a pioneer on this procedure so be sure to attend and be one of the first to learn more on this subject.

Do you know what a Health Care Clinic Establishment Permit is, and do you know whether or not you need one? If you do not know the answers to these two questions, make sure to attend the April Member Meeting to find out. Currently scheduled for Thursday April 23rd at the Winter Park Community Center, at this meeting, you will also be introduced to your new DSGO Executive Committee as they will be installed for the upcoming DSGO 2020 – 2021 term. I hope to see you all there.

Lastly, as we embark on this new year and new decade, take stock in the past 10 years. Consider your successes, your failures and the wishes that did not materialize. Remember that your actions are much louder than your words. Whatever goals you set for yourself or actions you take, make it count!

Smiles Always,
Charlie

Dr. Charlie Bertot
DSGO PRESIDENT
2019-2020
407-628-2286
drbertot@ibrushteeth.com

SAVE THE DATE!

ADA FDC ANNUAL MEETING

A JOINT MEETING OF THE ADA AND FDA

ADA®

fda florida dental CONVENTION

OCTOBER 15–18, 2020 • ORLANDO

Freedom

Freedom is a really vital value. Maybe it's the highest value. I discovered as a young dentist that the purpose of my practice and life purpose was

"To empower people to become the best version of themselves physically, spiritually, and emotionally and to discover and treat their root cause of disease and not merely their symptoms"

I have been reflecting on my 40 years of sitting in a dental chair starting my career as a dental hygienist right out of high school and then continuing onto dental school. Like so many young dentists, I struggled to find meaning in my work, that is meaning beyond my own success. I came from a family that placed high value on Humanistic Values and being responsible by creating your own preferred future. Of respecting the rights of each person to be free to choose their own path, their own destiny.

Reading books on Behavioral Psychology inspired me to look at Human Behavior. It took some time before I connected what my patients really wanted was to be 'Free of Disease.'

When the purpose of my practice focused on Freeing people of dental disease, my practice and life changed for the better. Freeing patients of dental disease is a simple, but profound purpose. It allowed me to communicate simply and truthfully with every staff person and every patient.

It allowed me to focus on those strategies that would, in fact, free each patient of dental disease.

We all look at the people we meet, the events we experience in our lives through our own 'lenses'. We see in others what we 'believe within ourselves'. In fact, psychologists suggest that we 'project belief systems, our mental models' on others.

I'm sure I've been doing this my entire life, projecting what I believe on you, on my patients, and even to the lay people I meet in my life that aren't my patients.

Everything I've done in my practice, every conversation, every strategy, every plan I've created since that time, has had the prime focus of '***Freeing each patient of dental disease'.***

Haven given lectures at dental schools and mentored at 2 institutions my focus has been on 'freeing each patient' to become the person that God designed them to be. I realized early in my career that if I wanted to 'free another person' that they had to be on a 'Path to Freedom' themselves. Money Freedom, Time Freedom, Relationship Freedom.

I recently read an important book, Prisoners of Our Thoughts the following quote:

"As a human phenomenon, however, freedom is all too human. Human freedom is finite freedom. Man is not free from conditions, but he is free to take a stand against them. The conditions do not completely condition him. Within limits, it is up to him whether he succumbs and surrenders to his conditions.

He may well rise above them and by doing so open up and enter the human dimension…. Ultimately man is not subject to the conditions that confront him, rather these conditions are subject to his decision. Wittingly or unwittingly, he will decide whether he will face up or give in, whether or not he will let himself be determined by his conditions."

–Victor Frankl

And so, it is for each of us, we either make choices to move towards Freedom, or remain determined by outside forces, by conditions, as Frankl so eloquently described.

EDITOR
Mary R. Isaacs, D.M.D., F.A.G.D.

DENTAL SOCIETY OF
GREATER ORLANDO
AN AFFILIATE OF THE CENTRAL FLORIDA DISTRICT, AMERICAN & FLORIDA DENTAL ASSOCIATIONS
SERVING ORANGE, OSCEOLA AND SEMINOLE COUNTIES

ANNUAL SHRED DAY

We are in need of VOLUNTEERS!

to help unload vehicles as they arrive.

Interested?

Call Sharon at 407-894-9798

Friday, May 15, 2020 9am-12pm
(6 box limit per office)

Bring old records, documents and appointment books

Please no garbage cans,
U-Haul trucks or trailers

IF YOU CAN'T CARRY IT DON'T BRING IT.

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NO EXCEPTIONS

ProShred will take the x-rays to their facility to shred if they are in a separate box

There is no dumpster on site. Please take all empty boxes and containers with you.

DSGO Parking lot at 800 North Mills Ave, Orlando, FL 32803
407-894-9798

Board of Dentistry Rule 64B5-17.002(2) - In order that the patients may have meaningful access to their dental records pursuant to subsection 466.028(l)(m) and (o), F.S., a dentist shall maintain the written dental record of a patient for a period of at least four (4) years from the date the patient was last examined or treated by the dentist.

Dental Care Access FOUNDATION, Inc.

Good afternoon Volunteers!

The Dental Care Access Foundation needs volunteers to donate their dental services to the low-income, uninsured of Central Florida. Our mission is to reduce emergency room visits by providing these emergency-based services in local clinics with volunteer help.
We utilize the new Grace Medical Home Dental Center located at 1417 E. Concord Street, Orlanbdo, FL 32803 in Downtown Orlando. This clinic features 4 new operatories, surgical suite, digital pano, PA and BW and cone beam if needed.

Please circle any dates you are available to volunteer:
There are our clinic dates for **general dental exams, xrays and prescreening** Thursdays 5:30-9pm.

April 9
May 7
June 11
July 16
August 13
September 3
October 8
November 19

These are our dates for **extractions** Thursdays 5:30-9pm.:

March 19
April 30
May 14
June 11
July 16
August 27
September 24
October 22
November 19

Name: _____ Phone: _____

Email: _____

Return via scan and email to dcaf@bellsouth.net or Fax (407) 898-1547
(no cover page necessary)

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DENTAL SOCIETY OF GREATER ORLANDO AND PATTERSON DENTAL PRESENT

OSHA & HIPAA SEMINAR

FRIDAY, APRIL 3RD 2020

NOVA SOUTHERN UNIVERSITY 4850 MILLENIA BLVD. ORLANDO, FL 32839

8:30 AM CHECK IN **PROGRAM 9AM-2PM**

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RESULT:
DOCUMENT REQUESTS FROM OFFICE OF CIVIL RIGHT FOR POTENTIAL HIPAA VIOLATIONS

By Kathryn Moghadas RN, CLRM, CHBC, CPC, CPCO
Associated Healthcare Advisors, Inc.

The candidate for front desk position's resume looked impressive. Previous employment verification checked out. Level 2 background checked out, OIG exclusion list, checked out. Position offered and she accepted. She began to work that nice crisp November day. We had her read and sign the employee handbook and explained to her that the HIPAA training would be Her job was as most front desk persons jobs, greet patients, schedule appointments, present new patients with their new patient paperwork, verify insurance coverage, check out. (small busy solo office)

Within the first couple of days, things were not looking so good. The first problem was that the front desk chair hurt her back. So multiple positions and pillows were tried to finally find the one "just right". Next the glare from the monitor strained her eyes, A call to our tech support and a couple hours wasted trying different colors, brightness, and resolutions seem to solve that problem. Then there were a couple misfires when entering patient data, that our billing person picked up on. Then her response was that she found the forms difficult to read and of course that launched a series of complaints about the new patients handwriting.

We have now entered week two and she has been reminded that her du-

ties were to be completed as specified in the front desk check list. After the third try with that another counseling session where she was encouraged to pay attention and focus on the task at hand might help her accuracy rate.

By mid-week a problem occurred while the dentist was outside the office and was relaying some specific patient instructions on the phone to new front desk person. In his attempt to make sure she accurately identified the patient he sent via text message the patients name and date of birth.

By the end of the second week when it was found that the biller was stepping in to enter the patient demographics because she was so frustrated with new persons errors that the need to separate meeting needed to occur. Kindly, dentist calls her into the office at lunch time of day 10 in the practice, reminds her of the numerous concerns and problems and tells her she is not suited for the position and is being terminated. Tears, accusations, bargaining that she needed the job because she is the sole support of a younger sister, all had the same affect. The practice needs to separate her from their employment. Her final paycheck was provided, and she was sent home immediately after that conversation, with a good luck, hope you can find a place to be successful. All the employee's passwords, and access to computers and phones were immediately changed in accordance with company practices.

Three weeks later the practice receives a telephone from The Atlanta office of the Office of Civil Rights, regarding a complaint they received from a former employee that such and such is alleging that this practice does not protect patient confidentiality. A local health care attorney is called by the practice and I am referred to come in to assist.

You might recall the time the frustrated dentist texted her personal cell phone the patient's correct spelling of their name and date of birth? Yep! Our own Ms. front desk produced it as evidence when she sent in the HIPAA complaint, The letter of guidance and initial data request listed seven different potential violations: Policies, and Procedures, Privacy Officer, Information Access Management, Access Controls, Training, Sanctions and Mitigation. , Each one carrying a potential cost of $117.00 to $58,490.00 Or $819.00-$409, 430.00. For one text!

The initial data request is four pages long and the listing of documents requested is quickly filling up one of my 2 gig USB drives. The process is still evolving and unfolding. The client is an angry wreck. It appears according to the OCR investigator when I spoke with her that a few years ago this client had a complaint raised to HIPAA from a different former terminated employee that the OCR had chosen not to investigate, However, with the second complaint of a similar nature hitting their desks, the decision was made to investigate

I am going to leave the story where it is at this junction and we will hopefully take up the conclusion in our next article.

Kathryn Moghadas has been providing healthcare advising since 1985. She can be reached for questions or comments via email at kathym@ahatopcat.com

Kathy has been a national healthcare consultant and educator since the early 80's. Kathy's firm Associated Healthcare Advisors, Inc., relocated to central Florida in 1989. Kathy's client population includes small- and mid-sized medical and dental practices as well as surgical centers and hospital systems.

Trained as a nurse and risk manager, she has been certified in those disciplines as well as holding current certifications in compliance, coding and healthcare business consulting. Kathy received her nursing degree at Prince George's College and a healthcare management degree from George Mason University. Kathy has combined her clinical knowledge and her business education into a successful and meaniful set of skills that assist her clients in their administrative functions. She is the past president of the National Society of Certified Healthcare Business Consultants as well as past president of the Society of Medical Dental Management Consultants has demonstrated the use of her leadership skills.

Kathy has authored two books for the American Medical Association titled: Medical Office Policies and Procedures and Tools for the Efficient Medical Practice. Medical Office Policies and Procedures was the best-selling new book of 2005 with the American Medical Association. In addition, she authored several chapters in Aspens Publications, Managing Your Medical Practice, and is a contributing editor to several medical management magazines such as Medical Economics, AMA News, Family Practice and Doctors Digest. She is on the advisory board of Medscape/WebMD.

DSGO CALENDAR OF EVENTS 2020-2021

MONDAY, March 16, 2020
Board of Directors-Dental Society office 800 North Mills Avenue 6:00 p.m.

MONDAY, April 6, 2020
Board of Directors-Dental Society office 800 North Mills Avenue 6:00 p.m.

THURSDAY, April 23, 2020
Membership Meeting-Winter Park Community Center 721 W. New England Ave, Winter Park. 6:00 p.m. Installation of Officers and Board of Directors. Speaker: Eric Hanson What You Need to Know About Drugs (Rx) used in Florida Dental Offices"(Kettenbach, Adv Tech, VaTech, Styledent)

FRIDAY, May 1, 2020-MONDAY, May 4, 2020
Cruise with CFDDA Disney Dream out of Port Canaveral contact Marlinda at www.cfdda.org

MONDAY, MAY 4, 2020
Board of Directors-Dental Society office 800 North Mills Avenue 6:00 p.m.

FRIDAY, JUNE 4, 2020-SATURDAY JUNE 13, 2020
FDA House of Delegates

TUESDAY, JUNE 30, 2020
End of term (Dr. Bertot)

WEDNESDAY, July 1, 2020
Dr. Clay Miller's term begins

MONDAY, JULY 13, 2020
Board of Directors-Dental Society office 800 North Mills Avenue 6:00 p.m.

MONDAY, AUGUST 3, 2020
Board of Directors-Dental Society office 800 North Mills Avenue 6:00 p.m.

MONDAY, AUGUST 24, 2020
Membership Meeting (Kettenbach)

THURSDAY, OCTOBER 1, 2020
Membership Meeting-Location to be Determined. 6:00 p.m. Nominations for Board of Directors - Social event

MONDAY, OCTOBER 5, 2020
Board of Directors-Dental Society office 800 North Mills Avenue 6:00 p.m.

THURSDAY, OCTOBER 15, 2020-TUESDAY, OCTOBER 20, 2020
FDC/ADA annual meeting. Orange County Convention Center

MONDAY, NOVEMBER 9, 2020
Board of Directors-Dental Society office 800 North Mills Avenue 6:00 p.m.

FRIDAY, JANUARY 22, 2021-SUNDAY, JANUARY 24, 2021
FDA House of Delegates

FRIDAY, JANUARY 29, 2021
CE- All Day Speaker and Location to be determined.

MONDAY, FEBRUARY 1, 2021
Board of Directors-Dental Society office 800 North Mills Avenue 6:00 p.m.

THURSDAY, FEBRUARY 25, 2021
Membership meeting Location and topic to be determined.

MONDAY, MARCH 8, 2021
Board of Directors-Dental Society office 800 North Mills Avenue 6:00 p.m.

MONDAY, MARCH 15, 2021-TUESDAY, MARCH 16, 2021
Dentist Day on the Hill

MONDAY, APRIL 12, 2021
Board of Directors-Dental Society office 800 North Mills Avenue 6:00 p.m.

FRIDAY, APRIL 30, 2021-SATURDAY, MAY 1, 2021
CFDDA Annual Meeting

MONDAY, MAY 3, 2021
Membership Meeting Location and topic to be determined.

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PNC MERCHANT SERVICES

DENTAL SOCIETY OF GREATER ORLANDO

BB PDF 1117-059-638905

Attendees with Rep Michael LaRosa

Dentists' Day On The Hill 2020

By Daniel J. Crofton, D.D.S., M.D

On Tuesday, February 4, 2020, dentists from around the state attended the annual Dentists' Day on the Hill (DDOH). Approximately 130 dentists who registered for DDOH this year experienced pleasant weather in our state capitol. This year the legislative session convened on January 14th and will end on March 13th. The Dental Society of Greater Orlando (DSGO) was well represented again this year. DSGO members who attended were Drs. Carlos Bertot, John Cordoba, John Gammichia, Matt Hall, Steve Hochfelder, Bernie Kahn, Scott McCauley, Rodolfo Olmos, Matthew Scarpetti, Don Thomas, Wade Winker, Tony Wong and me.

This year's event was again well-organized by our FDA Governmental Affairs Office (GAO) led by Joe

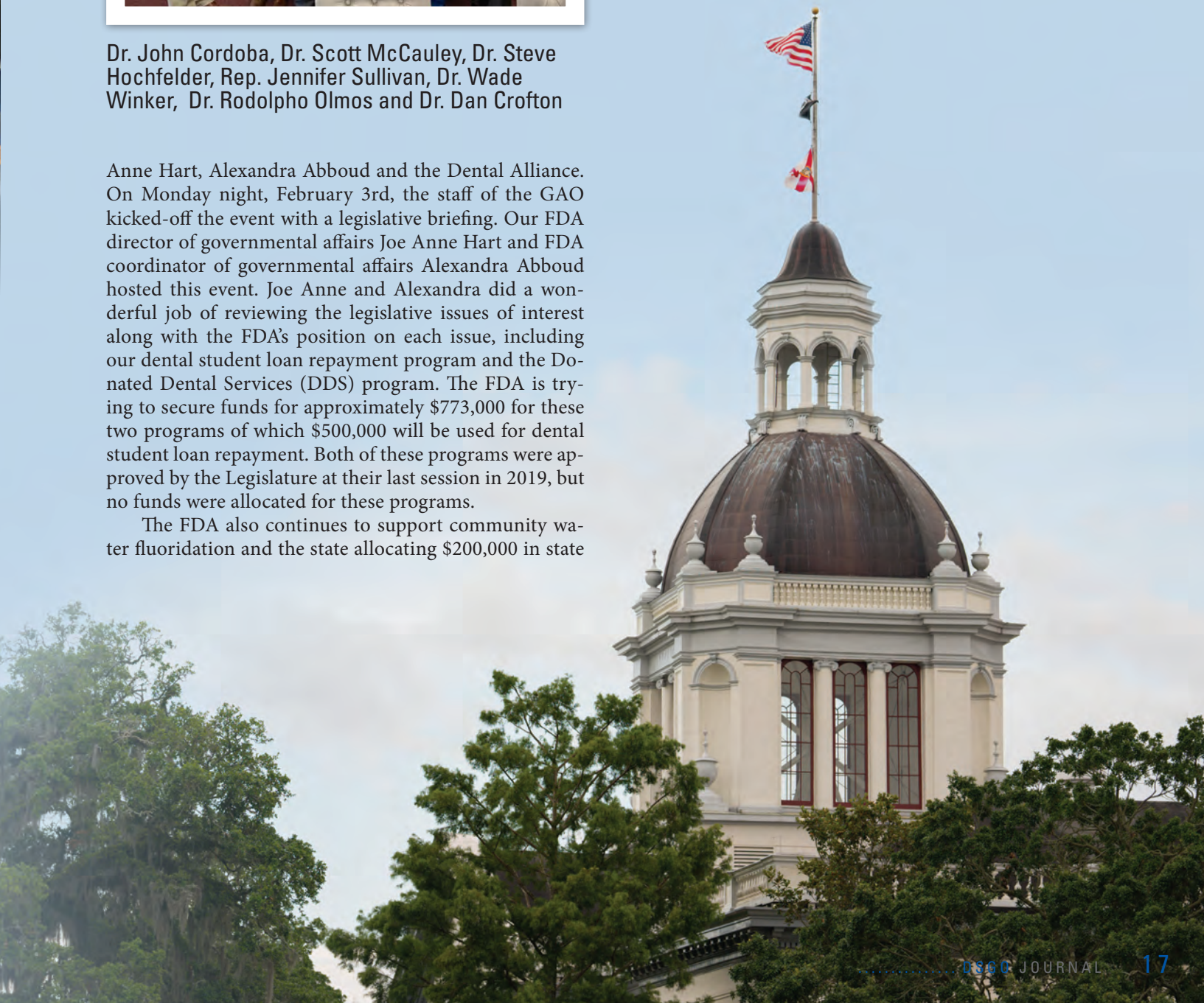
Dr. Dan Crofton and Dr. Tony Wong

Dr. John Cordoba, Dr. Scott McCauley, Dr. Steve Hochfelder, Rep. Jennifer Sullivan, Dr. Wade Winker, Dr. Rodolpho Olmos and Dr. Dan Crofton

Anne Hart, Alexandra Abboud and the Dental Alliance. On Monday night, February 3rd, the staff of the GAO kicked-off the event with a legislative briefing. Our FDA director of governmental affairs Joe Anne Hart and FDA coordinator of governmental affairs Alexandra Abboud hosted this event. Joe Anne and Alexandra did a wonderful job of reviewing the legislative issues of interest along with the FDA's position on each issue, including our dental student loan repayment program and the Donated Dental Services (DDS) program. The FDA is trying to secure funds for approximately $773,000 for these two programs of which $500,000 will be used for dental student loan repayment. Both of these programs were approved by the Legislature at their last session in 2019, but no funds were allocated for these programs.

The FDA also continues to support community water fluoridation and the state allocating $200,000 in state funds that would enhance the efforts of the Department of Health. These state funds would supplement federal funds allocated for statewide fluoridation efforts. The requested funding would be used to assist local communities wanting to start community water fluoridation efforts and could be used for updating and maintaining water treatment facilities. For every $1 invested in water fluoridation, $43 in future dental treatment costs are saved. Currently, only 70% of Florida's community water sources are fluoridated.

The FDA supports House bill 1461 sponsored by Rep. Kamia Brown (D-Orlando) and the companion Senate bill 1296 sponsored by Sen. Lori Berman (R-Boynton Beach) which would reinstate the health care access den-



Dr. Wade Winker, Rep. Anthony Sabatini, Dr. John Gammachia and Dr. Scott McCaulley

tal license which sunset on January 1, 2020. If reinstated, then this license would allow out-of-state licensed dentists who meet certain criteria to practice specifically in underserved health access settings. Reinstating this license will help increase access to dental care for many Floridians across the state.

The FDA opposes lowering the standard of care by creating a new licensed dental provider called a dental therapist. House bill 979 sponsored by Rep. Rene Plasencia (R-Orlando) and the companion Senate bill 152 sponsored by Sen. Jeff Brandes (R-St. Petersburg). These bills would allow dental therapists with only three years of education beyond high school to perform irreversible dental procedures such as extractions and pulpotomies under the general supervision of a dentist. The FDA adamantly opposes this legislation in favor of allowing only licensed dentists to perform these procedures. Dental therapists have been touted as a solution to the access to care problem, however, even though such a model has existed in Minnesota, the less than 100 dental therapists practicing there have not solved that states access to care problem.

It was evident during our visit to Tallahassee that one of the main issues that the legislators in both the Senate and the House will be wrestling with again this session is the state budget. The state budget this year is over $91 billion. Both the Senate and the House are working

Joe Anne Hart addressing the attendees

on their own budgets and a conference committee will most likely be required to iron out their differences over the next several weeks. Given Florida's mandatory balanced budget provision, difficult decisions lay ahead for lawmakers who will have to decide which programs will receive funding.

DDOH 2020 with Rep Jennifer Sullivan

During DDOH, your DSGO members met with ten of our local legislators and a number of legislative aides. We met with Sen. Linda Stewart (R-Orlando), Sen. Vic Torres (D-Kissimmee), Sen. Tom Wright (R-Port Orange), Rep. John Cortes (R-Kissimmee), Rep. Anna Eskamani (D-Orlando), Rep. Joy Goff-Marcil (R-Altamonte Springs), Rep. Scott Plakon (R-Longwood), Rep. Anthony Sabatini (R-Groveland), Rep. David Smith (R-Sanford) and Rep. Jennifer Mae Sullivan (R-Eustis). These and many other legislators met with the other dentists in attendance and our issues and concerns were generally well-received. The membership should rest assured that dentists have an excellent reputation among the legislators and that our concerns will continue to be given serious consideration.

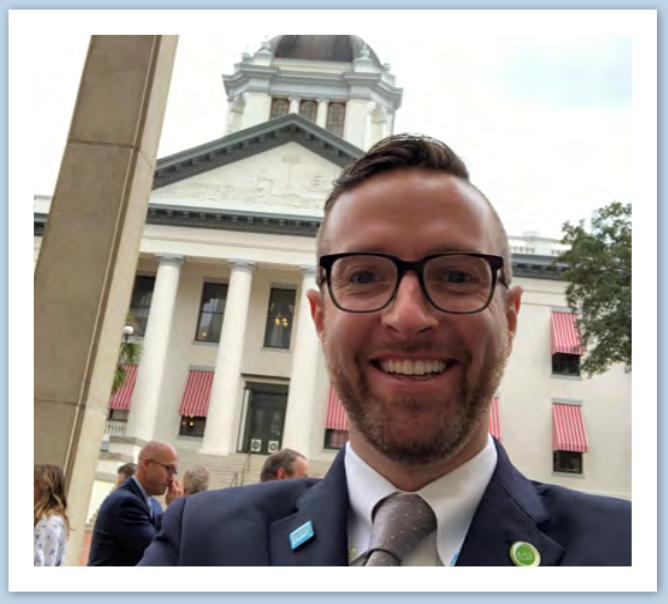
The legislators that we met complemented the job that our GAO staff is doing by informing the legislators and their staffs about our issues and guiding our bills through the legislative process. This year's DDOH was again well-organized and staffed.

I would also like to acknowledge other members of our FDA team who assisted the DSGO dentists this year. Our FDA Executive Director Drew Eason supervised this gathering and FDA director of foundation affairs R. Jai Gillum was also very helpful. FDA chief financial officer Greg Gruber was our dinner guest Monday night at Table 23. Greg again impressed us with his knowledge of the FDA and some of the finer political and financial points. Greg told us that he and his accounting staff enjoy their new offices in the FDA headquarters on John Knox Road. They reminded us that all FDA members are welcome to check out our new FDA office in Tallahassee.

A lunch buffet was provided to all of the attendees by the Dental Alliance with Ms. Byrd presiding. Lunch was served this year in Raymond C. Sittig Hall and was a welcome break after a busy morning visiting with legislators.

Our DSGO legislative affairs chairman, Bernie Kahn and I will be following all of the above legislators and issues and continue to inform you about important events taking place. Advocacy remains one of the most valuable benefits that organized dentistry provides to members. For more information on these topics I encourage you to check out the FDA website at www.floridadental.org. The Capitol Report can be found there and it is a very informative publication by the FDA. Also, I encourage you to contact Bernie Kahn at bkahn32751@gmail.com or me at djcrofton1@gmail.com if you have any political questions or concerns. If anyone is interested in attending our next DDOH, then please contact Bernie, Kahn, our DSGO executive director Sharon Hamilton or me. We would love to have more DSGO members join us in Tallahassee next year!

Important issues that influence the way we practice dentistry are being addressed in Tallahassee and it is important that we pay attention to what is happening there or else there may be consequences for our profession. I encourage any and all DSGO members to be attentive to these issues, to support candidates who support our Tooth Party and to plan on attending DDOH 2021. There is strength in numbers. Please plan on joining us next year in Tallahassee for this important, interesting, informative and fun event!



Dr. Scott McCauley

DIAGNOSING THE ALVEOLAR PROCESS *for Implant Planning*

By Dania Tamimi, BDS DMSc
Diplomate, American Board of Oral and Maxillofacial Radiology

The following is a simple case that illustrates the importance of diagnosing the alveolar processes and occlusion prior to implant treatment planning.

A 20 year old female presented to the general dentist's office with a chief complaint of "I would like implants." Past medical and family history was unremarkable. Clinically, she was missing teeth #4, 5, 7, 10, 12 and 13 in the maxilla and tooth #29 in the mandible, with a retained primary maxillary molar on the left.

Radiographic evaluation:

A limited field-of-view cone beam computed tomography (CBCT) including the maxilla and mandible was obtained and reformatted in different planes to enhance diagnosis. Figure 1 shows a panoramic reformation of the data. The scan was evaluated for any abnormality in the craniofacial structures in the field of view.

The radiographic evaluation showed the following findings:

1. Absence of the aforementioned teeth as well as teeth #1, 17 and 32.
2. Tooth #16 was forming in the furcation area of tooth #15 with distobuccal root resorption of #15 (Figure 2).
3. Moderate periodontal bone loss noted mesial to tooth #30.
4. Root resorption of the apical third of #30 distal root.

The radiographic evaluation also showed the following:

1. The transverse dimension of the maxillary arch is narrow (Figure 3).
2. Right molar cross bite (Figure 2).
3. Mild mucosal thickening of the floor of the maxillary sinuses suggestive of mild inflammatory changes.

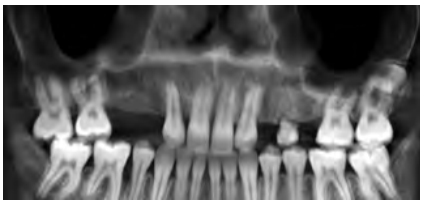


Figure 1. Panoramic reformat of the CBCT data

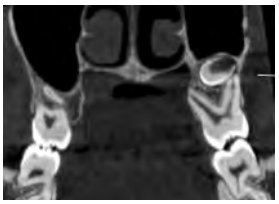


Figure 2. Coronal reformation shows the right molar cross bite and tooth #16 in #15 furcation area with distobuccal root resorption (arrow)

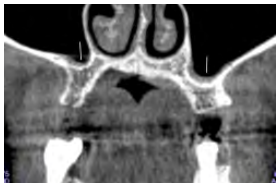


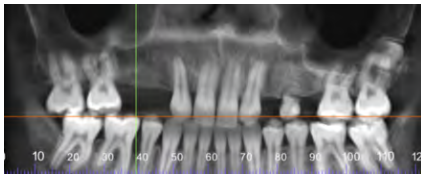
Figure 3. Coronal view shows a narrow transverse dimension of the maxillary arch. This is partly because the transverse dimension development is dependent on the presence of the teeth to guide alveolar bone growth. As the teeth are congenitally missing, the buccinator muscles exert pressure on the alveolar processes resorbing the buccal plate and this leads to the creation of the buccal undercut. Mild mucosal thickening of the floor of the maxillary sinuses are also noted on this image with arrows.

Alveolar process evaluation for implants:

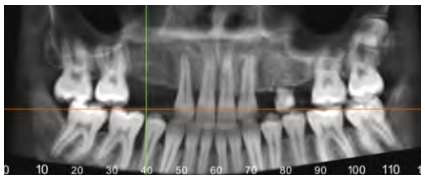
In order to diagnose the alveolar process, reorientation of the scan should be done to ensure that the dimensions of the alveolar processes seen in the CBCT cross sections reflect those that will receive the implant (Figures 4 and 5). This step should be done for each implant site to avoid injuring the adjacent teeth and to ensure that the trajectory of the planned implant represents the trajectory of the actual implant. This trajectory should put the following into consideration:

1. Long axis of the adjacent teeth: The trajectory should be parallel to these teeth to avoid injuring them.
2. Location of the center of the final restoration: This is a prosthodontically-derived location that comes with proper planning with either conventional or digital wax-up.
3. Long axis of the implant is ideally perpendicular to the occlusal table of the final restoration: Consideration of biomechanics of the implant (Figure 6).
4. Relation of the final restoration with the opposing dentition: Proper cusp to fossa and buccal overlap to be observed (Figure 6).
5. Amount of bone present circumferentially: Ideally there should be about 1mm of bone on the facial and lingual aspects of posterior implant, 2mm of bone on the facial surface of an anterior implant and about 1.5–2mm between an implant and a natural tooth. Think about your intended platform size in relation to these requirements.
6. Any anatomical landmarks in the area of the intended implant.The im-

plant should not be planned where there is bone. The planning should start from the crown down. Ask yourself these questions: Where is the ideal location for the final restoration and how do I ensure the biomechanical and esthetic success of the implant that supports it?

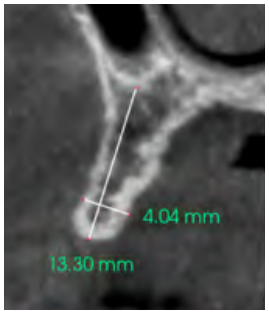


(a) Non-oriented scan

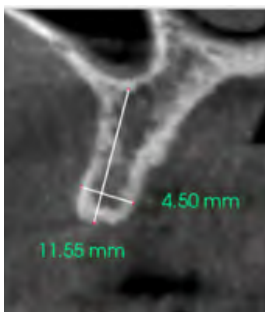


(b) Reoriented scan

Figure 4. The green line indicates the trajectory of the intended implant and the orientation of the cross-section slice used for diagnosis. Image (b) was oriented to bring that trajectory in line with the long axis of the adjacent tooth roots.



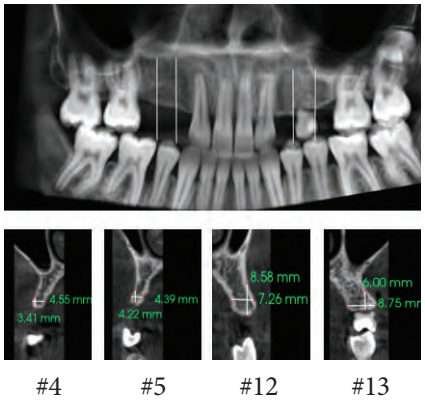
(a) Before reorientation



(b) After reorientation

Figure 5. Cross sections of the alveolar process in tooth location #4 at the different scan orientations seen on the panoramic reformations above.

In Figure 5, the cross sections are of the same anatomic location (area of tooth #4). The dimensions of the same alveolar process will differ at different angulations of the scan. Please note that for this particular case, the measurements on this figure do not represent the trajectory of the implant, but only the long axis of the alveolar bone and its width. This demonstrates the importance of reorienting the scan to the intended implant trajectory.



#4 #5 #12 #13

Figure 6. The panoramic reformat shows white lines indicating the location and the orientation of the cross sections below it. These cross sections show the amount of bone present following a trajectory that attempts to respect cusp-fossa occlusal relationship.

In Figure 6, the scan was reoriented and sectioned to produce "clinically correct" cross sections. The cross section location in the arch was chosen to respect the requirement of 1.5–2mm between natural tooth and implant and 3mm between adjacent implants. Remember, the platform size for a premolar is usually 3–4mm and the white line indicates the center of that implant diameter. With that in mind, the height measurement was produced considering a cusp-fossa occlusal scheme and that the center of the occlusal fossa of the final restoration will be in line with the center of the implant. The width measurement was created perpendicular to the height measurement.

Alveolar Process Diagnosis:

Due to the decrease in the transverse dimension of the maxillary arch and the resorption of the buccal aspect of the alveolar processes in these areas, it is evident that there would not be enough bone on the facial aspect of the implants. Alveolar process augmentation and/or using a tilted abutment may be considered to increase likelihood of implant success. Other considerations for the transverse dimension descripancy is that it is considered a risk factor for sleep-disordered breathing (due to the reduced space for the tongue in the oral cavity). Screening questions for sleep-disordered breathing should be asked and followed up on and, if necessary, palatal expansion may be employed to rectify the transverse descripancy and increase oral cavity dimensions. The TMJ was not included in the field of view, but if it were, the orthopedic stability of the joints in relation to the occlusion would be considered radiographically.

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HISTORY OF MINIMALLY INVASIVE SURGERY *and the Emergence of Minimally Invasive Robot-Assisted Dental Implant Surgery*

Don E Tillery, Jr, DMD

In recent decades, minimally invasive and robotic-assisted surgery has been employed throughout all surgical fields to enhance the surgeons' skills and improve their technical capabilities, resulting in significant improvement in their patients' outcomes while reducing morbidity and mortality. Recently, minimally invasive surgery has made similar inroads into dental surgery. Minimally invasive surgery in dentistry has been fueled by advancing technologies from affordable three-dimensional imaging (CBCT), virtual treatment planning software platforms, CAD/CAM physical guide fabrication and utilization, camera navigation and guidance, and finally, Yomi® (Neocis, Inc, USA), the first robotic-assisted dental implant surgical system.

History of Hospital-Based Minimally Invasive Surgery

Minimally invasive surgery in hospitals has a long history, beginning with enhanced non-invasive diagnostic imaging: Computed Tomography (CT), Magnetic Resonance Imaging (MRI), and Positron Emission Tomography (PET) allowing the development of minimally invasive surgical techniques (Laparoscopic and Arthroscopic surgery). By the 1990s, digital technology initially provided intraoperative navigation, and by the end of the decade, robot-assisted surgery. Robot-assisted surgery gathered significant momentum in 2000 when the FDA approved the da Vinci robotic system in the United States, which enhanced visualization and control for surgeons performing laparoscopic surgery

In the two decades following da Vinci's debut, millions of robot-assisted surgeries had been performed in the United States with a high rate of acceptance from the medical community and the general population [1]. Robot-assisted surgery has since been embraced by almost all surgical specialties, and in the case of prostatectomy, became the dominant method of surgery in the United States nearly a decade ago [1-3]. Robot-assisted surgery has allowed the surgeons to operate with precision, control, improved visualization of the anatomy, and surgical team ergonomics, while promoting increased surgical accuracy and patient safety using a minimally invasive technique that reduces post-op convalescence compared to traditional surgical techniques [2-6].

History of Digital Dental Implant Minimally Invasive Surgery

Similar to minimally invasive hospital-based surgery, digital dental implant surgery aims to improve patient outcomes by employing enhanced non-invasive diagnostic imaging (CBCT) and treatment planning software to provide accurate and precise minimally invasive dental implant surgery. By doing so, it should improve the patients' outcome by providing greater surgical insights and intraoperative control compared to freehand implant surgery. Affordable, lower radiation-emitting CBCT systems are widely available in the dental community today. Accordingly, many software platforms have become

commercially available to facilitate virtual dental implant treatment planning on patients.

The challenge is to translate the virtual treatment plan to the patient in a minimally invasive manner. There are three basic technologies to attempt this translation: static physical (analog) surgical guides, dynamic camera navigation, and dynamic robotic-assisted guidance.

Physical Static Guides

Like the other techniques, CBCT data is used to develop a virtual treatment plan on a treatment planning software platform. Computer-aided design/computer-assisted manufacturing (CAD/CAM) is used to generate the physical guide to use during the drilling sequence and, depending on the manufacturer, guide the placement of the implants. Physical static guides can be affixed during surgery in three main ways: to the bone (which requires reflecting a flap and seems to be the least accurate [9-10]); to the teeth; or to the mucosa. In general, these guides are beneficial in surgery. They have been shown to yield implant positioning errors of a millimeter or less and an angulation error of a few degrees, whereas implants placed without any guidance (freehand) can be routinely off by twice as great or more [8-9].

Physical static guides do have drawbacks, however. Their production, whether in-house or by outside labs, can delay surgery by one of two days to several weeks, a process that may need to be repeated if there is an error in production or poor fit. Physical static guides can also shift or break in use, do not permit intraoperative adjustments, do not allow the operator to assess the soft tissue type beneath the guide, and may impede irrigation during the osteotomy preparation. Some require a second CBCT of the prosthesis model itself, and only mucosa- and tooth-supported guides permit minimally invasive flapless surgery. Finally, physical static guides may be difficult to use in situations when patients cannot open their mouths wide enough to prevent drill head interference on the opposing teeth

Camera/Dynamic/Intraoperative Navigation

Camera navigation systems—also known as image guidance or optical guidance—provide real-time visual information via a visual display of the position of the drill or implant on a monitor with respect to the surgical plan on the patient's CBCT image. Camera navigation is a subset of the larger category of dynamic navigation, also known as computer-aided guidance or more accurately, dynamic intraoperative navigation. Dynamic intraoperative navigation does provide implant placement accuracy consistent with physical static guided surgery [11-12]. In addition, by avoiding physical static guidance, these dynamic systems facilitate same-day treatment, avoid the risks of broken or inaccurate guides, allow for identification of the keratinized tissue at the time of implant osteotomy preparation, and allow for irrigation at the surgical site during the implant osteotomy preparation. Furthermore, it allows the surgeon to change the digital treatment plan during the surgery due to unexpected intraoperative conditions.

However, dynamic intraoperative navigation does not allow physical guidance to prevent the surgeon from deviating from the proposed surgical plan or moving beyond the planned depth. Accordingly, the surgeon must watch the monitor rather than the surgical field to ensure the osteotomy and implant placement is proceeding according to plan. Training to alter the location, tilt and depth of the surgical handpiece to correct for deviations seen on the monitor does require practice and learned skill of the operator. Additionally, since intraoperative navigation systems typically use infrared or visible light to track the drill relative to the patient, they require the antennae to remain within the line of sight of the stereoscopic camera with the potential to have communication errors during the procedure [13]. Electromagnetic-based systems work similarly but in a different wavelength, which can be sensitive to distortions from metal such as the drill head and retractors.

Robotic-Assisted Guidance

Robotic-assisted guidance, in contrast, combines the advantages of both the physical constraints of static guides and the flexibility and spontaneity of image-based dynamic navigation. Robotic-assistance provides physical (haptic) guidance that prevents the surgeon from deviating from the planned implant angulation, location and depth.

Robotic-assisted guidance also utilizes CBCT data imported into a proprietary treatment planning software platform to allow virtual treatment planning using a "Crown Down" technique. An appropriate virtual crown is selected from the virtual tooth library or by importing an .stl file from a scanned custom wax-up or virtual restoration provided by the restorative dentist's lab. An appropriate virtual implant is then selected from the virtual dental implant library and virtually placed in the ideal location, angulation and depth, taking boney anatomy, critical underlying structures and crown emergence profile into consideration.

Once the treatment plan has been idealized, on the day of surgery, the patient is fitted with a fixed reference splint attached to the contralateral aspect of the jaw (distant from the proposed surgery site) to allow attachment of the robot's reference arm allowing the active arm equipped with a surgical handpiece a reference to allow execution of the prescribed treatment plan. The active arm offers the surgeon haptic guidance during the procedure, ensuring sub-millimetric precision of the implant placement according to the location and angulation prescribed by the treatment plan. With haptic guidance, the surgeon and team can focus on the surgical site during the procedure (instead of a computer monitor), to irrigate the drill directly, suction and retract the adjacent tissues throughout the drilling sequence and implant placement. Moreover, Yomi's fully digital workflow not only mitigates the potential for inaccuracies introduced during the production and fitting of a physical static guide, it allows for patients to be treated with same-day guided surgery. Additionally, the surgeon retains the ability to modify the planned implant position at any time during the procedure.

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YOU CAN'T DO IT ALONE: *Employment Law Reminders*

By Matthew B. Hall, MD, DDS, JD

It is possible to practice dentistry all by yourself: answer the phone, book appointments, take radiographs, assist yourself for procedures, and do insurance and collections. But we would probably all agree that such a practice would be very inefficient, likely lead to patient complaints, have low production, and be potentially risky for patients during procedures. So, without employees, we don't really have a practice. With employees, we become employers, and thus, have certain responsibilities. Employment in Florida is at-will, meaning that you can discharge an employee for any reason or no reason (unless modified by contract), but there are exceptions with laws that prohibit retaliation against employees who file or threaten to file for workers' comp, a complaint of discrimination against the practice, or a whistleblower complaint for suspected unlawful activity.

This article will be a reminder of some of your responsibilities regarding employees. There are new rules in 2020 for exemptions from overtime, and an increase in the salary level for social security deductions. Part I is an overview in outline form of Florida and federal rules. Part II is an explanation of some of the details involved with: (1) the Fair Labor Standards Act, (2) Workers' Compensation Insurance, (3) Florida's Reemployment Program (former unemployment insurance), (4) Outsourcing Payroll, and (5) the Florida Commission on Human Relations (FCHR; similar to the Board of Dentistry, but for employee complaints).

Remember that following employment rules can be like doing a successful dental restoration: details matter.

Part I: Overview

A. The basics of being an employer:

If you are starting a practice, you will need to select a domain name, register the business (e.g. PLLC) with the State of Florida (MyFlorida Sunbiz website), file appropriate documents (e.g. Articles of Organization), have a registered agent to receive mail from the state, and get a business email address and phone number.

1. Obtain a federal Employer's Identification Number (EIN) and register with the Florida Department of Revenue as an employer. Have the proper understanding of, and software for (or hire a professional employer organization (PEO) company to handle) federal wage deductions for taxes (including Social Security and Medicare), payments to Florida Unemployment Compensation Trust Fund, and medical insurance and other financial benefits, e.g. 401(k) plans.

2. Obtain necessary consultants to assist you, e.g. attorney, compliance specialists.

3. Interview potential employees, based on your needs and requirements for the jobs. Obtain verification of state certificates/licenses and do background checks (with obtained consent).

4. Have an employment contract that includes as many relevant factors as you deem appropriate such as wages (hourly or salary), job description, hours of work/work schedule, benefit options, vacation time, sick

days allowed with pay, probationary time, and periodic evaluations.

5. Have an employee's manual that describes the practice rules, and employee's rights and duties, periodic performance evaluations, family leave time, disciplinary actions and termination of employment.

6. Establish appropriate initial orientation and training to ensure each employee knows how to perform their jobs, how the practice works, proper communication with patients and other staff members, and how to comply with state and federal rules.

B. The Constitution of the State of Florida addresses some aspects of employment in Article I and Article X:

1. Basic rights. All natural persons, female and male alike, are equal before the law and have inalienable rights, among which [is]. . .to be rewarded for industry. . . . No person shall be deprived of any right because of race, religion, national origin, or physical disability. (Article I Section 2).

2. Right to work. The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. (Article I Section 6).

3. Florida minimum wage. The Constitution of the State of Florida addresses the minimum wage and the requirements of the federal Fair Labor Standards Act (FLSA). (Article X Section 24).

In 2004 the Florida minimum wage was set at $6.15 after passage of this amendment to the Constitution of the State of Florida, and it was tied to the rate of inflation during the twelve months prior using the consumer price index. Presently, in 2020, the wage is set at $8.56. The federal wage is set at $7.25.

It is intended that case law, administrative interpretations, and other guiding standards developed under the federal FLSA shall guide the construction of this amendment and any implementing statutes or regulations.

4. Workplaces without tobacco smoke (Article X Section 20).

As a Florida health initiative to protect people from the health hazards of second-hand tobacco smoke, tobacco smoke is prohibited in enclosed indoor workplaces. This constitutional ban (2003) has now been amended to include electronic cigarettes and vaping starting July 1, 2019.

C. Florida statutes (F.S.) relating to employment include:

1.Unemployment Compensation Insurance (Changed in 2012 to Reemployment Assistance Program; F.S. Chapter 443).

2. Workers' Compensation Insurance (F.S. Chapter 440).

3. Child Labor Law (F.S. Sections 450.001–450.165).

4. The Florida Civil Rights Act of 1992 (includes formation of the FCHR that hears complaints from employees similar to the Board of Dentistry for complaints from patients; F.S. 760.01 – 760.11).

D. Federal law relating to employment includes:

For some federal laws to be enforced by federal agencies, and penalties applied for violations, there are requirements relating to the size of the business. This is not to say that you should not follow the principles of these laws in order to have the proper workplace environment even if your practice falls below the minimum size.

1. Title II 1964 Civil Rights Act against discrimination, and the Americans with Disabilities Act require 15 or more employees.

2. FLSA applies to enterprises with $500,000 or more of gross revenue from sales or services, but also for businesses that involve interstate transactions including using products from out of state, and insurance and credit card payments. Thus, by definition and court decisions, FLSA applies to all dental practices.

3. The Family Medical Leave Act (FMLA) requires 50 or more employees. This act allows for up to 12 weeks per year of unpaid leave for maternity and to care for children and immediate family members with serious health conditions. FMLA mandates that the employee get the same or equivalent position back after their leave, continuing benefits, and no loss of accrued time for promotion. Florida does not have any state laws addressing this area for employers, so if your practice falls below the federal law, you can decide by contract, employee manual, or individually how best to handle this issue.

4. Americans with Disabilities Act (ADA). Dental practices are required to give reasonable accommodations to people with all types of disabilities. This applies to both patients and employees. You may request documentation of the disability. The employer must recognize a request for accommodation, and the process is triggered when an employee reports the need because of temporary or permanent disability.

5. The Affordable Care Act (ACA). Although the individual mandate

for coverage was adjudicated unenforceable, the penalty for an employer who falls under ACA and does not provide insurance for employees is still law.

The ACA requires businesses with 50 or more full-time equivalent employees to offer health insurance to full-time employees. "Equivalent full-time employees" means that collectively part-time employees count (adding total part-time employees' hours, then dividing by either 30 hours a week or 120 hours a month to get equivalent full-time employees).

6. The Age Discrimination in Employment Act (ADEA). The ADEA applies to employers with 20 or more employees and protects employees who are 40 years of age or over from discrimination in the workplace because of age. This prohibition against discrimination includes hiring, promotions, wages, and termination based on age.

7. The Occupational Safety and Health Administration (OSHA). Under this federal law employers must provide employees with a workplace free from recognized hazards and comply with all applicable OSHA standards.

8. The federal Uniformed Services Employment and Reemployment Rights Act (USERRA). The USERRA protects the job rights of employees who voluntarily or involuntarily leave employment to undertake military service or certain types of service in the National Disaster Medical System.

9. Consolidated Omnibus Budget Reconciliation Act (COBRA). The employee's right to continuing health insurance for 18–36 months after leaving your employment while having the responsibility to pay the full premium.

E. What Florida law does not address:

Florida law does not address many aspects of employment, and thus many aspects need to be handled by decisions between the employer and employee on an individual basis or by employment contract/employee manual.

Florida does not have laws that provide for or prohibit:

1. Bereavement leave.

2. Holiday leave for private employment, either paid or unpaid.

3. Sick leave, either paid or unpaid. Large employers with 50 or more employees fall under federal law of FMLA.

4. Vacation leave, either paid or unpaid.

5. Voting leave or jury duty leave, paid or unpaid. (However, the employee cannot be discharged for taking time from work to accomplish these civic duties).

6. Frequency of wage payments.

7. Deductions from wages, e.g. cash shortages, damage or loss of employer's property, items necessary for employment.

8. Requiring an applicant to pay for pre-hire medical/physical exam or drug tests.

9. Notice of wage reduction.

10. Notice requirements of wages, dates of pay, employment policies, fringe benefits, or other terms of employment, whether at hire or at any time.

F. Florida law does address some aspects of employment that either mirror or strengthen federal rules:

1. Restraint on competition such as non-compete clauses are addressed in Fla. Stat. 542.355.

These are legal as long as the written contract is reasonable in time, area, and consistent with the line of business. There must be a legitimate business interest to justify protecting the business interests of the employer. Generally, between 6–24 months is considered reasonable, and most dental contracts are 24 months. These agreements can be challenged in court but are generally upheld.

2. Drug screening is addressed in Fla. Stat. Chapters 440, 112. Both public and private employers may test their employees for drugs and alcohol, pre-employment and for routine fitness for duty. This can include HIV (Chapter 760) if there is a bona fide significant risk of transmission for job in question.

3. Florida has laws that protect employees from unlawful discharge, threat of discharge, discipline, or demotion by the employer for:

a) Voting (F.S. 104.081).

b) Jury duty (F.S. 40.271).

c) Testifying in court (F.S. 92.57).

d) Patronage for doing business or for not doing business as customer or patron with any particular merchant, person, or class of persons (F.S. 448.03).

e) Whistleblower protections when an employee has disclosed, or threatens to disclose, to any government agency an activity, policy, or protection of an employee that is an alleged violation of a law, rule, or regulation. This also protects an employee who provides information or testifies before a government agency (F.S. 448.101).

f) Leave to perform military service (F.S. 250.481).

g) Age discrimination. Florida law specifically prohibits the employer from discharging an employee solely due to age or forcing an employee to retire or reduce the wage rate absent good cause or solely because of her or his age. This Florida law does not give a specific age range, nor limit the application to a business based on number of employees (F.S. 760.10).

h) Guns at work. No public or private employer may prohibit any employee from possessing any legally owned firearm when such firearm is locked inside a private locker or locked in a private motor vehicle in a parking lot (F.S. 790.251).

i) Handicap discrimination. This follows the federal law, prohibiting discrimination in hiring unless for valid job description reasons, and allowance for accommodations (F.S. 760.10).

4. Domestic violence. Allowing employees three days off work for issues relating to domestic violence (applies to business with 50 employees or more; F.S. 741.313).

5. Negligent hiring. Possible employer liability from the acts of employees (F.S. 768.069).

Part II: The Practical Application of Employment Laws

A. FLSA (enacted initially in 1938 and amended several times)

1. FLSA is generally concerned with providing the minimum wage for covered employees for each hour worked, as well as weekly overtime pay at one and one-half times the regular hourly rate for hours in excess of 40 hours per week. It also covers recordkeeping and child labor provisions. For minimum wage requirement, FLSA applies to all employees. For the overtime requirement, FLSA applies only to employees paid on an hourly basis, or non-exempt salaried employees. Dentists and associate dentists are exempt from overtime regardless of salary under the professional exemption. Independent contractors hired by you are also exempt. However, be cautious about whom you designate as a salaried employee, because job title never determines exempt status. Likewise, be cautious about whom you designate as an independent contractor, because their dependency on your control may make them an employee under FLSA.

2. Employee vs. independent contractor. The courts consider several factors in determining the status of a worker as an employee or independent contractor. There is no single factor, so the courts and the Internal Revenue Service (IRS) use the "economic realities" test if a worker challenges his or her classification. This test looks at the true business relationship and the employer's degree of control and the independence of the worker. The factors include (1) whether the work is part of your regular business, (2) the opportunity of the worker for profit or loss, (3) the degree of control you exercise over the details of the work, and (4) does the worker use his or her own tools and have the ability to hire another worker to help with the work.

Although individual arrangements are up to your discretion, the general opinion by IRS and court cases is that dental hygienists and associate dentists are employees.

It makes a difference to you if the person is classified as an independent contractor and then challenges this designation or the IRS challenges you about the status. As you know, you file a W-2 for employees with deductions from the employee's salary for federal taxes including Social Security at 6.2% on first $137,700 (as of 2020) of earnings, 1.45% for Medicare, and any employee benefits. As the employer, you pay another 6.2% for Social Security on the first $137,700 and 1.45% for Medicare as a business expense. For an independent contractor you file a 1099 to the IRS for what you paid for the work performed. The independent contractor is responsible for paying the federal taxes, including the entire amount for Social Security (12.4% on the first $137,700), and 2.9% for Medicare, for a total of 15.3%. It is illegal to misclassify employees. If the worker challenges the classification as an independent contractor and IRS agrees (or the court rules in the worker's favor), the employer may be required to pay all back taxes (up to three years), fines, and penalties for late payments.

3. Rules for hourly employees. The Florida minimum hourly wage starting in 2020 is $8.56, which takes precedence over the federal minimum of $7.25, and applies to every employee. As a general rule, all hourly employees must be paid overtime for hours worked over 40 in any given week. At the Florida minimum, an employee would earn $342.40 for a 40-hour week, and annually $17,804.80 for 52 weeks. The range for dental assistants in Central Florida is $10-18 an hour, and a salary range of $20,000 to $38,000. Dental receptionists' salaries can be $27,000 ($9-14/hour), office managers $28,000 to $44,000, and hygienists $66,000 (glassdoor.com Sept. 2019). So, for dental offices, minimum wage is not an issue. However, you do need to be concerned about overtime rules.

4. Rules for salaried employees: exempt from overtime or nonexempt? There are new rules for private employers deciding who qualifies as a salaried employee and may be exempt for overtime pay under FLSA. On September 24, 2019, the Wage

and Hour Division of the Department of Labor issued new guidelines to begin January 1, 2020. The new salary threshold to be exempt from overtime rules is set at $684/week (annual salary $35,568), but only if the employee earning this salary has the primary duties of an executive, administrator, or professional. The old threshold was $455/week ($23,660). The new rule also includes the category "highly compensated employee" who gets a guaranteed annual salary of $107,432 (old value was $100,000). This "highly compensated employee" is exempt from overtime regardless of job description. The employer can include in the standard salary up to 10% of non-discretionary bonuses and incentive payments. Thus, an employee paid a salary under $107,432, and whose duties do not fit the categories of executive, administrative, or professional (an associate dentist but not the hygienist by prior rulings), must keep track of hours and be paid overtime on the hourly rate represented by that salary based on 40 hours per week.

Thus, you can give employees salaries that do not satisfy the rules, but the salaries must be designated as non-exempt salaries, and subject to overtime pay for work over 40 hours per week. A non-exempt employee can never waive his or her legal right to overtime pay nor ever work off of the clock. Overtime is best prevented by advising employees that it must be authorized in advance. Keeping accurate records is important.

There are three tests to determine the exempt status of a salaried employee from overtime pay: (1) the "salary test" as stated above with the new rules, (2) the "salary basis test" that states the net salary is not subject to reduction due to variations in the quality and quantity of work performed, and (3) the "duties test" states that the employee's primary duties (greater than 50%) must be executive, administration, or professional (an associate dentist, but not the hygienist).

To qualify for the administrative salary exemption from overtime pay, the employee's primary duty must be office or non-manual work related to management or general business operations of the practice or patients. The executive employee must exercise discretion and independent judgment in carrying out her or his duties.

To qualify for the executive salary exemption from overtime, the employee's primary duty must consist of managing the practice and regularly directing the work of two full-time or equivalent part-time employees.

5. On-call time is covered under FLSA (Codified as 29 C.F.R. Section 785.17). Relating this section to a dental office, the following are applicable: (1) If you have an exempt salaried employee (i.e. exempt from overtime requirement), the employment contract can state that on-call time is part of the job description both for answering emergency calls and coming in to see a patient in the office after hours; (2) If you have a non-exempt employee, salaried or hourly, who is on-call, you need rules for what is considered work during that time. The general rule is that being "on-call" but non-restricted (i.e. carrying a cellphone, but able to do normal life activities in the community) is not considered as work. If the employee needs to answer emergency calls or see patients in the office during "on-call duties," the time can be recorded and this would count for normal weekly salary, and overtime if hours are over 40 for the week.

6. Child labor laws also fall within the FLSA and have been modified by the Florida legislature in F.S. 450.001 – 450.165. Since dental offices are not listed under hazardous occupations, minors may be employed. Minors under 14 cannot be employees. The Florida rules are: (1) for ages 14, 15 may not work during school hours, may work up to 15 hours a week when school is in session, and no more than 3 hours a day, or 8 hours when no school (e.g. weekend/summer vacation), and (2) for ages 16 and 17, may not work during school hours unless they meet some restrictions, may work up to 30 hours per week while school is in session. Minors may work no more than 4 consecutive hours without a 30-minute break.

B. Workers' compensation insurance.

1. Workers' compensation insurance is required for employees, except for very limited exemptions. The exemption that can apply to a dental practice is if there are fewer than 4 employees, i.e. 3 or less, including both full-time and part-time employees. If you elect this exemption, then you must notify the state by filing as a workers' compensation exemption in writing with the Florida Department of State, Division of Corporations, and post this fact in your office. In Florida, you must obtain private insurance. Our FDA offers this service. The insurance sold in Florida is regulated by the Florida Office of Insurance Regulation to make sure that it is consistent with the statutory requirements and agency rules. Insurance premiums are paid by the employer and are based on a code applicable to the risk of injury for types of workers and their industry. The code is an amount per every $100 of the employee's pay. This amount for dental employees can vary from 0.46 for front desk staff to 1.00–2.00 for clinical staff. That is 46 cents or one dollar per $100.

2. It is important to remember that Workers' compensation cover-

age protects you and your practice from liability, and protects your employees from the financial impact of a work-related injury. It is a type of no-fault insurance. Thus, it covers the employee's medical bills, lost wages, disability income, and rehab, regardless of whether the employer or the employee is negligent. Without the insurance, an employee can sue the practice for a work-related injury. An employee must forgo workers' comp benefits if the employee intends to sue. The big advantage to the employee under the coverage is the guarantee of covering medical expenses immediately. The employer must file with the insurance carrier immediately, describe the incident and the injury including any witnesses, and include medical documents. Regardless of whether the claim is eventually accepted or denied, the employer is prohibited from any adverse retaliation against the employee such as discipline, demotion, or termination.

3. As the employer, you will need to make accommodations for any temporary or permanent disability when return to work is deemed appropriate by medical clearance, e.g. light work until full Maximum Medical Improvement (MMI). Besides accidents that result in a physical injury, e.g. bone fracture, soft tissue laceration/puncture, the coverage includes occupational acquired conditions like carpal tunnel syndrome.

It should go without saying that the dental office must satisfy the safety standards of OSHA, and there should be periodic education about safety issues.

C. Reemployment Assistance Program (the former Florida Unemployment Compensation Program; F.S. Chapter 443).

1. Although this program remains an entitled program under the Social Security Act and the Federal Unemployment Tax Act, the Florida legislature since 2012 has focused the program on the return to new employment. Unemployed workers who are covered and fully eligible can receive weekly benefits after filing with the Florida Department of Economic Opportunity that administers the benefits. These benefits are paid from the Florida Unemployment Compensation Trust Fund (FUCTF) that is comprised of taxes paid by employers (not deducted from employee salaries), and interest earned by the FUCTF. Despite Florida not having state income taxes, this is a state tax on employers for this benefit program. The tax is on a percentage basis with this percentage based on the amount of wages the employer paid the worker during the base period of the claim. The tax rate used to compute the reemployment tax is an initial rate of 2.7% (but can go lower) and a maximum cap of 5.4% that is typically paid quarterly on only the first $7,000 of each employee's pay per year. As the employer, you have a seven-digit reemployment tax account number. Payments are made to the Florida Department of Revenue.

2. The weekly benefit ranges from a minimum of $32 to a maximum of $275 (typically 1/26th of the higher quarter wages). The number of weeks covered on a claim is 25% of the total base pay period wages, but maximum number of weeks is capped based on the unemployment rate in Florida during the third calendar quarter of the prior year. Benefits extend for 12 weeks when the unemployment rate is 5% or less, and up to 23 weeks if the rate is 10.5% or more (each 0.5% increase above 5% unemployment adds another week).

3. To qualify for benefits, the employee must file a claim online, have necessary wage credits, be able to work, be available for and actively seeking work, and be registered for work in Employ Florida. It does not apply to independent contractors. The unemployed worker can qualify only if she or he has earned a minimum amount of wages in the base period. The base period is the first four of the last five completed calendar quarters prior to filing the claim. There must be wages in two or more quarters of this base period, with a minimum earned of $3,400 in the base, as well as the total base period wages equal to 1.5 times the high quarter earnings. There is a long list of factors that may disqualify a claimant from receiving benefits that includes: voluntarily quit without good cause, terminated for misconduct, chronic absenteeism, failed without good cause to apply for available work, furnished false information, receiving worker's compensation for disability, and being an unlawful alien.

D. Option of outsourcing payroll.

It should be noted here that you have an option to make a contract with a third-party company to handle your employees' wages and all applicable state and federal deductions and payments, including payments to the Reemployment Assistance Program. These PEO companies must be certified and have their own tax I.D. numbers. You become the client and the PEO is considered a co-employer which becomes liable for all necessary reporting, withholding, and payment of taxes and wages, depending on your contract with the PEO. This has the advantage of freeing you and your staff to concentrate more on patient care, but you are turning some control over to a third party and paying for this service.

What if an Employee Believes She or He has Been Treated Unfairly?

E. The federal Equal Employment Opportunity Commission (EEOC) and FCHR.

If employees feel that they have been treated unfairly, they have the right to file a complaint with either the local office of the federal EEOC or the state FCHR. Both the federal and state agencies have a sharing agreement, so anything filed with one is automatically filed with the other.

The federal agency, which has offices in Florida, and the state agency both protect employees from discrimination by the employer based on race, gender (including pregnancy, and equal wages for men and women performing substantially equal work), religion, national origin, age, marital status, disability, genetic information, and other personal characteristics. Its purpose is to prevent bias and promote fairness in all workplace practices. Keep in mind that these protections are very broad, including discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, and other aspects of employment. Also included is a prohibition of retaliation (e.g. discharge or threat to discharge, suspend, demote, or discipline) against an employee who (1) files a claim for workers' comp, (2) files or threatens to file a claim with the EEOC and FCHR, (3) files or threatens to file a whistleblower complaint for suspected unlawful activity or violation of labor laws, or (4) takes time off to vote, testify in court, perform jury duty, or for military service.

F. The Florida Civil Rights Act of 1992, Fla. Stat. 760.01 – 760.11.

1. The Florida Civil Rights Act of 1992 was passed to mirror and clarify the federal Civil Rights Act of 1964 and to create the FCHR that is the state counterpart to the federal EEOC. The Florida Civil Rights Act broadly prohibits discrimination in Florida, including in employment, housing, and public accommodations.

2. The FCHR was created to allow for a state agency to evaluate employee complaints to determine first if the complaints have merit and then to allow for possible resolution by mediation or administrative means by having a final administrative ruling before any civil court action can be taken against the employer. The FCHR functions in this regard like the Board of Dentistry that evaluates complaints from patients. As the employer, you will have the opportunity to defend your actions and your practice's rules.

3. The employee who feels that she or he has been treated unfairly must first file a complaint with the FCHR or the EEOC and get a ruling within 180 days concerning the merits of the claim, that is, whether there is "reasonable cause" to believe a discriminatory practice has occurred, or whether there is "no cause." If "no cause" is found, then the commission will dismiss the complaint. If the employee decides to challenge this ruling, she or he has 35 days to request an administrative hearing in front of an administrative law judge (ALJ) within the Division of Administrative Hearings, an independent Florida agency. This hearing can be either formal like a non-jury trial with witnesses and attorneys (under Fla. Stat. 120.57(1)), or informal with documents submitted to the ALJ and oral arguments by attorneys (Fla. Stat. 120.57(2)). The ALJ will then issue its ruling back to the commission, which can decide to accept, deny, or modify the ruling, and then issue a final agency administrative ruling. Once this occurs, the employee or employer has the right to appeal the ruling to a district court.

4. If the commission determines here is "reasonable cause" for discrimination, the employee may decide either to (1) bring a civil action against the employer in any court of competent jurisdiction, or (2) request an administration hearing.

5. If the employee elects to participate in the administrative hearing, the commission can hear the case or refer it to the ALJ for a recommendation before making a final decision. The commission can elect to resolve the issue by mediation, and keep the result confidential, voluntary or involuntary arbitration, or issue a final decision that can include an order to prohibit the discriminatory action and to award back pay. This final decision can be appealed to a district court.

If the employee elects to proceed with a civil court action, the following is allowed under F.S. 760: The court may issue an order to prohibit the discrimination, provide affirmative relief from effects of the discrimination including back pay, compensatory damages for mental anguish, loss of dignity, and punitive damages not to exceed $100,000.

Conclusion

Being an employer is a serious but rewarding responsibility. When your employees know you are (1) following employment rules, (2) handling payroll responsibly, and (3) instructing them appropriately about practice rules and workplace and patient safety, your employees will feel respected and part of a team effort.

Disclaimer: This article is for information only and not intended to be a definitive guide to decision-making, and it does not include the entire scope of employment law. You should seek the advice of your practice attorney and compliance specialists for any concerns.

When Heroes Mattered

The country was reeling from the Great Depression. Initiated by the market crash of 1929 and exacerbated by monetary and labor policies, the common man was hurting. Money, jobs and, it seemed, hope were in short supply. The common motto was: "Use it up, wear it out, and make do, or do without." After the prosperous roaring 20s, this became a somber sobering time. Often, the only entertainment for the family was gathering around the radio in the evenings. In fact, it was so important it is considered the 1930s equivalent to the modern-day internet. At the time one third of the country was existing on welfare. Folks were desperate for something or someone to believe in.

James J. Braddock originally was born as James Walter Braddock on June 7, 1905 in Hell's Kitchen, New York City. Born to Irish immigrant parents he soon moved across the Hudson to North Bergen, New Jersey. He took up boxing at a young age with boxing being a highly revered sport at the time. He made quite a name for himself in the New Jersey Golden Gloves winning the Light Heavy Weight Title and turned professional at the age of 21. By 1928, he had amassed an impressive 44-2-2 record. He finally got a shot at the heavy weight title in a brutal 15-round bout but lost by decision to Tommy Loughran. Remarkably, he had fractured his right hand early in the fight and kept fighting anyway. This put Braddock into a deep depression and his career suffered greatly. Soon thereafter came the fateful market crash on September 3, 1929. Stocks plummeted and the Braddock family like so many others lost everything they owned. With no work available Jim also had a hard time winning boxing matches in order to feed his family. Much of the blame was because he didn't possess the financial wherewithal to pay for proper medical care for his badly broken right hand. Things got so bad for Braddock that he was forced to quit fighting and scour the docks of Weehawken and Hoboken every day trying to find day work loading ships to feed his family. To Jim's great dismay, he was forced to apply for government welfare to make ends meet. This was a seemingly cruel blow for the proud but humble Braddock.

Mr. Braddock labored along like this for five long years. A blur of twelve miles of walking, looking for any menial day job, having the power shut off, struggling, barely getting by. One day in 1934, Joe Gould, Jim's long-time manager and friend, pitched up with an offer of a fight in two days for the princely sum of $250.00. With a five-year layoff, and no time to train, Jim was to be an underdog for a cancellation fighter. However, stunning everyone, he knocked out Corn Griffin in three rounds. He next defeated John Henry Lewis in ten rounds. Old by boxing standards, untrained for five years, the most probable comeback in all of sports began. The press labeled him the Cinderella Man. Jim Braddock's Cinderella run culminated in a smashing, bruising 15-round decision over the reigning heavyweight champion Max Baer. He fought Baer as a 10:1 underdog and virtually no one had given him a chance.

The Cinderella Man was a champion for the people of the country who were struggling with hard times. In Jim Braddock, they saw themselves. A person like themselves who had been knocked down by life, not just in the boxing ring. When the Cinderella Man was on his improbable march to the Heavy Weight Championship it was as if he carried and lifted the hopes and dreams of Joe Everyman with him. Make no mistake, when Braddock was in the ring, he was fighting for his family. Even as champion, his humility was disarming. At some point during his comeback Jim returned to the welfare office and paid back every dime he had been given. He also made regular contributions to Catholic Worker's House and personally fed the poor. He lost his title in 1937 to a 23-year-old Joe Louis. After his fighting career was over both he and manager Joe Gould volunteered for the U.S. Army. Jim served with distinction in the South Pacific. After the war, he continued his hard-working ways. He worked as a member of my father's labor union, the International Union of Operating Engineers.

So why write about a boxer from a bygone era in a dental journal? Aside from taking a break from extolling the many virtues of organized dentistry, there is a lot we can learn from James J. Braddock. Especially in this #mefirst era we seem to live in. He was a family man. He worked and fought for his family's well-being. He was a devout man. To say he worked hard was obvious. Even with his smashed right hand he walked the streets and docks of Depression Era New Jersey trying to provide for his family. Tough? I watched several of his actual fights preparing to write this. Tough doesn't pay him justice. The simple act of paying back his welfare money speaks so much to the character of the man of the times. I will leave it to you, my reader, to compare today's demand for handouts, buy outs, giveaways, and socialism to a time when people just wanted a chance to work and make their own way. With Mr. Braddock we have a hero to the common man that respected the core values on which this country was founded. That in and of itself almost makes it a fairy tale.

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