The consequences of non-compliance

Forget just standing on the naughty step, there can be harsh penalties for not complying with rules and regulations as Amanda Atkin explains

That dentists are as human as the rest of us and that some of them sometimes do bad things is evidenced by the regular notices of erasure issued by the GDC. In recent weeks a dentist was struck off because he ‘failed to keep adequate records’. Another was sentenced to seven weeks in prison for continuing to work after being struck off. Another was struck off for poor treatment and yet another for serious breaches of conduct. Of course, dentists not only have the GDC looking over their shoulders but now also the Care Quality Commission. The CQC has the power to close down a service. It has closed a number of care homes and several more have closed voluntarily following a critical report by a CQC inspector. It cancelled the registration of a practice in Dudley in May last year and there was an (unnamed) practice in the north west of England that closed after the PCT withdrew its NHS contract following a critical CQC inspection.

In a statement made in June 2011 following rumours that the CQC had closed some dental practices, it said: ‘We do have the power to close down a service; however this would only be required in the most serious of cases, and would need to take into account the effect of not having these services available for the people who use them. It would be unlikely we would need to do this in a dental setting.’

Something to worry about?

While I’ll be using this article to highlight some of the consequences of non-compliance on the basis that it’s good to understand the seriousness attached to the rules and regulations we have to deal with, my intention is not to be alarmist.

Let’s deal with the GDC first. Registered dental professionals are expected to follow the GDC standards, pay the annual retention fee on time, maintain their CPD, have professional indemnity cover and report breaches of standards. The GDC will investigate if it is told by the police that you have been cautioned about or convicted of a criminal offence, if your professional conduct is called into question and if health problems or poor performance may put patients at risk.

The GDC has different committees to deal with these matters – a Professional Conduct Committee, a Health Committee and an Interim Orders Committee. Most hearings of these committees are held in public and in the case of a Professional Conduct Committee hearing only, information about the dental professional and allegations are issued in advance. The committees’ decisions and any sanctions imposed are made public. Details of hearings for the past five years are shown on the GDC website and at the time of writing there have been 185 Professional Conduct Committee hearings, just more than 100 dentists were struck off (‘erased’ in GDC terminology). Other outcomes included suspensions and reprimands or, quite often in the case of Health Committee hear-
ings, conditions were imposed on the dental professional.

To my mind, having such information in the public domain should be a strong incentive to steer clear of any ‘trouble’ with the GDC. Do you really want savvy patients checking out if you have a ‘record’ with the GDC?

CQC – scary or not?

At first glance it seems more likely that you’ll fail to comply with CQC requirements. Not only are there many steps elements within the essential requirements but it is essentially the practice that must comply and this means all the staff members need to meet their responsibilities. However, as I illustrated above, the CQC is not ‘out to get you’ but wishes to raise standards across the whole healthcare sector.

I mentioned above that the CQC effectively closed a practice in Dudley. Are you surprised when the inspector found used instruments in a sink which had apparently been there since the last patient was seen two to three weeks previously, an inoperative autoclave, medicines that were out of date and patients’ records that were missing?

If, following a CQC inspection, your practice does not meet the ‘essential standards of quality and safety’, the extent of non-compliance is categorised as having minor, moderate or major impact on your patients. For all minor impact non-compliance occurrences and some moderate impact ones, you will be required to produce an action plan for how, and by when, the standards will be met. If at a follow up visit your practice has now met all the standards, the CQC takes no further action.

Where you’ve failed to carry out the action plan, you will get a written warning notice with a timescale to comply. You will also get a warning notice and timescale for multiple moderate impact and major impact non-compliances. However, if at a follow up visit your practice meets all the standards, the CQC again takes no further action.

Things take a different turn if you do not heed the warning notice. The CQC can decide to pursue criminal law or civil enforcement action. Remembering the CQC’s essential standards of quality and safety are based on the Health and Social Care Act 2008, criminal law can be used in response to breaches of certain regulations and sections of this act. In such cases, the CQC can serve a penalty notice and the registered person can pay a fixed penalty to avoid prosecution.

The fines range from £500 (eg a failure to provide documents or information) to £4,000 (eg a failure to comply with conditions of registration).

If things proceed to prosecution, the fines ramp up considerably. For the two examples above the fines are £50,000 and £2,500 respectively.

The CQC may use its civil enforcement powers in cases requiring, for example, urgent suspension or cancellation of registration – when it believes that a person will or may be exposed to the risk of harm.

The CQC publishes lists of its recent inspection reports each Wednesday and these are available as monthly lists on the CQC website. People can also track down dental practices by geographical location or postcode. Once you’ve found the practice that interests you, a table summarises the results of the most recent inspection (if there has been one). A green tick means standards were met, a black cross means improvements required and a red cross means enforcement action has been taken. The CQC offers a widget so practices can include this information on their websites – a potentially positive piece of marketing if you received all green ticks.

Keeping out of trouble

To avoid falling foul of the penalties I’ve highlighted above, I offer straightforward advice – follow authoritative guidance closely, keep up to date with changes in regulations, take expert advice when necessary and make sure your team members know their duties and responsibilities.

About the author

Amanda Atkin runs Atkinspire Ltd and offers practices support, training and consultancy on information governance, CQC compliance, National Minimum Standards and CQC inspection. Her bespoke service supports practices as they embed the required standards within their daily routines – to ensure a high quality service and patient safety at all times.

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