Dental neglect in children: definition, legal aspects, and challenges

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Abstract

This article presents a current definition of dental neglect. Identification, a case history, and legal aspects of such negligence are reviewed. A survey of state laws reveals that only Wisconsin and New York include dental care in their neglect statutes. Finally, future challenges for the dental profession are outlined.

The problem of dental neglect is ubiquitous; yet, only recently has been defined apart from the broader category of child abuse and neglect. Consequently, the recognition and report of dental neglect by professionals has been difficult. Though a variety of definitions has emerged, a comprehensive view of the concept remains elusive.[1-3]

Domoto, in his revision of Hally's model of child neglect, stressed the multi-dimensional nature of dental neglect and the need for addressing its different aspects.[2] Community standards for health care, for instance, derive from a combination of economic, political, and cultural values. These variables, as well as norms of child rearing, influence society's definition of neglect.

Our society's response to child abuse is clear. All 50 states have statutes, supported by penalties against noncompliance, requiring dentists to report suspected abuse and neglect. Nonetheless, few states recognize dental neglect as part of general neglect.

Definition

Child neglect occurs when a parent or guardian either deliberately or unintentionally permits the child to experience suffering or fails to provide the necessities for the child's physical, emotional, and intellectual development. The American Academy of Pediatric Dentistry Ad Hoc Committee on Child Abuse and Neglect has proposed the following definition of dental neglect: "Dental neglect is defined as the failure by a parent or guardian to seek treatment for visually untreated caries, oral infections and pain; or failure of the parent or guardian to follow through with treatment once informed that the above condition(s) exists."[3]

In general, neglect represents the failure to perform essential parental duties, such as supervision, nurturing, and protection of the child. It is useful for the dentist to consider child dental care as a continuum, ranging from excellent to adequate to neglectful. Likewise, the individual child's dental health may range from excellent to mildly diseased to severely diseased. In individual cases, the state of the child's health may or may not be related to the level of care provided by the parent or the guardian. Barriers to care can be recognized. Often the best intentions can be negated by poverty, ignorance, or lack of access to adequate care.

Negligence in parental care often is manifested by levels of dental hygiene insufficient to prevent disease. Overt mistreatment, on the other hand, generally results in physical trauma to the mouth and the teeth. Dental neglect, therefore, can be identified by the presence of obvious oral disrepair coupled with the parents' failure to provide adequate dental attention.

Identification

The Academy's definition of dental neglect assumes that the oral pathology is evident to the parent or the guardian, i.e., a lay person. The following in-

dicators have been suggested as aids in the identification of dental neglect in children:

1. Untreated, rampant caries that is easily detected by a lay person
2. Untreated pain, infection, bleeding, or trauma affecting the orofacial region
3. History of a lack of continuity of care in the presence of previously identified dental pathology.[2,4]

An accurate, complete, and sensitively obtained dental history is essential in confirming suspicions of neglect. A common factor in neglect cases is the failure of the parent or guardian to obtain appropriate care for the child following identification of serious dental pathology.

There is a radical difference between the violence and cruelty of physical child abuse and the characteristics of child neglect.[5] Clearly, there are forms of neglect which are as damaging as physical abuse. Nonetheless, most neglect is caused or exacerbated by poverty, ignorance, and isolation. Accordingly, many of the parents' ommissions can and should be forgiven. Many people continue to be unaware of the processes and the consequences of oral disease. However, when pathology has been identified clearly, treatment precisely explained, and significant barriers to care removed, failure to follow through with prescribed treatment amounts to dental neglect. This concept is consistent with accepted definitions of child neglect and reflects current standards in identifying medical care neglect.[4-9]

Legal Aspects

Since many more cases of medical neglect than dental neglect have been brought before American courts, it is useful to review these medical cases as a background for understanding the types of situations in which the courts will override parental objections to medical or dental care. The factors described below appear relevant to understanding the disposition of the courts in such cases.[10]

With the concept of informed consent, no court is likely to proceed with any less information than a prudent patient would want before consenting to a procedure. The full nature of the condition, the consequences of nonintervention, the probability of these consequences, the alternatives to the proposed procedures, the risks and consequences of the procedures themselves, and the probability of success are among the kinds of information the court would require. If the parents refused to hear this information, courts would expect the health care provider to document this refusal.

Courts have been most likely to order health care when the failure to treat the ailment would lead to death or to severe impairment, when a delay in treatment increases the probability of harm, when the proposed treatment is established and accepted by the profession, and when the probability of success is high. If the child is older, his or her consent may be required. Additionally, it must be clear that no alternative will provide a better, more probable result.

While such untreated conditions as oral cancer or an odontogenic infection suggest child neglect, lesser conditions also may justify intervention. Untreated fractured teeth and dental caries were the basis for a court order in one state; nursing bottle caries, numerous untreated caries or fractures, or similar types of neglect also may be signs of an overall pattern of neglect.[11] The dentist is not usually in a position to evaluate a child's overall care and often must consult other professionals such as physicians or those in protective services to know if suspicion of neglect is warranted.[12]

Bross erroneously has suggested that only in research situations did it seem likely that questions of inappropriate parental consent might be of concern.[13] Documentation of nearly 100 cases of Munchausen's syndrome by proxy now makes it clear that neglect or even abuse can occur when parents repeatedly consent to procedures which provide little or no benefit to the child but which provide secondary gains to the parent.[14] Although the authors are unaware of any cases of Munchausen's syndrome by proxy in a dental setting, these cases serve to remind one of the unexpected ways in which children are mistreated.

Case History

In September, 1983, a dental hygienist in Pueblo, Colorado, performed screening examinations for children enrolled in the special education classes of a local school district. Examination of an 8-year-old male (OC) with a history of learning disorders revealed a mixed dentition with gross carious lesions in all first permanent molars. The primary molars in all quadrants were carious to the gingivae. The child's medical status was within normal limits.

The hygienist informed OC's teacher of his dental condition and contacted the child's mother. Etiology and treatment were discussed. The parent indicated she would seek prompt treatment. Two months passed, and when the hygienist returned to the school, OC was examined. His condition was unchanged, and again the mother was contacted. She related that her lack of finances prohibited dental care for the

child. The hygienist successfully had obtained funds in other cases of financial need and suggested that similar assistance was available in this case. Funds for the initial visit were obtained, and the parent agreed to arrange for an appointment with a local dentist.

One month later, when the teacher reported that OC experienced acute oral discomfort, the hygienist contacted the mother. She reported that OC had not been examined because transportation to the dental office was a problem. The hygienist personally offered to drive both parent and child to the office. OC's mother agreed to schedule an appointment. The teacher contacted her the next day, only to learn again that dental care had not been arranged. Finally, the Pueblo County Department of Social Services was called. Subsequently, OC was placed in a foster home and dental care was completed. A thorough social history and physical examination revealed that OC had been abused previously by an uncle who resided in the household.

The presence of dental disease and its etiology had been explained. Barriers to treatment had been removed. Yet, proper dental care had been withheld. Dental neglect by all current definitions existed. Fortunately, the child's abuse was terminated before further trauma occurred.

Legislation

In March, 1984, Loochtan conducted a mail survey of executive directors of all 50 state dental associations and directors of state public health departments to determine if abuse/neglect laws exist which specifically address dental neglect. Thirty-four responses were received. The current statutes for the states which did not reply were reviewed subsequently.

The results of this survey indicate that only Wisconsin and New York specifically address dental neglect in their abuse/neglect codes.[15,16] The Wisconsin law reads: "*Neglect* means failure, refusal, or inability on the part of a parent, guardian, legal custodian, or other person exercising temporary or permanent control over a child, for reasons other than poverty, to provide necessary care, food, clothing, medical, or dental care, or shelter so as to endanger seriously the physical health of the child."

Most state laws refer to *medical* or *health* care in a format similar to the Department of Health, Education, and Welfare's Child Protection Act of 1977: Section (c-iii) ". . .adequate health care includes any medical or nonmedical remedial health care permitted or authorized under state law."[17] However, some state social service agencies do define dental neglect in their child protection policy and their procedure manuals, rather than in their abuse/neglect laws.[18]

Discussion

In 1971 there were more than 60,000 reported cases of child abuse and neglect in the United States.[19] By 1980, the number had increased to 1 million annually.[20] Approximately 50% of reported incidents involved trauma to the head and neck region.[21] As a result, dentists are in a unique position to recognize abuse as well as medical and intraoral neglect. Health care providers have an obligation to help prevent the suffering that results from dental pathology.

General legislation which addresses dental neglect would alert other professionals to the problem. Specific dental legislation, which includes the definition of neglect established by the Ad Hoc Committee of the American Academy of Pediatric Dentistry, would affirm the profession's commitment to children. The authors hope that the combination of such general and specific legislation will prevent the suffering that abused and neglected individuals experience.

Legislation represents a major step in implementing useful procedures and in procuring funds from state and local sources. Because of the high priority we assign to the health and general welfare of children, we believe it imperative that current legislation be continued and expanded to fully secure the rights of all children to comprehensive basic health care.

Summary

Owing to the physical barriers to treatment, as well as to a variety of societal factors, recognition and reporting of dental neglect is a complex process. However, once pathology has been explained to the parent and the obstacles to care have been removed, dental neglect can be identified. A survey of states found that only Wisconsin and New York delineated dental care in their definitions of neglect. Some states included dental health in state agency policy and procedure manuals.

In recent years, public opinion has precipitated the implementation of positive steps to discourage the pattern of abuse and neglect of children. Examples include the establishment of a National Center for Missing and Exploited Children, the formation of local hotlines, and the organization of community child advocacy groups.

Professionals in the field of dentistry cannot ignore the efforts of other professionals and lay persons to help neglected children. Medical and legal documentation provides protocol regarding medical neglect. The development of a definition of dental neglect has been an important first step.

Prevention is a familiar concept for the dental profession. The challenge presently exists for dentsits

to help establish state-level dental neglect policies requiring recognition and reporting of neglect.

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