

A Guide to Peer Review

An Impartial Complaint Resolution Alternative

- **What you need to know**
- **How to Submit a Complaint about
Dental Treatment**



**The New York State Dental Association
1-800-255-2100**

The New York State Dental Association is a constituent of the American Dental Association. NYSDA was established by an act of the New York State Legislature in 1868. The Constitution of the Dental Association states:

“The object of the Society shall be to encourage the improvement of the health of the public, to promote the art and science of dentistry, and to represent the interests of the members of the profession and the public which it serves.”

This guide provides a summary of the New York State Dental Association’s [NYSDA] policies and procedures for its Peer Review and Quality Assurance program. Additional information is available from NYSDA and its local component dental societies.

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A Guide to Peer Review:

What you need to know

1. ■ Peer Review is an impartial complaint resolution alternative

Peer Review is NYSDA's primary quality assurance mechanism. Peer Review provides an impartial, confidential, and timely resolution to patient complaints about *appropriateness of care* and the *quality of treatment* rendered by NYSDA member dentists.

- 1.1** Peer Review is provided by each of NYSDA's 13 local dental societies, enabling the professional association to offer Peer Review to the public in the geographic area where treatment was rendered.
- 1.2** There is no charge for this service.
- 1.3** Peer Review is conducted by committees of volunteer dentists in accordance with the NYSDA *Peer Review Manual* and the terms specified in the NYSDA *Agreement to Submit to Peer Review*.
- 1.4** NYSDA members *are required to participate and to abide by the decisions* rendered by the Peer Review Committee as a condition of membership in the professional association.
- 1.5** Peer Review determinations are based on the quality of the treatment provided as assessed by an impartial committee of three peer dentists who examine the patient and review the available dental records.

2. ■ The Agreement to Submit to Peer Review

- 2.1** The *Agreement to Submit to Peer Review* is a legally binding contract to enter into NYSDA's alternative dispute resolution process for the purpose of finally resolving the stated dispute between the parties.
- 2.2** Each party to this contract agrees that the decision and award of the Peer Review Committee shall be binding.
- 2.3** Each party agrees that it waives the right to subsequently sue the other party on the facts or issues decided by the Peer Review

Committee in any court action or proceeding, including, but not limited to, any malpractice action or collection action, except to bring an action or proceeding to enforce this contract and/or the award of the Peer Review Committee.

- 2.4** Parties are urged to consult with their attorneys prior to signing the *Agreement to Submit to Peer Review*.

3. ■ Is my complaint eligible for Peer Review?

- 3.1** The Peer Review Committee believes that it can evaluate the complaint and render a fair and impartial decision based on the evidence available.
- 3.2** The dentist involved is a member of the New York State Dental Association at the time the *Agreement to Submit to Peer Review* is submitted.
- 3.3** The matter pertains to *appropriateness of treatment* or *quality of care*.
- 3.4** The dental treatment was performed within 2½ years of the patient submitting the *Peer Review Agreement*.
- 3.5** In the event the treatment has been removed or altered, the complaint may be eligible for Peer Review providing a fair and impartial decision based on the evidence can be rendered.

4. ■ Why a complaint is NOT eligible for Peer Review

- 4.1** More than 2½ years have elapsed since the treatment submitted for Peer Review was completed.
- 4.2** The complaint pertains solely to fees charged for the treatment rather than the quality of care.
- 4.3** The patient refuses to place any outstanding balance owed to the dentist for the treatment in question in the dental society's escrow account pending the outcome of the Peer Review.
- 4.4** The patient has submitted a complaint about the same treatment to the New York State Education Department's Office of Profes-

sional Discipline and that complaint has not been dismissed on jurisdictional grounds.

- 4.5** The patient's outstanding balance for the treatment that is the subject of the complaint has been recovered through a collection action resulting in a waiver of future action or a "release from liability." When the dentist has commenced action to recoup the fees for the treatment that is the subject of the patient's complaint, the dentist is required to withdraw/cease the collection action when the patient places the outstanding balance in the dental society's escrow account. The dentist's failure to do so will result in termination of the Peer Review with the dentist being deemed out-of-compliance with the Peer Review process and NYSDA policy.
- 4.6** Peer Review cannot intervene in disputes where a fee dispute has been brought to a court and resolved either by a court order or settlement between the parties.
- 4.7** Any party has commenced litigation against the other, the subject of which is the matter submitted for Peer Review or a matter related to the one submitted to Peer Review, and such litigation has not been withdrawn.
- 4.8** The treatment was performed in a dental school, clinic, hospital or on behalf of the NYS Medicaid program.

5. ■ Case outcomes and limits on monetary awards

Peer Review will NOT result in punitive awards in excess of the fees actually charged for treatment.

- 5.1** The amount to be returned to the patient following the resolution of the complaint through mediation or a hearing cannot exceed the amount of the fee actually charged by the dentist.
- 5.2** If treatment is found to be unacceptable (inappropriate or not consistent with the standard of care), the patient will be awarded a refund of the fees received by the dentist.
- 5.3** If the Peer Review Committee finds the treatment to be of acceptable quality, the dentist will receive or retain the fees charged for that treatment.

- 5.4** If the patient breaches the *Agreement to Submit to Peer Review*, all monies retained in escrow will be remitted to the treating dentist.
- 5.5** When a patient's insurance or other dental benefit payer has provided reimbursement for the treatment in question, the patient is responsible for notifying the carrier of any refund received as a result of the Peer Review.
- 5.6** Refunds granted following a Peer Review will be made after the appeal period has expired.
- 5.7** Non-payment of any refund constitutes a breach of the Peer Review contract, entitling the non-breaching party the right to enforce the contract and/or award in the courts of the State.

6. ■ Initiating a Peer Review

- 6.1** A patient initiates a Peer Review by completing an *Agreement to Submit to Peer Review* and forwarding it to the local dental society. This *Agreement* contains a statement in which all parties agree to abide by the decisions of the Peer Review Committee.
- 6.2** Peer Review is initiated, conducted, and resolved by the component society in the geographic area where the treatment was performed, unless circumstances require that the matter be relocated to another jurisdiction.
- 6.3** The same original *Agreement* is completed and signed by all parties in the dispute. All parties should read and be familiar with the terms of the *Agreement* before signing the document.
- 6.4** The treating dentist is required to submit copies of all relevant clinical records, x-rays and billing records with the *Agreement to Submit to Peer Review*.
- 6.5** Patients are required to submit copies of records from subsequent treating dentists. All parties will be given an opportunity to review the materials submitted.
- 6.6** Peer Review hearings require that patient clinical examinations be performed by the Peer Review Committee in New York State. If the patient no longer resides in New York and is unwilling to return for the examination, Peer Review cannot proceed.

6.7 If there is an outstanding indebtedness due to the dentist, the component dental society will retain these monies in an escrow account pending the decision of the Committee. *The Peer Review will not proceed until escrow funds have been received by the component dental society.*

6.8 A component dental society may require its members to place the total monies received from, or on behalf of the patient, for the treatment in question in an escrow account pending the outcome of the Peer Review. Following an adverse decision, the dentist must deposit the total fees in escrow within two weeks of the date of the decision letter.

7. ■ Mediation

7.1 A mediator is appointed to attempt to reconcile the matter. If a resolution is obtained, the case is officially closed. If not, it is forwarded to the Committee for a full hearing.

8. ■ Hearing

8.1 The dentist and patient will be notified of the date, time, and place as well as the composition of the Committee.

8.2 The Peer Review hearing is conducted by a chairperson and heard by three members of the Peer Review Committee.

8.3 Review of cases involving specialists is performed by a committee of specialists.

8.4 At the hearing, all parties will have an opportunity to be heard and a clinical examination of the patient will be conducted by each Committee member.

8.5 After the Peer Review Committee reaches a decision in executive session, all parties are notified of the decision in writing.

9. ■ Appeal procedures

9.1 The dentist or patient may appeal the decision of the Peer Review Committee only on the basis of:

- a significant prejudicial, procedural irregularity that would be likely to affect the outcome of the case, or;
- the discovery of significant new evidence that, with due diligence, could not have been available at the time of the hearing and would have been likely to affect the outcome of the case.

- 9.2** The request for an appeal must be made within thirty days after the date of the decision letter reporting the findings of the Peer Review Committee.
- 9.3** Requests for appeal must include documentation of the specific procedural irregularity and/or the actual new evidence upon which the request for appeal is based.
- 9.4** Dentist requests for appeal will be considered only when any fees required for refund have been deposited in the dental society's escrow account.
- 9.5** Requests for appeal are reviewed and granted by the Council on Peer Review and Quality Assurance of the New York State Dental Association.*
- 9.6** Requests for appeal are submitted to:

Chairman
 Council on Peer Review and Quality Assurance
 The New York State Dental Association
 20 Corporate Woods Blvd., Suite 602,
 Albany, NY 12211

* The NYSDA Council on Peer Review and Quality Assurance is composed of a chairperson and one representative from each of the thirteen component dental societies.

10. ■ Submitting a Complaint

Peer Review begins when the local dental society receives a completed and signed *Agreement to Submit to Peer Review* from a patient. The date the *Agreement* is received constitutes the date from which the 2½ year statute of limitations is calculated.

The *Peer Review Agreement* has four pages. The first is a cover page. The **patient** making the complaint completes the second page. The third page is completed by the **“treating dentist;”** i.e., the dentist(s) who performed

the treatment that is the subject of the patient's complaint. If you need additional space to describe the treatment or the complaint, you may continue on a separate sheet of paper.

The back page contains the terms to which the parties to the Peer Review agree. In addition, in order to be valid, *all parties* to the Peer Review, both the patient and the treating dentist(s), must sign and date this page where indicated.

10.1 INSTRUCTIONS FOR THE PATIENT

Before submitting the Agreement to the Dental Society, be sure to read the back page carefully. If you do not understand any of the clauses, please call the Dental Society for assistance.

In order to resolve your complaint, complete the second page of the *Agreement* (left hand side) as follows:

1. At the top of the page, print your [the patient] name, address and telephone numbers. During the peer review mediation, the mediator will contact you at the numbers listed on the *Agreement*. If the patient is less than 18 years of age, the parent or guardian should complete and sign the *Agreement*. If complaints are being made on behalf of more than one patient, a separate *Agreement* must be submitted for each patient.
2. In the "Patient's Statement" box, print the name of the dentist who performed the treatment about which you are complaining. Describe the kind of treatment you received; e.g., a denture, crown on upper left molar, root canal on lower tooth, etc.
3. Next, describe your specific complaint about the treatment.
4. Below the box, record your last appointment with this dentist for this treatment.
5. What was the total fee charged by your dentist for this treatment?
6. How much of this fee has the dentist been paid (by you and/ or your insurance company) and what is your outstanding balance, if any? You will be required to place any outstanding balance in an escrow account pending the outcome of the Peer Review.

7. Were you seen by any other dentists since the treatment was completed? If so, please name these dentists. Ask these dentists to submit copies of your x-rays and records to the Dental Society.
8. Sign and date the back of the *Agreement*. Enclose copies of billing or payment documentation (insurance explanation of benefits, cancelled checks, bills, etc.).
9. Mail the *Agreement* with all documentation to the local Dental Society (see page 12).

10.2 INSTRUCTIONS FOR THE TREATING DENTIST (SUBJECT OF THE COMPLAINT)

Before submitting the Agreement to the Dental Society, be sure to read the back page carefully. If you do not understand any of the clauses, please call the Dental Society for assistance.

Complete the third page of the *Agreement* (right-hand side) as follows:

1. At the top of the page, print your name, address and telephone numbers. Identify your employer or associate dentists in your practice. During the peer review mediation, the mediator will contact you at the numbers listed on the *Agreement*.
2. “Dentist’s Statement:” Provide the date the patient’s specific treatment was performed or completed and the last date on which the patient presented regarding the treatment that is the subject of the complaint.
3. In the space provided, describe any additional information relevant to the patient’s complaint.
4. What was the total fee the patient was charged for this treatment?
5. How much of this fee have you been paid (by the patient and/or his/her dental benefit company) and what is the outstanding balance, if any, for this treatment?

Sign and date the back of the *Agreement*. All partners or the employer of the treating dentist must be identified in the *Agreement* and sign and date the document as well. Enclose required copies of the patient’s clinical records, x-rays, and copies of billing or payment documentation (insurance explanation of benefits, billing statements, etc.). Return the completed *Agreement* to the Dental Society within 10 days.

11. ■ Confidentiality and Disclosure

Peer Review proceedings are confidential. No report of Peer Review outcomes are made to any party or agency except as follows:

At the conclusion of a Peer Review case, the local dental society will send all related case documents to NYSDA. All records, with the exception of the *Agreement to Submit to Peer Review* and the decision letter, are expunged by NYSDA. All parties to the Peer Review receive copies of the *Agreement* and decision letter.

The parties agree to keep the Peer Review proceedings in strict confidence in accordance with the provisions specified in the *Agreement to Submit to Peer Review*.

The confidential nature of the Peer Review proceedings is further protected by New York State Education law, section 6527.

12. ■ Frequently Asked Questions (FAQs)

What is Peer Review?

Peer Review is offered by the New York State Dental Association as an option to resolve patient complaints about dental treatment. It is provided at no cost to patients.

How do I start a Peer Review?

The patient starts a Peer Review by submitting an *Agreement to Submit to Peer Review* to the Dental Society. On the *Agreement*, explain what dental treatment was performed, how much it cost, and what your complaint is. Enclose copies of any documentation of the charges and payments, e.g., insurance statements, bills, cancelled checks, etc. *If you have seen any other dentists*, ask those dentists to send copies of your records and x-rays to the Dental Society.

What if I still owe the dentist money for the treatment?

If you have an outstanding balance for the cost of the treatment, you will be required to place that amount in an escrow account until the Peer Review is resolved.

What happens after I submit the Agreement to Submit to Peer Review?

The *Agreement* is sent to your dentist(s) for his/her statement. The dentist must return copies of your treatment records with the *Agreement*. The Peer Review Committee chairperson then will determine whether Peer Review can resolve the complaint.

If the complaint is accepted, a mediator will contact the parties. The mediator will ask the dentist if he/she wants to offer you a full or partial fee refund. If the dentist offers a full refund, the case will be closed. If he/she offers a partial refund and the offer is acceptable to you, the case is closed and you will be sent your refund. If the complaint is not settled by mediation, a hearing will be held.

But I didn't pay for the treatment, my insurance company did!

All fee refunds are made to the patient. It is up to patients to resolve any obligation they may have with their insurance company.

What if I want the dentist to pay for my new treatment?

If Peer Review settles your complaint, either by mediation or a hearing, the most money the dentist can return to you is the actual amount of the fees charged.

Do I need a lawyer?

Peer Review hearings focus only on the Peer Review Committee's evaluation of the dental treatment itself. You are not required to be represented by a lawyer. There is no questioning or "cross examination" by you or the dentist. No witnesses are questioned. If you are being represented by a lawyer, your lawyer should notify the Dental Society. Peer Review will not award money to cover the lawyer's charges.

What happens at the hearing?

The patient will explain the complaint and the dentist can respond. The Peer Review Committee will review all of the records and materials presented. Each Committee member individually will examine the patient. The Committee then will make a decision about the dental treatment. Was it appropriate and completed in a manner consistent with the standards for quality care?

Who comes to the Peer Review Hearing?

Peer Review Hearings are attended only by the patient, the dentist(s), the Peer Review Committee chairperson, three examining Committee members, clerical support staff and a non-dentist observer.

A lawyer representing a party to the Peer Review may attend the hearing. In special circumstances, the chairperson may invite other persons to attend as observers, e.g., translators, aids, or committee trainees. Such attendees do not participate in the hearing.

What happens if the Peer Review Committee upholds my complaint?

When a Peer Review Committee finds that your treatment does not meet acceptable standards, the dentist must refund the entire fee for that treatment to you. The Peer Review Committee also can require the dentist to complete continuing education.

What if I disagree with the Peer Review Committee's decision?

Following the Peer Review Committee's decision, there is a 30-day appeal period. Appeals are granted only on the basis of significant procedural irregularities or the discovery of new evidence that could not reasonably have been available during the Peer Review.

If I go through Peer Review and am unhappy with the decision, can I still sue my dentist?

No. Peer Review is based on an *Agreement to Submit to Peer Review* signed by both the patient and the dentist. This agreement is a contract in which the patient and the dentist agree to use Peer Review to resolve the complaint, to accept the decision of the Peer Review Committee, and not to sue the other party.

Is Peer Review fair?

Peer Review Committees are impartial and committed to improving the quality of dental treatment.

NYSDA District Offices/counties

New York County Dental Society

6 E. 43rd St., 11th Floor
New York, NY 10017
(212) 573-8500

- Manhattan

Second District Dental Society

111 Ft. Greene Place
Brooklyn, NY 11217
(718) 522-3939

- Kings (Brooklyn)
- Richmond (Staten Island)

Third District Dental Society

950 New Loudon Road,
Ste. 400
Latham, NY 12110
(518) 782-1428

- Albany • Rensselaer
- Columbia • Sullivan
- Greene • Ulster

Fourth District Dental Society

981 Route 146
Clifton Park, NY 12065
(518) 371-1114

- Clinton • Saratoga
- Essex • Schenectady
- Franklin • Schoharie
- Fulton • Warren
- Hamilton • Washington
- Montgomery

Fifth District Dental Society

6323 Fly Road, Ste. 3
E. Syracuse, NY 13057
(315) 434-9161

- Herkimer • Oneida
- Jefferson • Onondaga
- Lewis • Oswego
- Madison • St. Lawrence

Sixth District Dental Society

55 Oak Street
Binghamton, NY 13905
(607) 724-1781

- Broome • Otsego
- Chemung • Schuyler
- Chenango • Tioga
- Cortland • Tompkins
- Delaware

Seventh District Dental Society

255 Woodcliff Dr.
Fairport, NY 14450
(716) 385-9550

- Cayuga • Seneca
- Livingston • Steuben
- Monroe • Wayne
- Ontario • Yates

Eighth District Dental Society

3831 Harlem Road
Buffalo, NY 14215
(716) 995-6300

- Allegany • Genesee
- Cattaraugus • Niagara
- Chautauqua • Orleans
- Erie • Wyoming

Ninth District Dental Association

364 Elwood Avenue
Hawthorne, NY 10532
(914) 747-1199

- Dutchess • Rockland
- Orange • Westchester
- Putnam

Nassau County Dental Society

377 Oak Street, #204
Garden City, NY 11530
(516) 227-1112

- Nassau

Queens County Dental Society

86-90 188th Street
Jamaica, NY 11423
(718) 454-8344

- Queens

Suffolk County Dental Society

1727 Veterans Memorial
Highway #200
Islandia, NY 11749-1520
(631) 232-1400

- Suffolk

Bronx County Dental Society

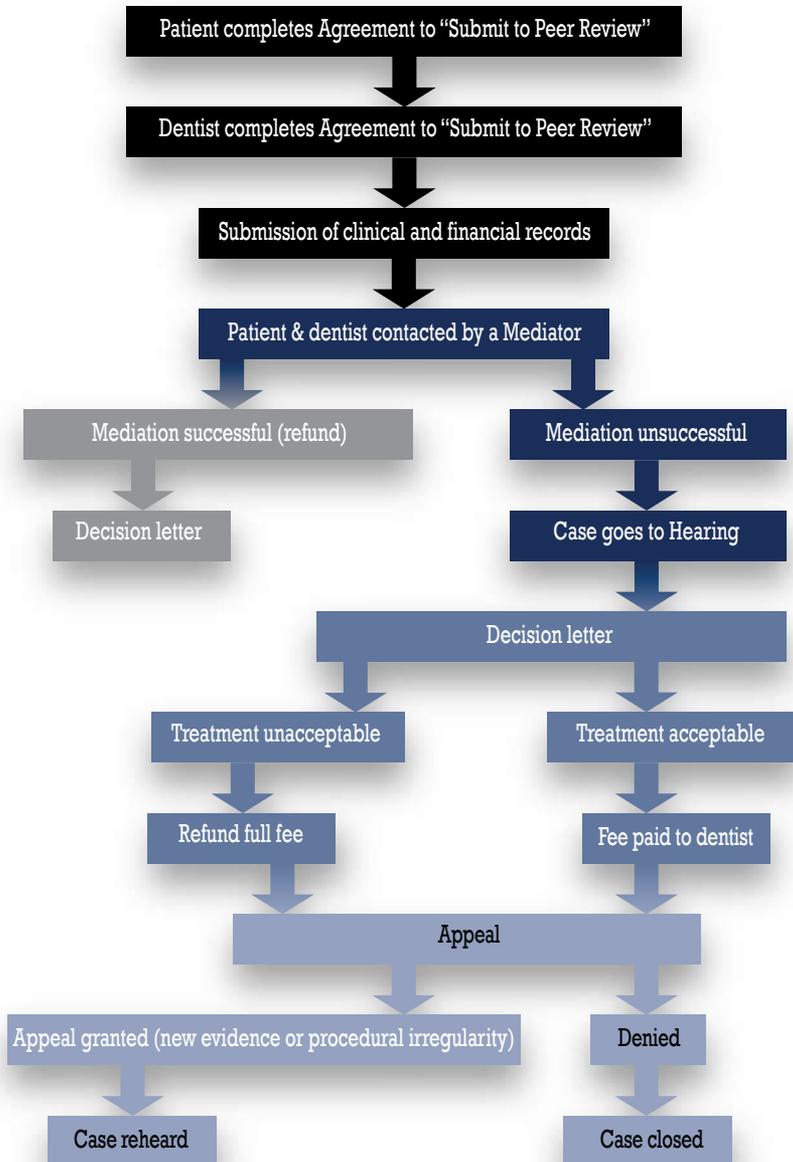
3201 Grand Concourse
Bronx, NY 10468
(718) 733-2031

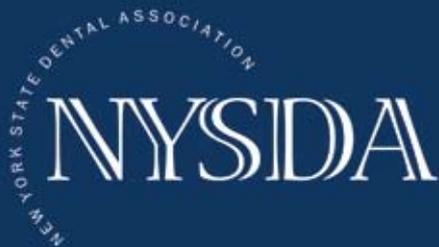
- Bronx

New York State Dental Association (NYSDA)

20 Corporate Woods Blvd,
Suite 602
Albany, NY 12211
(518) 465-0044
FAX (518) 465-3219
www.nysdental.org

The Peer Review dispute resolution process





New York State Dental Association

20 Corporate Woods Blvd., Suite 602, Albany, NY 12211

518.465.0044 Fax: 518.465.3219

www.nysdental.org info@nysdental.org

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