CAO Update: Direct-To-Consumer Companies

Dear Members,

As you are aware, Direct-to-Consumer orthodontic treatment has undergone rapid growth in the United States market. The first major player, SmileDirectClub, has been joined by multiple other providers. SmileDirectClub has a current market valuation in excess of $750 million.

Direct to consumer care presents a significant risk to the consumer as diagnostic services are provided with incomplete and inadequate records, often completed by the patient themselves. The orthodontic treatment is approved remotely by a dental professional acting as a consultant and treatment progresses without direct supervision by a dentist / orthodontist.

Direct to consumer care can enter the Canadian marketplace in two ways: 1) They can establish themselves directly in Canada or 2) they can ship their
products from the US. Either way, the provision of care in Canada would require engagement of dental professionals in Canada to act as consultants.

The CAO has been very active for the past 18 months informing and lobbying all stakeholders, including provincial Dental Regulators, of the concerns regarding Direct-to-Consumer orthodontic care and the risk that it poses the patient. There seems to be little interest, particularly on the part of the DRA’s, to address the issue proactively and they are taking a wait and see stance.

The CAO has also reached out to Canadian malpractice insurers informing them of the risks and concerns around direct to consumer care. We have encouraged them to notify all their dental clients that acting as a consultant could violate the terms of their malpractice insurance and in the event of a claim they may not be covered. It is important that all dentists get this message, not just orthodontist, as any licensed dentist could participate. We have pointed out that a dentist acting as a consultant faces the following issues:

- Constitutes the illegal practice of dentistry as no dentists is providing diagnosis or supervision
- There is no requirement for an assessment by a dentist of the individual’s dental health prior to treatment being rendered
- Legal consent for treatment is not being obtained as informed consent can only be obtained by the treating doctor
- There is no doctor of record to take responsibility in a circumstance of malpractice

The CAO is asking all orthodontists to be vigilant regarding the emergence of Direct-to-Consumer orthodontic care in Canada. If any activity is noted please advise the CAO, and contact your provincial DRA to register your concerns.

We also ask all orthodontist to send a letter to your dental malpractice insurer registering your concerns. We have attached a draft of such a letter that you can submit or use as a guide in crafting your own.

Direct-to-Consumer orthodontic care presents a real risk to the public and undermines the credibility of our specialty. It is critical that all orthodontists become engaged in taking a proactive approach to this issue.

Sincerely,
Dr. Rick Odegaard, President
Canadian Association of Orthodontists

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