

IN THIS CASE: The patient had whitening procedures performed by the insured. Subsequently, her lip became swollen and she was treated for chemical burns and an allergic reaction.



Summer 2025

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The Patient & Condition

The patient was a 45-year-old female who presented to the insured for a teeth whitening procedure.

The Treatment

During and after the second session, the patient informed the dental assistant and the insured that she was experiencing discomfort and pain. The insured proceeded with the third session, and the patient began to feel stinging and burning to her teeth and upper lip. She asked the insured to stop and did not proceed with the next round.

The Injury

The patient sought medical attention with another provider, with complaints of shooting pain and swelling to her lip. She was referred to an orthodontist for orthognathic surgery, where she was advised that she would need ramusyaft/sinus lift/implants and earlobe repair. She continued to suffer with sharp pain and swelling and numbness to her top lip, and she underwent continuous treatments for lip asymmetry correction. She incurred medical expenses with ER care, an oral specialist and a neuro-consultation, and lip injections.

The Allegations

Allegations in this case included:

1. Failure to perform professional dental services in a manner that would promote patient safety. Namely, the insured failed to protect soft tissue during the procedure.
2. Failure to observe and listen to the patient's complaints of pain during the procedure and respond in a manner that could have prevented her injuries.
3. Failure to provide adequate follow-up or aftercare when the insured was informed of the patient's injuries.

The Defense

This case was challenging to defend. The insured breached the standard of care when they failed to properly isolate soft tissue during the bleaching process. When the patient reached out to the insured to inform them of her injuries, the insured apologized and admitted via a text message that they had seen this complication several times before when the soft tissue isn't properly isolated or protected during treatment. The treatment notes were also inadequate with no description of protection provided during the procedure, and no informed consent for potential risks and complications.

The Outcome

Given the insured's clear admission of the factors that can cause this complication, the lack of documentation to support whether a breach occurred with proper and adequate protection of the tissues, and lack of informed consent, a settlement was reached.

Risk Management Pointers

- **Clearly document details of any bleaching session.** In this case, the records lacked information as to what extent the insured protected the soft tissue during the procedure. Protection is critical and a necessary step to avoid complications.
- **Institute proper protections during a whitening procedure.** Improper isolation may cause inflammation, as well as lip and cheek exposure to the whitening gel or the LED light, and chemical burns may result if the whitening gel comes into contact with soft tissue.
- **Document informed consent, risks, and complications.** In this case, uneven color is a known complication of the procedure, but it was not noted in the informed consent document. It also did not include that a touch up procedure may be necessary to even out color.
- **Be careful to not admit liability directly to the patient.** Unless you have prior guidance from an attorney or your dental professional liability claims representative, it is best to refrain from admitting any type of liability to the patient.

