

Managing patient complaints in dental practice in Brazil:  
the potential role for Mediation

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## Abstract

A complaint has been described as an expression of dissatisfaction whether justified or not. There are many reasons why patients complain against dental practitioners: wrong treatment or poor treatment; poor communication between patient and the dentist; dentist not make clear how much the patient have to pay for treatment; faulty procedures; the dentist is being unfair or biased; when the dentist is being rude or not apologising for mistakes. Like all medical professionals, dentists have to work in accordance to the legal regulations in their countries and to ethical principles. And in case of conflict, the mediation should be mentioned as an alternative which empowered the parties involved in the conflict. It is more practical, cheaper, quicker and confidential, not just reduce the legal costs but also time and waste of energy. In Brazil, Mediation was recently regulated according the Mediation Law 13140/2015. The main objective of this research is identify if Mediation has a role in managing patients' complaints in dental practice in Brazil and the secondary objectives are calculate the percentage of patients' complains regarding their care or treatment performed by Brazilian dentists nowadays and also Identify what are the common issues that are the subject of patients' complaints. Brazilian dentists colleagues were contacted by social media (Facebook, Instagram, WhatsApp) and by e-mail. They were asked to participate in the current research answering a online form designed by the researcher about patients' complaints and mediation. The data collected were stored in an Excel spreadsheet, they were submitted to descriptive analysis of each variable and put them back in an Excel application system in way that the researcher could access all results without identifying each response with their respective participant. A total of seventeen people agreed to participate in the research. They have completed the form, of whom 65% was composed of women, with 35% of men, 35% of the interviewers have up to two years of professional experience, 29% of the sample have between 2 and 5 years of experience as dentist, 12% of the dentists have between 6 and 10 years of experience or between 21 and 30 years. Also 6% of the interviewers have between 11 and 20 years of degree or 30 years or more of experience. Regarding to the their work fields, 82% of the professionals work as liberal professional, meanwhile 12% work in Popular Dental Clinics and 6% in the Public service of health. The majority of participants are dentists level 7, in other words 47%

are not specialist, or have done a master degree. Six dentists (35%) suffered from up to two complaints in their whole professional career, four dental practitioners (24%) had received between three and five formal complaints addressed to them. Also 24% of the dentists had between six and ten complaints and only one dentist said that had more than ten complaints during his/her dental career. 35% of the complaints analysed were dissatisfaction with the final results, which is directly correlated with the patients' expectation, 18% of the cases were regarding to treatment lasts and also 12% were in relation to the presence of pain after treatment. 24% of the interviewed answered that they redid the treatments without extra charge, on the other hand 18% of those had refunded the whole amount paid. 12% of dealings with patients include a refund of partial amount paid. 71% of the interviewers recognise Mediation as an alternative method to solve conflicts. I conclude, based on the findings that the most common issue that patients complain is when they are unsatisfied with the final results of treatments. I could conclude also that formal complaints to dental practitioners or to agencies with specialised service are not the first action regarding to Brazilian patients' behaviour since in Brazil the relationship between dentist and patient is still in most of the cases based in confidence and trust and it is not considered as a commercial service, despite of the fact that, according to the Brazilian Civil Law dentists are a producer of service. Besides that, it is noticed that in several articles used to base this dissertation the increase of number of complaints in Brazil are complaints to Popular Dental Clinics most recently created where the quality of the service is in second place comparing to the income and in those cases there is a trademark facing a group of professionals hired to treat as many cases as possible. Most of the dentists interviewed are working as liberal professionals so that it is likely to find that most of the participants had only few complaints through their career and when they complain the most common reason is dissatisfaction with final results which resolution is through communication and treatment redone.

## Introduction

Health systems, as a human society expects, are not safe all over the world. In recent years, several studies have been carried out in many health systems to identify the causes and to find an appropriate solution to reduce malpractices in health systems. Malpractice refers to negligence or misconduct by a professional person, such as a lawyer, a doctor, a dentist or an accountant (Brennan, 2004).

There are many mechanisms that make health systems vulnerable to medical malpractice; for example, poor doctor-patient relationships, insufficient explanations or miscommunication. Frequently, the perception of lack of care offered by health-care professionals is the trigger for complaints or litigation, rather than genuine professional negligence in the delivery of care (Nakajima, 2001).

Medical malpractices involve any mistake in the diagnosis, treatment or management of disease. Sometimes medical treatment does not conform to the accepted standards, leading to patient trauma and permanent deleterious injury, which can be prevented (Brennan, 2004; Thomas, 2000).

Amoedo (1988) describe in his research that while Dentistry was not regulated in France, the individual got away from justice, however, after dental schools were founded, the professional who used to caused severe faults could be prosecuted. Therefore, Dentistry was recognised as an occupation and the dentists have duties and rights.

What is considered a complaint?: The concept of complaint most used by healthcare professionals is defined as a show of grievances or protest request, claiming of right. It is different to suggestion because it usually refers to an error or negligence which raise dissatisfaction. Therefore, in a simple way, it can be defined as a dissatisfaction with products, services or an organization (Imperatori, 1999).

According to dental complaints resolution service, these are the main reasons why patients complain against dental practioners: first of all when they think they have received the wrong

treatment or poor treatment; secondly, because of poor communication between patient and the dentist; then because the dentist not make clear how much the patient have to pay for treatment; a delay that could have been avoided, sometimes to earn more money with the treatment; also faulty procedures, or the dentist failed to follow correct procedures; the dentist is being unfair or biased; as well as when patients think they are being given misleading or inadequate advice; when the dentist is being rude or not apologising for mistakes; and lastly when the dentist is not putting things right when something has gone wrong (dentalcomplaints.ie).

On the other hand, especially in Brazil where the population didn't used to complaint about dental treatments, as the relationship between dentist and patient was based on bond and trust. With the arose of consumer protection Code and local consumer protection agencies (PROCON), which came to regularize the relationship between professional and patient, the number of complaints increased since the population understood they have the right of complaining whether they were unsatisfied with the treatment final results, unsatisfied with prices, unsatisfied with professional faults, etc (Tanaka,2002; CDC, 1990).

There has been an increase in the numbers of dental negligence in recent years which is probably because of the increasing number of general orthodontics and cosmetic procedures in Dentistry. For example, in the United States, approximately 3,4% of all doctors in different fields received complaints in 1970, which increased to 20% in 1980 and to 25% in 1990. Typical examples of dental negligence include nerve damage, a nerve damage occur when the anaesthesia may not work or may damage the nerve (dentallaw.co.uk).

The most common claims for dental negligence are in procedures which fall under the following categories: Prosthodontics where dentists are dealing with missing teeth and more specifically with diagnosis, treatment, maintenance, appearance and health of patients with missing teeth; Endodontics, that can include root canal, surgeries for cracked teeth or dental trauma, dealing with tooth pulp and tissue around the root of the tooth; Restorative dentistry where there is a combining among prosthodontics, periodontics (gum specialists) and endodontics to give multi-faceted care and rehabilitate the teeth, in this area the procedures include veneers and fillings;



Misdiagnosis as defined as preventable adverse effect of care, including inaccurate diagnosis of treatment of disease or injury; General dental negligence that includes the failure to detect problems that should have been found, failure to obtain informed consent, problems with anaesthesia and unnecessary removal of teeth (dentalcomplaints.ie).

Like other specialists, dental practitioners have to try to restore their patients' health (dentalcouncil.ie). Despite all their efforts, adverse effects might occur during the treatment, which are sometimes preventable. Normally, over the Graduation period Dental professionals are taught the clinical skills to provide the best patient care, but they are not always taught the communication and the legal skills to help avoid and fix disputes (dentalprotection.org). About 15% of all dental complaints could result in conflict, however if the patients have confidence in their dentist, for example, many patients see dentures as an exact replacement for natural teeth, but dental professionals know that dentures are far from perfect, the conflicts are less likely to occur (dentalcomplaints.ie). Make sure that patients know and understand what they can expect from their dentures before you begin the treatment, and first of all obtain a written informed consent. Once you have a completed treatment, it is important send the patients home with printed instructions to reinforce those expectations and with instructions on caring for their dentures. If a patient calls your office because of discomfort or pain after a procedure, be sympathetic and assure them that you will do what you can to help them, which may include seeing them in your office as soon as possible. Showing a patient that you care can quickly calm a potentially uncomfortable situation (dentalcomplaints.ie).

What Mediation means?: Mediation is a mechanism of conflict resolution in which parties construct together an alternative for the dispute in order to satisfy all parties involved, oxygenating social relationships with a third party participating as an intermediate or facilitator of a possible understanding (Pinho, 2005). In other words, it is an alternative of dispute resolution which main objective is help parties to achieve a friendly positive agreement for both. The mediator, by law, is impartial, they do not give advises or take decisions. The role of the mediator is separate people from their issues, focus the discussion in their interests and not in their positions, facilitate a positive dialogue, bringing bright solutions to the issues. In this case

of healthcare disputes, it is important to understand mediation must be specialized. In other words, the mediator must have directly relation and understanding of medical words and procedures (mediacaoonline.com).

Mediation is widely used in the United States of America since 1990, where there are several schools developing this subject. It is also strongly used in the UK and Ireland where there is a specific service to resolve dentistry complaints with mediation technics. In Brazil it is more recent, starting being used as alternative in 2015 with the creation of Mediation Law (13.140/15). The mediators, apart from the technical capacity, they have to be familiar with medical vocabulary and also know the health protocols in order to achieve a good relationship with all parties. The report of the Law Reform Commission (2010), in alternative dispute resolution, highlighted a suggestion that conciliation would be also an appropriate method to healthcare conflicts as the conciliator is more proactive and evaluative.

Mediation advantages includes confidentiality, flexibility and the parties are the protagonists of the process, reduction of time and costs, effectiveness, restore dialogue and confidence in relationships and also reduce emotional distress with judicial actions. Furthermore, mediation is more welcoming than the traditional solution, helping to optimize the Court, which processes waste thousands of Euros nowadays (lawsociety.ie).

## Chapter 1

### Literature Review

#### Patient Expectations

Dr Raj Rattan, Dental Director of Dental Protection, in his article published by Dental Protection Magazine in 2016, says that it is important for dentists to manage patient expectations carefully to avoid complaints. When a patient visits a dentist, a level of expectation is always present. In the case of existing patients, previous experiences of the service will influence those expectations. If it is a new patient, the experience of friends and family, or whoever has recommended the dentist, will play a part. For other patients, the expectations may be set by words and images that are shown on websites and marketing literature. When expectations are met, confirmation occurs. Disconfirmation arises when there is a difference between expectation and outcome. If the outcome is better than expected, there is positive disconfirmation and this leads to satisfaction. Negative disconfirmation arises when the outcome is below the level of expectation and may lead to a complaint.

Some leading researchers in the field suggest that there are three types of expectation: first of all is the desired service, which is a level that the patient hopes to receive. The second type is adequate service. This is the minimum tolerable level because patients will have recognised that the desired service is not always achievable. Third type of expectation is the predicted service, which is the level of service a patient thinks they are likely to receive on the basis of probability ([beckershospitalreview.com](http://beckershospitalreview.com)).

The gap between the first and second type of expectation is the so-called “zone of tolerance” and the predicted service is likely to be within that zone, since it is a zone in which the dental team can perform in comfort. When the experience falls outside the zone of comfort, the patient may demonstrate complaint behaviours. The extent of the tolerance is contextual. It varies amongst patients and may vary at different times in the same patient, depending on what else is happening in their life ([dentalcomplaints.ie](http://dentalcomplaints.ie)).

### Patient satisfaction

What is satisfaction and dissatisfaction?

Patient satisfaction is a mental, emotional state and a multi-dimensional construct affected by many variables, which influences positive patient behaviours such as loyalty (Zineldin, 2006).

Dissatisfaction has the opposite meaning and the opposite effect. Many studies have shown that patient satisfaction is determined by their experiences and their dentist's interpersonal and communication skills. The "communication of care and attention" has been cited as the most influential factor in maintaining patient loyalty. It is important to highlight that dissatisfied patients do not necessarily complain. Many of them simply decide not return to the dentist, others will tell their families and friends about their dissatisfaction regarding to the dental treatment and will not complain directly to the dentist or for an organisation (dentalcomplaints.ie).

Dentists should focus on and develop effective communication skills before, during and after treatment sessions by involving patients in treatment decisions. For example, patients who has received more preparatory information and knowledge about post-operative pain control are more pleased after undergoing third-molar extraction than patients who did not (dentalcomplaints.ie).

Therefore, to avoid and limit complaints, the focus must be on the human and psychological aspects of the dentist/patient relationship and the communication has to be adapted to better manage patient expectations within the expectancy–disconfirmation paradigm. It is also worth paying attention to what the patient wants, their desires, encouraging them to tell if they are happy or not with the treatment, as well as pay attention to the service-scape as it is the antecedent to the experience itself and can mould patient perceptions (dentalcomplaints.ie).

### Current context of dispute resolution in Brazil

There are two laws related to dispute resolution in Brazil that came into force in 2015. The first law is Law number 13140/2015, well known as Mediation Law, which regulates public and private

mediation which defines mediation as the technical activity practised by an impartial third party without decision-making power, it helps parties to identify and develop consensual solutions, and the second is Law number 13105/2015, the Civil Procedure Code, which law provides a common ground for both mediation and at courts. This legal framework arise as a promise to change the behaviour and rebuild the Brazilian Judicial System, as mediation allows, through the communication, everybody have voice, equality of conditions, spreading the access of justice. Mediation proceeding are private and confidential. Mediators are not allowed to share information discussed during sessions, unless the parties decide to do so. According to the article 173 of the Civil Procedure Code, mediators who breaks the confidentiality will be excluded from the list of mediators. Nowadays, mediation of conflicts is regulated in several countries, in case of Brazil, mediation is regulated by the Law 13140 of 26<sup>th</sup> June of 2015 (along with Civil Process Code and the Resolution 125).

In Brazil, mediation is defined as a process of dispute resolution, which is done by public and private institutions. The process is voluntary where the parties are looking for achieving a deal with a third person helping on it. The mediator is impartial and independent, the process is confidential, voluntary in which the third person helps the parties in conflict to identify their similar concerns and needs in order to construct a mutual agreement (lexology.com).

One of the peculiarities of the current Brazilian judicial process is that mediation is mandatory as a first step, except for cases where both parties are not interested in a consensual agreement in terms of the article 334 of the new Brazilian Civil Process Code. It is known that most of the complaints are resolved through mediation, that is, PROCON as the third party helps the parties in conflict to achieve a mutual agreement (Tanaka, 2002).

#### Mediation in Healthcare context in Brazil, Ireland, the UK and the USA

As it already known, in every conflict there are common factors. For healthcare mediation there are three more commons factors which are difficulties of communicating, the need to find someone to blame when things go wrong and a divisive feeling of self against others. In the

healthcare area, a complaint may be about any aspect of the service provided and it is described as an expression of dissatisfaction that requires a response. A patient may decide there is a cause for complaining about attention, diagnosis or treatment they have received. A patient may want an explanation for what happened. A patient may want to ask about something he or she has not understood. So those complaints may be immediately after the event which arise the complaint, it may be later or very much later, however health authorities always encourage the complainant to bring the complaint as soon as possible, so, when a practice receives a complaint in writing, by phone or in person (AACN, 2004).

In Brazil, the act of complaint against dental practitioners is not a common practice. When something went wrong in a dental treatment the patients' reaction is usually not come back to that dentist and not recommending them to friends and family. With the creation of local consumer protection agencies (PROCON), there were increased the number of patient complaints regarding to dental treatments. Those agencies (PROCON) were created to work as an intermediate between consumers and services which main objective is mediate a common agreement between the parties avoiding then litigation processes. We can highlight that in the same period there is an increase in the number of popular clinics, dental insurance plans, where the quality of the proceedings is left back at the expense of the money. As we can see in Cavalcanti (2011) who analysed the number of lawsuits against dentists between 2001 and 2010 found that 50% of the lawsuits were for dental insurance plans and 40.2% were against the popular clinics. As we can understand in this article is that the patients are complaining against a commercial business in essence and not against a dentist in particular. Dental popular clinics and dental insurance plans as service providers, the relationship dentist/patient become similar to a relationship with a consumer, therefore those dentists as a company have all the responsibilities as other service provider and the patient has all rights to complaint if the service is not satisfactory.

In Ireland, in 2012, the Dental Council created a special service, specific to Dentistry which provides another avenue for the resolution of patient complaints, with the benefit of being simple, easy to use and fair for both parties: The Dental Complaints Resolution Service. This service act as

an independent mediator of complaints by patients about their dentists and it is also free of charge for any patient. The Dental Complaints Resolution Service has a helpful website, on which both patients and dentists will find information about how to make or deal with complaint. Patients will find the correct procedures and formats for making complaints on the website, while dentists can see how to access professional guidance on dealing with the complaints ([dentalcomplaints.ie](http://dentalcomplaints.ie)).

In the United Kingdom, the British Dental association set up a system which provides mediation service. Different from Brazil, in the UK, mediation is not mandatory before going to court. In some circumstances, mediation may be offered where litigation is its very early stages or if all parties in dispute wish to request mediation, discussing the possibility of mediation with all parties. In case of the resolution is not achieved the parties can go to law if they wish, however, the British Dental Association does not provide that service. The service, different from Ireland, in the UK, it is destined only to dentists or dental practices members of the British Dental Association. The nature and purpose of the BDA's mediation service is that the Mediation is a process by which an independent person (the mediator) attempts to facilitate a resolution of a dispute between two or more parties and which aim is to allow dentists in dispute to resolve conflict.

The British Dental Association has two styles of mediation which is chosen by the mediator depending on the circumstances and nature of the dispute. First one is Interest-based mediation which involves a neutral third party mediator helping the parties resolve their conflict by talking together in a non-adversarial situation, identifying interests which may not be apparent at the outset, considering options that satisfy some or all of these interests, selecting one option that is the best possible solution, closing the mediation. In this style, the role of the mediator is facilitate communication between the parties in conflict to encourage a mutual acceptable solution. An important component in this style is give both parties the opportunity to tell to the other party and also appreciating the other person's point of view for reaching agreement. The second style of mediation used by the British Dental Association is the rights-based mediation. This style of mediation is offered where the interests-based mediation has failed to obtain a resolution. Rights-based mediation involves a mediation meeting at which the mediator will listen to the case put

forward by both parties and attempt to obtain resolution by making a recommendation to the parties on a fair and reasonable solution.

In the United States of America, there is a process so called as peer review which was created by The Dental Society Committee to resolve problems and other issues regarding to dental treatment which is available for patients and dentists. In Canada, the Ottawa Dental Society has very positive experiences so far with mediation of conflicts. In most instances the committee will reach an agreement between the parties.

The success of mediation is not 100% guaranteed, it depends on the desire of the parties to achieve a solution, but some of the results shown by whom has experienced the mediation, in addition to preventing the growth of new conflicts, mediation allows a better communication and also improve the interpersonal relationship. Besides that, healthcare area has good experience with mediation as a method of dispute resolution since it is a segment where the dialogue is the key for successful treatments and for the quality of the service done (lawsociety.ie).

#### *How to make a complaint to the Dental Complaints Resolution Service?*

Patients who have raised an issue with the dentist in the dental practice in question and are not satisfied with the initial response that they have received, they may contact the Dental Complaints Resolution Service. The complaint must be submitted detailed in writing to the Service, by email or post. The dentist and the patient must accept that the complaint will be handled by the service. The Dental Complaints Resolution Service aims to mediate between dentist and patient to find a solution, in order to handle the situation before things escalate and end up at the Dental Council or in court (dentalcomplaints.ie).

For the patient, a successful resolution of conflicts means that he/she can move on and have the problem solved. Nevertheless, most of the cases when a retreatment is required, the patient is not interested in going back to the dentist. Actually the Ottawa Dental Society recommend it since the dentist after the resolution would be more closely scrutinised as the lack of trust is highlighted.



For the dentist, a successful outcome means that the matter is taken care of in a discreet, efficient and less stressful manner (Cousens, 1999).

How long does it take to the service resolve a complaint? The length of time it takes to resolve a complaint can vary greatly from a month, to a year, to a year and a half. Generally, it depends on the response of both sides. Sometimes a dentist will be slow to respond to the complaint, other times, a patient might not be correct or not divulging the full story. However, the average time it takes to resolve a case is about two months (dentalprotection.org).

A complaint has been described as an expression of dissatisfaction whether justified or not. (BS 8600:1999). According to the Irish Dental Council, the types of complaints revolve around dissatisfaction with treatment, communication issues, fees and adverse events. The majority of complaints concerned fees. However, a large number of complaints are about the standard of work, these include fillings, crowns, bridges, root canals and nearly 25% of complaints involved a failure by dentist to communicate clearly and correctly with the patient (dentalcouncil.ie).

In Ireland, most people are very happy with the service they receive from their dentist, but things can go wrong. People are becoming more aware of the service and dentists are certainly aware. Dentists are keeping their patients informed of the service, requesting to the Service new posters for the waiting area in the dental practice as a possible benefit to them and their patients in case of disagreement (dentalcomplaints.ie).

In The United States, the Dental Society Peer review process works quite different comparing to similar services in Brazil, Ireland and the UK. In the USA, when the complaints are submitted to peer review for resolution, the appropriate mediator contact all parties by telephone to gather information and to attempt to resolve the complaint. Once the mediation is successful, a written report is submitted to the state peer review chair and the complaint is closed, however, if mediation is not successful, the committee may review clinical records, examine the patient, talk to the parties involved in the dispute and deliberates the recommendations which will be followed. When the committee decides in the patient's favour, it can make recommendations for partial

refunds, full refunds, or recommend re-do the treatment by the original dentist. If the committee goes in the dentist's favour, it can affirm that the treatment in question was standard of healthcare and appropriated.

Similar systems have been successfully introduced by Dental Protection in other countries as New Zealand, Hong Kong, Malaysia where they have proved be more attractive to both parties than the alternative of legal procedures ([dentalprotection.ie](http://dentalprotection.ie)).

## Objectives

### General Objective

- The general objective of this paper research identify if Mediation has a role in dealing with patients' complaints

### Specific Objectives

1. Calculate the percentage of patients complaining regarding their care or treatment performed by Brazilian dentists nowadays
2. Identify what are the common issues that are the subject of patients' complaints

### Justification

This subject was chosen due to the number of complaints against dentists is growing each year, and the creation of consumer protect code in Brazil, as well as the Dental Complaint Resolution Service in countries as Ireland and United Kingdom, was one of the reasons why patients starting complaining since they realised they have the right to have compensations if the treatment or dentist's behaviour was unsatisfactory or inappropriate. In addition to this fact, there are only few studies in Brazil and also around the World relating Dentistry and mediation as an alternative to resolves issues, underlining the importance of this subject for the literature in general and also for dentists.

Like all medical professionals, dentists have to comply with legal regulations in their countries, working according to ethical principles and acceptable standards during diagnosis and treatment. And in case of conflict, when it was impossible avoid it, the mediation should be mentioned as an alternative which empowered the parties involved in the conflict. It is more practical, cheaper, quicker and confidential, not just reduce the legal costs but also time and waste of energy. In Brazil, Mediation was recently regulated according the Mediation Law 13140/2015 so that, it is not widely already used to resolve conflicts since neither dentists nor patients well know about alternative dispute resolution and also because complaint to a third party is not common in Brazil. Therefore, facilitate the population access to alternative dispute resolution through advertisements in the waiting room in dental clinics, on the TV, radio and social medias, and also include those alternatives since the first semester of course in bioethical classes are crucial for the education in this sense.

## Chapter 2

### Research Methodology and Methods

The present research interviewed Brazilian dental practitioners. Brazilian dentists colleagues were contacted by the researcher by social medias (Facebook, Instagram, WhatsApp) and by e-mail. They were asked to participate in the current study answering an online form designed by the researcher about patients' complaints and mediation. To whom agreed to participate was sent an online form which were filled between the 1<sup>st</sup> and 7<sup>th</sup> of September of 2020, in order to preserve the participants identity, the researcher did not have access to name and other information that could identify the same. The data collected were stored in an Excel spreadsheet, they were submitted to descriptive analysis of each variable and then they were put back in an Excel application system in way that the researcher could access all results without identifying each response with their respective participant.

All dentists who participated in the study were graduated in Brazil. As exclusion criteria, dentists who were retired, students and dentists who was working in administrative functions nowadays were excluded of the data analysis.

The form was developed in Portuguese once the target population was Portuguese speaker native and it can be found in appendix of this study. The researcher explored in the interviews the experience of the dentists, based on a series of standard questions that were devised, asked for the participants in the same way and identical sequence. It was asked the dentists participants open questions especially developed to find out how long they were graduated, if they had a specialisation, their local of work, how many complaints the dentists interviewed had in their career, how they managed their patients' complaints, what was the main nature of the complaints and if they think Mediation as an option in the management of complaints.

## Chapter 3

### Presentation of data, data analysis and findings

Brazilian dentists colleagues were contacted by the researcher by social media (Facebook, Instagram, WhatsApp) and by e-mail. They were asked to participate in the current study answering an online form designed by the researcher about patients' complaints and mediation. To whom agreed to participate was sent an online form which were filled between the 1<sup>st</sup> and 7<sup>th</sup> of September of 2020, in order to preserve the participants identity, the researcher did not have access to name and other information that could identify the same. The data collected were stored in an Excel spreadsheet, they were submitted to descriptive analysis of each variable and then they were put back in an Excel application system in way that the researcher could access all results without identifying each response with their respective participant.

A total of seventeen people agreed to participate and has completed the form, of whom we can highlight that 65% of the participants were women. 35% of the interviewers had up to two years of professional experience, 29% of the sample had between 3 and 5 years of experience as dentist, 12% of the dentists had between 6 and 10 years of experience or between 21 and 30 years. Also 6% of the interviewers had between 11 and 20 years of degree or more than 30 years of experience. Regarding to the their work fields, 82% of the professionals have been working as liberal professional, meanwhile 12% of them have been working in Popular Dental Clinics and 6% in the Public service of health (SUS). The majority of participants were dentists level 7, in other words, 47% were not specialist, or have done a master degree (Table 1).

The current data shows that seventeen dentists were interviewed, of whom six dentists (35%) suffered from up to two complaints in their whole professional career, four dental practioners (24%) had received between three and five formal complaints addressed to them. Also 24% of the dentists had received between six and ten complaints and only one dentist recognised that he/she had more than ten complaints during his/her dental career (Table 2).

In respect of the nature of complaints, 35% of the complaints analysed were complaints about dissatisfaction with the final results. This was the most prevalent result, it is likely because it is directly correlated with the patients' expectation which, sometimes, is unreachable due to several conditions such as the dentist is not specialised in that kind of treatment and if so, dental missing, teeth misaligned, face and dental shapes. 18% of the cases were regarding to the duration treatment after been concluded and also 12% were in relation to the presence of pain after treatment. 6% of complaints were in respect of an increasing of price or a price difference from the initial budget. The others 24% refer to several aspects as divergence in consultation timetable, patient awaiting for a long time for consultation, disagreement in the management of treatment of children with special needs (Table 2).

When asked how they used to manage the patients' complaints, 24% of the interviewed answered that they had a good conversation with the patient and they decide together redid the treatments without extra charge. On the other hand, 18% of dentists had refunded the whole amount paid by patients and those patients preferred to migrate to another dentist to have the proceeding redone. In those cases we can see that the relation dentist/patient is strongly based on confidence and trust and when those aspects are broken the patient rather go to other professionals. 12% of dealings with patients included a refund of partial amount paid. 47% of complaints was dealing with care, that is, complaints were resolved through face to face conversation, active listening, welcoming approach, in order to satisfy the patient desires. One dentist answered that he/she went to Court to resolve an issue against a patient. According to the professional, he/she have proved in Court that the patient was being dishonest complaining about the treatment and asking full refund of it. The dentist affirmed he/she presented the patient dental records fully filled and signed by both dentist and patient as proof of good conduct. In this case, the dentist won the litigation process. No one interviewed mentioned mediation as the way of management of the complaints (Table 2).

As far as concern Mediation as an option to manage complaints, 71% of the interviewers recognise

Mediation as an alternative method to solve conflicts, but they have never use it in healthcare complain or they know only basic information how mediation works specially in Commercial disputes, that being said alternative dispute resolution are not taught in Medical Courses in Universities in Brazil or for the population in general (Table 2).



Table 1: Characteristics of the dental professionals interviewed based on an online form between 1<sup>st</sup> and 7<sup>th</sup> September, 2020.

<b>Characteristics</b>	<b>N</b>	<b>%</b>
<b>Sex</b>		
Female	11	65%
Male	6	35%
<b>Professional Experience</b>		
0-2 years	6	35%
3-5 years	5	29%
6-10 years	2	12%
11-20 years	1	6%
21-30 years	2	12%
More than 30 years	1	6%
<b>Specialisation</b>		
None	8	47%
Prosthesis	2	12%
Orthodontic	2	12%
Endodontic	1	6%
Oral Surgery	0	0%
Periodontology	1	6%
Implantology	0	0%
Aesthetics	2	12%
<b>Work field</b>		
Liberal professional	14	82%
Popular Dental Clinic	2	12%
Dental insurance Plan	0	0%
Public service	1	6%

<b>Total</b>	<b>17</b>	<b>100%</b>
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Table 2: Variables analysed according to the dentist answers

<b>Issues</b>	<b>N</b>	<b>%</b>
<b>Number of Complaints</b>		
0 - 2 complaint(s)	6	35%
3 - 5 complaints	4	24%
6 - 10 complaints	4	24%
More than 10 complaints	1	6%
<b>Nature of issue</b>		
Dissatisfaction with final results	6	35%
Treatment lasts	3	18%
Pain post treatment	2	12%
Unexpected price increased	1	6%
Other	4	24%
<b>Outcome</b>		
Treatment redone	4	24%
Partial Refund	2	12%
Total refund	3	18%
Litigation process	1	6%
Mediation	0	0%
Care	8	47%
<b>Mediation as resolution</b>		
No	5	29%
Yes	12	71%
<b>Total</b>	<b>17</b>	<b>100%</b>

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## Chapter 4

### Discussion

Dentistry is the area of health that has expanded the most in recent years in Brazil. Quantitatively, it is the third most important health profession (the first is medicine, the second is nursing), currently with 57,000 jobs nationwide (Ministry of Health, 2004). Like other specialists, dental practitioners have to try to restore their patients' health. Despite all their efforts, adverse effects might occur during the treatment, which are sometimes preventable if they have learnt patient management and ethical skills.

Normally, over the Graduation period Dental professionals are taught the clinical skills to provide the best patient care, but they are not always taught the communication and the legal skills to help them to avoid and fix disputes; About 15% of all dental complaints could resulted in conflict ([dentalcomplaints.ie](http://dentalcomplaints.ie)).

According to the study Bruers et al, 51% of the dentists questioned in their study said that the complaints against them had been dealt successful with Mediation, which result can be correlated with the current study where were found 71% of the dentists agreed that mediation may be successful, even though, no one mention used mediation to resolve issues.

The current study is in discordance with Thomas (2018) which study had high levels of complaints against dentists, however, the same study also found 60% resulted in no further action being taken against the dentist.

The lower number of complaints found in this study is in accordance to the website [dentalprotection.org](http://dentalprotection.org) which said that in the United States of America only one in eight patients that suffered a negligence on the part of the dental practioner actually sued their clinician and this fact could be explain it would be some other mechanisms involved in the patient's decision to complain and sue a professional. Many of patients simply decide never return to the practice and some of them will tell the tale of their satisfaction to anyone who is prepared to listen and those

experiences spread quickly to other people instead of do a formal complaint (dentalprotection.org).

Thomas et al (2018) corroborates this article findings. In his study, 73% of all complaints most were related to dissatisfaction/issues in the performance of the treatment, meanwhile, this article found 35% of complaints regarding the same issue.

Lopez (2007) found in his study that the most prevalence of compensation claimed by the patients was money back and other treatment which result is similar to the present study which found the percentage of 24% of treatment redone. Also he said that the informed consent in dental practice would avoid complaints rather than on giving adequate information to the patient.

Garcia, when performing similar collection to this research, held in the state of Santa Catarina, Brazil in 2006, found as more frequent causative factor of opening processes irregular advertising, with a possible technical error. Such data can corroborate the assertions present in Pereira (2004) work who affirms in his study that the popular clinics and dental insurances facilitated the emergence of new cases brought against dental professionals, once the dentistry was transformed in a practice purely economic, which go against the dentists' ideal behaviour according to the article 2 of the Dentistry Ethical Code which says that Dentistry is a profession for the benefit of all humans with no discrimination (Pereira, 2004).

Notably, in the last ten years, in Brazil, there has been a major expansion of the number of patients complaints. The main reason why the complaints increased was the creation of local consumer protection agencies (PROCON), which work as an intermediate between patients and dentists, its main objective is mediate a common agreement between the parties avoiding then litigation processes. According to De Paula et.al. (2012), the number of complaints addressed to PROCON in Sao Paulo increased from 20,764 in 2006 to 31,509 in 2010. The situation is similar in Ireland where the introduction of the Dental Complaints Resolution Service has increased patient awareness of practice complaints procedures, where in the first year in operation it was registered 130 complaints, increasing gradually until 1,640 complaints (phone calls and letters/emails) in the last year.

The relation between dental practitioners and patients was always based on trust and mutual respect, however, all dental records which were verbal in the past, now became written. This change was observed after the consumer protection Code was created (Cruz, 2008). Due to the recent changes, dental records completed with written patient's authorization and informed consent, treatment planning based on evidence of needs, their signature attesting that the patient agrees with the treatment proposed as well as the treatment price became an important instrument to defend dentists in case of patient complaints (Cabral, 2009).

In the context of the fact that most of the ethical processes against dentists are opened due to a possible technical error, Benedicto (2010) said that the complexity involved in dental care is not limited only to technical aspects, but also to administrative, legal, ethics and good relationship with the patient. Therefore, due to the existence of legal mechanisms such as the Criminal Code, the Civil Code and the Code of Ethical Dentistry, which have punishment for those who, in the exercise of their profession, may commit harmful acts against patients, the proper maintenance of medical records dentistry guarantees to the professional the protection against possible processes (Benedicto, 2010).

Nascimento (2014) pointed out that of the total number of offending professionals prosecuted by the Regional Dental Council of the Federal District, in Brazil approximately 27% were technically responsible, a fact probably explained by the assumptions contained in article 33.

In Beckham (1994) opinion, frequently, the perception of lack of care offered by the professional is the trigger for complaints or litigation, rather than genuine professional negligence in the delivery of care. According to the website [dentalprotection.org](http://dentalprotection.org), many of patients simply decide never return to the practice and some of them will tell the tale of their satisfaction to anyone who is prepared to listen and those experiences spread quickly to other people instead of do a formal complaint.

These are some weaknesses the study has, which have to do with the type of data: first of all it concerns the retrospective data, which representing the recollection of dentists regarding thought, feelings and experiences they had in the past and also the respondents can under or

overestimate their earlier reactions. For this paper, it was the best option as the researcher needed some specific information from the dentists that sometimes it is not on the websites. Putting all together the researcher have found the interviews on the online survey interesting. Now, we understand different point of views and different interests discussed with the interviewers. It is quite clear who follows mediation technics, who does not follow mediation and who is willing to change certain aspects in their works to have a more smoothly career. This might bring an interesting discussion since different actions result in different consequences. As we see in the results of the survey, dentist know in theory what mediation is, however, the practical knowledge is still obscure for most of them.

According to dental complaints resolution service, these are the main reasons why patients complain against dental practioners: first of all when they think they have received the wrong treatment or poor treatment; secondly, because of poor communication between patient and the dentist; then because the dentist not make clear how much the patient have to pay for treatment; a delay that could have been avoided, sometimes to earn more money with the treatment; also faulty procedures, or the dentist failed to follow correct procedures; the dentist is being unfair or biased; as well as when patients think they are being given misleading or inadequate advice; when the dentist is being rude or not apologising for mistakes; and lastly when the dentist is not putting things right when something has gone wrong ([dentalcomplaints.ie](http://dentalcomplaints.ie)).

This study has some weaknesses, which have to do with the type of data. First of all it concerns retrospective data, representing the recollection of dentists regarding thought, feelings and experiences they had in the past. For some the past could be a few years ago and for others some months ago. Respondents can under or overestimate their earlier reactions. Besides, it must be kept in mind that patients can also lodge their complaints elsewhere, including, for example, with the regional health care disciplinary boards. The researcher understands that 17 interviews might be a small sample but at the same time the Brazilian dentists reached were active, working daily in different kind of clinics and they were a great value for the research. The researcher intended to understand if mediation is a good effort in dental complaints and what is the dentists' point of view about mediation.

## Conclusion

I conclude, based on the findings that the most common issue that patients complain is when they are unsatisfied with the final results of treatments. I could conclude also that formal complaints to dental practitioners or to agencies with specialised service are not the first action regarding to Brazilian patients' behaviour since in Brazil the relationship between dentist and patient is still in most of the cases based in confidence and trust and it is not considered as a commercial service, despite of the fact that, according to the Brazilian Civil Law dentists are a producer of service. Besides that, it is noticed that in several articles used to base this dissertation the increase of number of complaints in Brazil are complaints to Popular Dental Clinics most recently created where the quality of the service is in second place comparing to the income and in those cases there is a trademark facing a group of professionals hired to treat as many cases as possible. Most of the dentists interviewed are working as liberal professionals so that it is likely to find that most of the participants had only few complaints through their career and when they complain the most common reason is dissatisfaction with final results which resolution is through communication and treatment redone.

This research can serve not only for Brazilian dentists but also for other nationalities as a warning to dentists and dental practitioners to exercise more careful and pay more attention to professional ethics and conduct in dental procedures due to medical quality is positively correlated to dental disputes. Like all medical professionals, they have to comply with legal regulations in their countries, working according to ethical principles and acceptable standards during diagnosis and treatment. And in case of conflict, when it was impossible avoid it, the mediation should be mentioned as an alternative which empowered the parties involved in the conflict. It is more practical, cheaper, quicker and confidential, not just reduce the legal costs but also time and waste of energy. In Brazil, Mediation is not widely used to resolve conflicts in healthcare area since neither dentist nor patients well know about alternative dispute resolution. Those kind of alternatives are more used to resolve commercial disputes, family disputes, but for medical complains it is something new also for medical workers as well as for the population in general. So that, it is crucial include those alternatives since the first semester of course in bioethical classes

and also facilitating the population access to alternative dispute resolution.



## Reflection

The initial idea for the dissertation was presented to the Research Methods teacher in the first semester of course without properly feedback. The research proposal was planning to investigate dental malpractice claims, also discover the related factors that may have incited the disputes and explore measures whereby the incidents of patients' conflicts towards dentists can be reduced. However, with the feedback and supervision of John Lamont, the dissertation was changed to the actual model which was focus on the role of mediation in the management of patients complaints. Due to the short period available to do the dissertation and the limited bibliography found relating Dentistry and Mediation, the study, which had the supervision of John Lamont, have been changed in title, objectives and the methodology. The title was modified to Managing patient complaints in dental practice in Brazil: the potential role for Mediation. The new objectives of this research is first of all identify if Mediation has a role in managing patients' complaints in dental practice in Brazil and the secondly objectives are calculate the percentage of patients' complains regarding their care or treatment performed by Brazilian dentists nowadays and Identify what are the common issues that are the subject of patients' complaints. For the new research methodology, Brazilian dentists colleagues were contacted by social media (Facebook, Instagram, WhatsApp) and by e-mail. They were asked to participate in the current research answering an online form designed by the researcher about patients' complaint and mediation. The data collected were stored in an Excel spreadsheet, they were submitted to descriptive analysis of each variable and put them back in an Excel application system in way that the researcher could access all results without identifying each response with their respective participant.

When I started the Master in Dispute Resolution in September of 2019, as a quiet and an introvert person I suffered a bit to join to the Practical Classes, since in all my scholarship I always preferred the written activities to the practical tasks. However, I did my best to carried out all practical activities proposed by the teachers. In 2020, We had to attend online classes three quarters of the second semester and the third semester due to the COVID-19 pandemic which arrived in Dublin in the end of March. My initial idea for my dissertation presented to the Research Methods teacher in the first semester of course was deeper, in my research proposal I was planning to investigate

dental malpractice claims, also discover the related factors that may have incited the disputes and explore measures whereby the incidents of patients' conflicts towards dentists can be reduced. On the other hand, with my supervisor John Lamont help, I realised that it was a long and complicated subject to be done in three months and then I changed to the actual model which was focus on the role of mediation in the management of patients complaints. Despite of the changes which I admit was better for the research, the idea of this paper of aware and help dental professionals to avoid conflicts and if it happens, to resolve it the less stressful way possible is still the same.

The whole thesis for me was not what I was expecting in the beginning of course and during the Research Methods classes. I spent a lot of time to find the bibliography as this subject is not widely studied in Brazil because we do not see the relation with medical professionals as commercial as in other countries in the world. The dissertation required from me a huge amount of time, patience and focus. Indeed, it was very time-consuming process that required more that it was possible to provide since, as a non-European student I have the barrier of the language as a non- English native and also I have to divide my time in work and studies. Despite that, I considered that it was a good experience for learning something new.

Regarding to the course in general I thought good. I thought the classes quite limited or more appropriated for Human people then for biological people as me, however I enjoyed to know about Irish Laws, Commercial disputes and the different ways to resolve conflicts and how mediate them. I consider myself not fully ready to work as mediator in Brazil or even in Ireland, but, indeed, what I learnt during the course I can use to improve my communication skills with my patients in order to avoid future complications.

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## Appendix

### Online Form

# Mestrado em MADR: Como dentistas brasileiros gerenciam as queixas dos pacientes

Olá pessoal, estou fazendo esta pesquisa como parte do meu trabalho de conclusão de mestrado em Dispute Resolution. Agradeço de antemão aos colegas que responderem a pesquisa.

1. Sexo

*Marcar apenas uma oval.*

Masculino

Feminino

2. Quanto tempo de formação você possui?

\_\_\_\_\_

3. Você possui alguma especialização? Se sim, qual?

\_\_\_\_\_

4. Qual sua área de atuação?

*Marcar apenas uma oval.*

Profissional autônomo

Profissional de clinica Odontológica popular

Dentista de plano odontológico

Dentista no setor publico de saúde

Outro: \_\_\_\_\_

5. Quantas reclamações de pacientes você teve durante sua carreira como dentista?

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6. Qual era a natureza das reclamações?

---

7. Como você gerenciou/ resolveu essas reclamações?

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8. Você acha que Mediação é uma opção para resolver as queixas dos pacientes?

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