

# Risk Management

National Oral Health Care  
Conference 2007



# FTCA

- **The Federal Tort Claims Act (FTCA)** is the federal legislation that allows parties claiming to have been injured by negligent actions of employees of the United States to file claims against the federal government for the harm they suffered.
- The FTCA also provides authority for the federal government to defend against such claims.

- Amendments to the Public Health Service Act in 1992 and 1995 provide that employees at deemed Health Centers are to be treated as employees of the United States for purposes of medical malpractice. These "employees" include board members, officers, employees and certain contractors of deemed Health Centers.
- "Employees" are given malpractice protection for actions within their scope of employment, and within the scope of project of a deemed Health Center.

- **Deeming** is an application process that an eligible Health Center must undertake in order to activate and maintain its FTCA malpractice protection. The law allows only organizations funded through section 330 of the Public Health Service Act, to be deemed.
- The deeming process has some basic requirements. Health Centers that wish to participate must assure the Bureau of Primary Health Care that they conduct complete and thorough **credentialing of their providers** including a **query of the National Practitioner Data Bank**.
- Participating Health Centers **must maintain clinical protocols, tracking systems, medical record reviews, and active quality assurance programs**.
- Once deemed, participation is maintained through project period renewal grant applications and indicated on the Health Center's Notice of Grant Award.

**•How is FTCA different from my individual malpractice policy?**

- Under FTCA you do not have an individual malpractice policy.
- If you have FTCA protection, you have financial protection from a malpractice lawsuit.
- The United States government would be substituted as the defendant in any malpractice claim for your activities, which are within your scope of employment and within the scope of project of a deemed Health Center.

**•I am a dentist. Does FTCA cover my profession?**

•Yes. FTCA malpractice protection applies to you and all other employees (and certain contractors) of appropriately deemed Health Centers.

• Malpractice protection is **not available for Health Center volunteers.**

•Malpractice protection is not available for students or residents training in a Health Center. **Malpractice protection for these individuals should be provided through a means other than FTCA.**

•**Health Center dental programs participating in Residencies and other training programs must have clear contracts with the residency defining malpractice coverage for attendings and preceptors as well as for the students/trainees**

- **What is my coverage limit?**

There is no monetary limit.

- If you come under FTCA malpractice protection, the Federal Government is the defendant for claims made against your Health Center-related actions or omissions.

- You have complete financial protection from malpractice related claims. FTCA settlements are the responsibility of the United States government.

# Prevention, the First Line of Defense

- History
- Oral Exam – Soft tissue
- Periodontal Exam

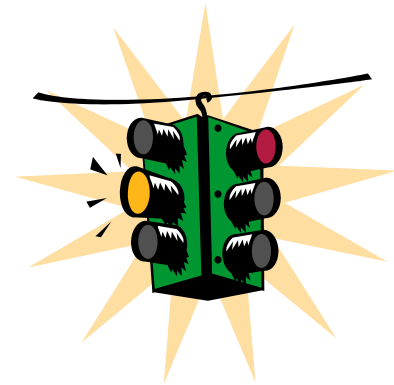


# Prevention Continued

- Radiographs
- Treatment Plan
- Tests
- Diagnosis
- Extractions

# Stop, Look, and Listen

- Internet
- Seek Help
- Do Not Be Defensive
- Admit What is Clear
- Spell Check, and in Ink



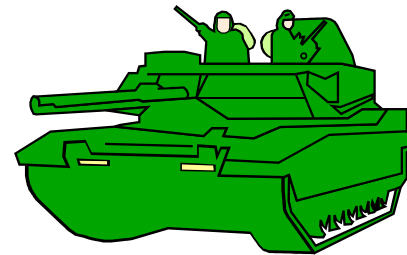
# A Claim is Filed

- Claimant's Response
- Site Response
- Reviewer
- Committee
- Options



# Avoid

- This is not War
- Do Not Blame the Patient
- Change Your Records
- Deception



# Top Ten

- Informed Consent
- Charges
- Poor Exam
- Wrong Tooth
- Infection
- Dentures
- Periodontal Disease
- Sinus
- IA Nerve
- Fractures

