Forensic and Legal Dentistry

Klaus Rötzscher
Editor

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Klaus Röttscher, Dr. med. Dr. med. dent.
German Academy of Forensic
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Germany

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Preface

The need for legal knowledge in the contractual relationship between dentist and patient and knowledge of the legal procedure in civil and criminal law, particularly in the dental field, is increasing. This legal knowledge will help both to minimize personal insecurity and assess the personal position realistically and to interpret medical facts as an expert witness; this is imperative for all parties because of the increasing number of liability cases.

Age estimation and the identification of living/dead persons, together with forensic medicine, the courts, and the police, may improve the recording of dental findings and their documentation.

The review of bite and tooth marks, which has not been properly regarded in German specialist literature so far and which has often not been recognized in daily practice, is supposed to help to disclose the estimated number of unreported cases of maltreatment (particularly, cruelty to children) and, in homicides, to convict a criminal or to exonerate an innocent person.

The medical history of the patient's survey and the survey of the clinical findings by means of various diagnostic measures are part of the treatment contract. The patient's education (including education about the diagnosis, treatment, alternative options, the value and impact of the forecast, the risks, resulting costs, and also non-treatment) only lead to a treatment if the patient consents. Therefore, the dental, oral, and maxillofacial surgery supports the regular development, preservation, and rehabilitation of the stomatognathic system.

On 29 October 1976, during the 102nd annual meeting of the German Society for Dental, Oral and Maxillofacial Surgery in the Mozart Hall of Stuttgart, under the auspices of Professor Werner Hahn, the Working Group (now the German Academy of Forensic Odontostomatology) was established. Extensive legal treatises on the relationship between dentist and patient from the legal perspective already exist, as well as judiciary collections in medical and dental law, which provide insight to court decisions in various instances.

This book is addressed to doctors and dentists, forensic scientists, lawyers, investigative and identification authorities, criminologists, prosecutors, insurance agents, and the students of those disciplines.

In the legal section, the reader shall be informed about the risks of dental treatment and the relationship with the patient, which may extend to liability risks. The legal relationships from the perspective of the dentist (from practice to the practice) are discussed, along with the medical connections on the basis of the treatment, which might cause legal complications imposed by

civil and penal law. The insight into relevant legal questions shall help to reduce existing uncertainties and to enable to an assessment of the situation that is more realistic.

Finally, I present my highest appreciation and thanks to all coauthors, and to Mrs. Christina Neitsch (script control) and Mr. Siegmur Klose (IT assistant) for their participation in enabling this book to be published.

Speyer, Germany

Klaus Röttscher, Dr. med. Dr. med. dent.

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Contributors

Herman Bernitz, BChD, MSc, Dip Odont, PhD (Pret) Department of Oral Pathology and Oral Biology, School of Dentistry, University of Pretoria, Pretoria, South Africa

Charles Georget, DDS University of Nancy, Nancy, France

Joseph P. Graskemper, DDS, JD, DABMM Stony Brook School of Dental Medicine, Stony Brook, NY, USA

Claus Grundmann, Dr. med. Dr. med. dent. Municipal Medical-Supervisor, Duisburg (North-Rhine-Westphalia), Germany

James Hardy, OStJ, BDS (Lon), MSc, MGDSRCS (Eng), MGDSRCS (Ed), LDSRCS (Eng), Dip F Od, Dip FHD Criminology Department, Portsmouth University, Portsmouth, UK

Oscar Heit, Prof. Dr. Faculty of Science and Technology, University Autonomous of Entre Ríos, Paraná, Entre Ríos, Argentina

Ian R. Hill, OBE, MA, MD, PhD, MRCPATH, FFFLM, MRAeS, LDS International Organisation for Forensic Odontostomatology – IOFOS, London, UK

Jean-Marc Hutt, Dr. med. dent. (Strasbourg), Dr. for. sciences (Nancy), Association Française d'Identification Odontologique (AFIO) Private Practitioner, Strasbourg, France

Bernhard Knell, Dr. med. dent. Forensic Odontostomatology, Institute of Forensic Medicine, University of Zurich, Zurich, Switzerland
Forensic Dentistry, Center for Dental Medicine, University of Zurich, Zurich, Switzerland

Russell Lain, Dr. Department of Oral Surgery and Diagnostic Imaging, Sydney Dental Hospital, Surry Hills, NSW, Australia

Dieter Leopold, Univ.-Prof. (em) Dr. med. Institute of Legal Medicine, Leipzig, Germany

Hannu Mäkelä, DDS, PhD LtCol res Finnish Air Force MC, Muurame, Finland

William O'Reilly, Ass. Prof. Department of Oral Health, School of Health Sciences, University of Newcastle, Ourimbah, NSW, Australia

Wolfgang Pilz, Univ.- Prof. (em) Dr. med. dent. Department of Preservative and Pediatric Stomatology, Academy Carl Gustav Carus, Dresden, Germany

Klaus Röttscher, Dr. med. Dr. med. dent. German Academy of Forensic Odontostomatology (AKFOS), Speyer, Germany

Peter Sahelangi, Dr. DFM Department of Forensic and Medico- Legal Faculty of Medicine, Hasanuddin University, Makassar, Indonesia

Günter Seifert, Dr. med. dent. Orthodontist, Berchtesgaden, Germany

Rolf Singer, Univ.-Prof. (em) Dr. med. Dr. med. dent. Department of Oral and Craniomandibular Surgery, Clinicum Ludwigshafen/Rhein, Ludwigshafen/Rhein, Germany

Tore Solheim, Prof. (em) Dr. odont. Institute of Oral Biology, Pathology and Forensic Odontology, University Oslo, Oslo, Norway

Jane Taylor, Ass. Prof. Department of Oral Health, School of Health Sciences, University of Newcastle, Ourimbah, NSW, Australia

Eddy de Valck, DDS Forensic Odontologist, DVI Team Belgium, Beigem, Belgium

Yvo Vermeylen, Master of Law Department of Dentistry, Katholieke University Leuven, Leuven, Belgium

*Puisqu' on ne peut être universel et savoir tout
ce qui peut se savoir sur tout, il faut savoir peu de tout.
Car il est bien plus beau de savoir quelque chose de tout
que de savoir tout d'une chose.*

*[Since you cannot be universal and cannot know everything,
you should know a little about everything.
It is probably better to know a little of everything
than knowing everything about one thing.]*

*(Blaise Pascal, *19.6.1623 in Clermont-Ferrand, Auvergne – † 19.8.1662 in
Paris;
Pensées sur l'esprit XXXVII, in: Pensées, Pensée 42 (49).
Bibliothèque de la Pléiade, ed. Galimard, Paris, 1954, pp 1098–1099)*

Abbreviations

AAFS	American Academy of Forensic Sciences
ADA	American Dental Association
AFG	Study Group for Basic Research
AFIO	Association Française d'Identification Odontologique
AG	District Court
AG	Study Group
AGB	Terms and Conditions
AGBG	Law Governing the Right of the General Terms and Conditions
AHA	American Heart Association
AK	Working Group
AKFOS	German Academy of Forensic Odontostomatology
AMG	Drug Law
AOZ (Appro-Z)	Licensing Regulations for Dentists
ArztR	Medical Law (magazine)
ASFO	American Society of Forensic Odontology
AsylVfG	Asylum Procedure Act
AuslG	Aliens Act
AZ.	Reference Number
BAFO	British Association for Forensic Odontology
BAG	Federal Labour Court
BÄK	Federal Chamber of Physicians
BDZ (BdZ)	Federal Association of German Dentists (BegleitG)
BegleitG	Support Law
Bema	Rating Scale Funds for Physicians' Services
Bema-Z	Rating Scale Funds for Dental Services
BfArM	Federal Institute for Drugs and Medical Devices
BfS	Federal Office for Radiation Protection
BGA	Federal Health Office (now Federal Institute for Drugs and Medical Devices)
BGB	Civil Code
BGE	Federal Court Decisions
BGBI	Federal Law Gazette
BGH	Federal Supreme Court
BGHZ	Federal Supreme Court in Civil Affairs: Decisions
BKA	Federal Crime Office

BMG	Federal Ministry of Health
BMV-Z	Federal Contract for Dentists
BO	Professional Regulation for Physicians
BO-Z	Professional Code for Dentists
BSG	Federal Social Court
BSGE	Federal Social Court: Decisions
BuGO-Z	see GOZ
BverfG	Federal Constitutional Court
BVerfGE	Federal Constitutional Court: Decisions
BVerwG	Federal Administrative Court
BVerwGE	Federal Administrative Court: Decisions
Bw	Bundeswehr (Armed Forces)
BZÄK	Federal Dental Association
BZK	District Dental Association Surgery
Chir	Surgery
DBG	The Federal Court of Germany
DGAI	German Society for Anaesthesiology and Intensive Care
DGI	German Society for Implantology
DGKFo	German Society of Orthodontics
DGP	German Society of Periodontology
DGRM	German Society of Legal Medicine
DGZ	German Society for Conservative Dentistry
DGZMK	German Society for Dental, Oral and Maxillofacial Surgery
DGZPW	German Society for Prosthodontics and Materials
DHZB	German Heart Centre Berlin
DVI	Disaster Victim Identification
DZW	The Dentist Week (magazine)
DZZ	German Dental Journal (organ DGZMK)
EC	European Community
EK	Spare Cash
EK-V	Spare Cash Contract
EU	European Union
EWG	European Economic Community
FBI	Federal Bureau of Crime Investigation (USA)
FDI	Fédération Dentaire Internationale
FKO	Functional Orthopedics
FO	Forensic Odontology
FOCH	The Swiss Group of Forensic Odontology
FOS	Forensic Odontostomatology
FVDZ	Free Association of German Dentists
GBI	Law Gazette
GDzh	Directorate of Health Canton Zurich
GesG	Health Act
GewO	Trade Regulation
GG	Basic Law
GKK	Statutory Health Fund
GKV	Statutory Health Insurance
GOÄ	Schedule of Fees for Doctors

GOZ	Schedule of Fees for Dentists
GZHeilk	Law on the Exercise of Dentistry (see ZHG)
IADR	International Association for Dental Research
IANC	International Anatomical Nomenclature Committee
ICAO	International Civil Aviation Organization
ICD-DA	International Code of Diseases of Dentistry and Stomatology
ICD-0	International Classification of Diseases for Oncology
ICPO	International Criminal Police Organization (see Interpol)
ICRP	International Commission on Radiological Protection
IDKO	Identification Commission
IDKO BKA	Identification Commission at the Federal Bureau of Crime Investigation
IDZ	Institute of German Dentists Interpol International Criminal Police Organization
Interpol	International Criminal Police Organization
IOFOS	International Organization for Forensic Odontostomatology
ISO	International Organization for Standardization
JGG	Youth Courts Act
KatS-Kalender	Disaster Safety Calendar
KCH	Jaw Surgery
KfO	Orthodontics
Kons	Conservative Dentistry
KPol	Criminal Police
KZBV	Regional Dental Authorities
KZRL	Regional Dental Authorities: Guidelines
KZV	Regional Dental Association
LBA	Civil Aeronautics Board
LBG	Provincial Court (for the Medical Profession)
LG	Regional Court
LKÄ	Country State Criminal Police Offices
LSG	State Social Court
LZK	Country Dentists' Chamber
MBO-Z	Pattern Proper for Professional Dental Doctors (see BO-Z, MuBerO-Z, and MuBO-Z)
MedBG	Federal Law on Medicine
MedBV	Regulation on Medicine
MedR	Medical Law (journal)
MedSach	The Medical Examiners (magazine)
Mitt	Messages
MPG	Medical Devices Act
NL	Newsletter
MuBerO-Z	Career Pattern for Dentists (see MBO-Z)
MuBO-Z	Career Pattern for Dentists (see MBO-Z and MuBerO-Z)
NAR	Standard Committee of Radiology in the German Standards
Newsletter	Organ of the German Academy of Forensic Odontostomatology (magazine)
NJW	New Law Weekly (magazine)

NVwZ	New Journal of Administrative Law
OLG	Higher Regional Court
OR	Obligations
OVG	Higher Administrative Court (Supreme Administrative Court)
PAR	Periodontology
PHG	Product Liability Law
PKV	Private Health Insurance
Polvo	Police Regulation
PStG	Personal Status Law
RiStBV	Guidelines for Criminal and Administrative Penalties
RVO	Insurance Code
SG	Social Court
SGb	The Social Proceedings (magazine)
SGG	Social Code Act
SGRM	Swiss Society of Legal Medicine
SNOMED	Systematic Medical Nomenclature
SSFOS	Scandinavian Society of Forensic Odontostomatology
SSO	Swiss Dental Association
StGB	Criminal Code, Swiss Criminal Code
StPO	Code of Criminal Procedure
StrSchV	Radiation Protection Ordinance
StVO	Road Traffic Act
Urt.	Judgment Ruling
VerfG	Constitutional Court
VersR	Insurance Law (journal)
Vfg	Ordinance
VG (VerwG)	Administrative Court
VGH	Administrative Court
VO	Regulation
VSFZ	Association of Swiss Forensic Dentists in the Swiss Society of Legal Medicine
WHO	World Health Organization
Zschr	Journal
ZA	Dentist
ZAE	Dentists
ZAH	Dental Assistant
ZÄK (ZK)	Dental Chamber
ZHG	Dentistry Act
ZHKG	Act on the Exercise of Dentistry (see GZHeilk)
ZM	Dental Communications (magazine)
ZMF	Qualified Dental Assistant
ZMK	Dental, Oral and Maxillofacial Surgery
ZO-Z	Licensing Regulations—Dentists
ZPO	Code of Civil Procedure
ZVEG	Judicial Remuneration and Compensation Act (Law on the Compensation of Witnesses and Experts)

Introduction

In the training regulations of university courses for dentistry, there is no single reference to the field of forensic dentistry or forensic odonto-stomatology.

As a chairman of the commission on dental research, I became aware that dentists often are engaged in various fields of criminology, and I was amazed that in many countries, forensic dentistry is fully integrated to the curriculum of dental universities.

In Scandinavia, Gösta Gustafson, Gunnar Johanson, Søren Keiser-Nielsen, and Tore Solheim have been very successful in embedding forensic dentistry. In Germany, Klaus Röttscher pointed out years ago that dentists work as research assistants in institutes of legal medicine.

It was a special pleasure for me to welcome these colleagues to the interdisciplinary working group for forensic odonto-stomatology of the German Society for Dental, Oral and Maxillofacial Surgery (founded in 1976), and the German Society of Legal Medicine.

Thanks to their energetic work and knowledge, forensic dentistry was established in the Federal Republic of Germany. This book was composed to bring together the main areas of forensic odonto-stomatology as a separate field within the forensic sciences, such as supporting identification of unknown human remains.

Therefore, I owe special thanks to Klaus Röttscher and hope his book will find entry to dental and forensic training literature and will become an integral part of the library of every dentist.

Univ.- Prof. Dr. med. Dr. med. dent. Werner Hahn
Kiel, Germany, 2000
(† 2011)