Medico-Legal Aspects of Conscious Sedation

By the end of this talk you should have a clear understanding of:

- The legislation/guidance associated with the provision of conscious sedation
- The importance of the consent process
- What should be included in clinical records

Why We Need Guidelines

Sedation techniques make many unpleasant healthcare procedures more acceptable to patients but have the potential to cause life threatening complications.

Any drug which depresses the CNS has the potential to impair respiration, circulation or both.
**Why We Need Guidelines**

To ensure the various techniques utilised continue to have a high level of safety and effectiveness

Ensure the highest possible standards for our patients – as patients rightly expect

Guide research and clinical governance

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**A CONSCIOUS DECISION**

DEPARTMENT OF HEALTH

July 2000

**MAIN AIM:**

To ensure that general anaesthesia and conscious sedation are provided to the same professional standards wherever they are performed throughout the UK.
CONSCIOUS SEDATION in the Provision of Dental Care

Report of an Expert Group for Dentistry

Standing Dental Advisory Committee

www.advisorybodies.doh.gov.uk/sdac/conscious_sedationdec03.PDF

Department of Health 2003

CONSCIOUS SEDATION RECOMMENDATIONS

Must provide similar standards regarding:

- patient assessment
- consent
- patient escorts

as required for GA

CONSCIOUS SEDATION RECOMMENDATIONS

Must provide:

- CPR for all staff (airway adjuncts)
- Dedicated Clinical Assistants
- Emergency equipment

as required for GA
CONSCIOUS SEDATION
Resuscitation

✓ Medical emergency could occur at any time.
✓ A dentist must ensure that all members of the dental team are properly trained.
✓ Training should practice simulated routines for resuscitation.
✓ All training must be documented.

CONSCIOUS SEDATION
Resuscitation

✓ Process for medical risk assessment of patients
✓ Resuscitation protocols
✓ Audit

CLINICAL GOVERNANCE.

Requirement of good practice:-
All professional clinicians should work with colleagues to monitor and maintain awareness of the quality and care they provide.

Active participation in clinical audit is an essential feature of clinical governance.
Guidance on standards - SDAC
updated by SCSD 2007

Safe practice for both standard and alternative techniques relies on 3 key areas:

- Qualifications and training
- Environment and patient selection
- Experience and CPD

The GDC expect dental sedation teams to follow supplementary guidelines like

General Dental Council
Maintaining Standards
superseded by
Standards Guidance
(May 2005)
LAW ETHICS & PROFESSIONALISM

- Be able to keep clinical records
- Know about their role in obtaining consent
- Know their duty of care
- Know a patient’s rights
- Know the permitted duties of dental professional
- Know the regulatory function of GDC

Responsibilities, Education and Skills

When dentists both sedate and provide treatment they must:

- Have a commitment to continuous post-graduate training
- Ensure that the techniques and drugs are the most appropriate

Responsibilities, Education and Skills

- a second appropriately trained person throughout who is capable of monitoring the clinical condition of the patient and assisting if there is a complication
Pain and Anxiety Control

Duty and Expectations

Dentists have a duty to provide adequate and appropriate pain and anxiety control. Failure of responsibilities with regard to pain and anxiety control may lead to a charge of serious professional misconduct.

Pain and Anxiety Control

- Behavioral Management
- Local Anaesthesia
  Mainstay of pain control. Duty to use appropriate & effective method
  Technique relates to medical history and pharmacological properties of LA agent
- Conscious Sedation
- General Anaesthesia

Legal Issues within Dental Practice

- Accountability
- Consent
- Confidentiality
- Negligence
- Documentation
Accountability
Being personally answerable to the law of the land for all your actions or omissions (including what you write or don’t write, what advice you give or don’t give) while fulfilling your role/contract as a dentist/PCD.
Rosemary Wilson 2008

Consent
Patient explicitly agrees to treatment planned
Written informed consent must be obtained for both sedation and treatment
Must be obtained in a calm environment where the patient has time to consider the information and ask questions
Types of Consent

- Written
- Implied
- Verbal

Should contain pt details, practice details, completed in ink without abbreviations and signed by both parties. Pt should retain a copy, obtained in a quiet area, dental nurse unable to obtain consent.

Why Consent is required

- Patient education
- Co-operation
- Improve communication between patient and dentist
- Protect dentist from complaints, claim and charges
What Constitutes Legal Consent?

- Voluntary
- Knowledge
- Capacity
  - Comprehend and retain information
  - Believe it
  - Arrive at a choice
  - Communicate his/her choice

Obtaining Informed Consent

- Outline treatment, options and outcomes
- Use plain language
- Risks and benefits – incl alternatives
- Time and costs
- Invite discussion
- Confirm choice and agreement

Consent form

Written consent is compulsory!!!!!!!

It should be signed by a parent/guardian, dated and filed with the patient’s record
Issues for Consideration

- **Competent adults consent for themselves**
- **Children (under 16) parents sign consent form.** It is essential that the informed consent is gained in a manner appropriate to the child’s age and understanding.
- **Gillick competence**

Learning disability

- **18 age of consent**
  - >18 parents should be consulted

**People who are not competent to consent**

act in best interests of patient. Consult with others (dentists/carers medical staff) Clinician signs consent form
Negligence

Clinicians have a legal duty of care to patients

A clinician is not considered, in law, to be negligent if he/she has acted in accordance with the law and the practice he/she does is accepted as proper by a responsible body of qualified persons skilled in that particular art.

Actions alleging negligence include diagnosis, treatment and advice.
How to avoid Negligence

- Appropriately trained staff
- Appropriate equipment
- Patient assessment
- Accurate patient records, legible, comprehensive, dated and signed (DNA)
- All pre and post operative instructions: verbal and written
- Written informed consent

Assault

All dental practices carries the possibility of legal action for assault

Civil Assault
Treatment without valid consent

Common Assault
Any unauthorised hands-on procedure

Assault

Indecent Assault
Usually made by female patient against male dentist or occasionally sexual abuse of young patients

Patients must be chaperoned
The perception of sedated patients is altered!
Record Keeping

- Treatment plan
- Reason for sedation
- Medical history +/- BP reading
- Consent
- Name + signature of operator
- Name of assistant

Record Keeping

- Dosage of drug
- Treatment given
- Duration of sedation
- Monitors

Pulsoximeter/BP
Record Keeping

Any deviations from standard practice should be recorded, including reasons!

Pulse oximetry

Not routinely used for Relative Analgesia but It is a must for IV sedation

Blood Pressure measurement

Not routinely used for Relative Analgesia but It is a must for IV sedation
Beware of illegible handwriting!

GDP prescribed Amoxil
Pharmacist dispensed Daonil
Patient suffered brain damage
Court stated GDP's handwriting was 'very poor'
Awarded £119,302
Pharmacist 75% - bad handwriting 25%

Retention of Patients Records

CHILDREN
Until 25th birthday or 26th if 17 at conclusion of treatment or 8 years after treatment completion
ADULT
20 years after conclusion of treatment (DP 11 years)

Any questions?