**“INFORMED CONSENT AND MEDICOLEGAL ASPECTS IN PEDIATRIC DENTISTRY”**

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**Informed consent and medicolegal concept in Pediatric dentistry**

**ABSTRACT:**

The dentist-patient relationship is the basis of successful dental practice. Ethics exists in the space between the dentist and the patient. Since the time of Hippocrates, the foundational value of medicine has been the care of the patient. Whereas, providing oral health care services, a dental practitioner must follow a sure set of standards to avoid any proceedings within the name of malpractice. Consent is a fundamental and established principle in Indian Law. Even in dentistry, like other health care fields, sometimes unforeseen mishaps occur despite our best efforts. In today’s era of strict medicolegal laws, the doctor needs to be fully equipped to deal with the unexpected, and for this reason, the health care practitioner needs to keep themselves updated regarding the constantly changing laws and adapt their practices accordingly. Hence, the paper includes the importance of consent and assent forms, Ethics, and Laws regarding medical practices.

***KEYWORDS:*** Ethics, Laws, assent, MLA, Consent, dental

**INTRODUCTION:**

The dentist-patient relationship is the basis of successful dental practice. Ethics lies in the space between the patient and the dentist. It is in this space that the needs of the patient meet the knowledge and skill of the dentist [1]. Vijayalakshmi S. et al conducted a study in India that showed that only 25% of dental practitioners believed that a consent form is necessary for every treatment [2]. It’s important to search out what your patients need to grasp, further as telling them what you’re thinking that they have to grasp. This could kind the permission of the necessity for a consent kind to research the term ‘Consent’ [3].

Consent is a foundational and entrenched principle in the Indian law. Medical records are documentary evidence as per the Indian Evidence Act,1872[4]. Consent means that the patient knows what your plans are and has agreed to them. The impact of this on the clinician’s position will depend upon the quality of the consent process [3]. All the records must be contemporaneous and must be signed and dated [2]. ‘Assent’ is a term used to express acceptance to take part in research by persons who are by definition too young to offer consent but who are elder enough to know the procedure for research generally, possible benefits, its expected risks, and therefore the activities expected of them as subjects[5]. In today’s era of strict aggregation laws, the doctor has to be totally equipped to manage the sudden, and for this reason, the health care practician has to keep themselves updated concerning the perpetually dynamic laws and adapt their practices consequently.

CONSENT:

Consent means free voluntary agreement or compliance. In India person above 12 years can give consent for medical treatment. For a person less than 12 years of age of unsound mind, his/her guardians/person in whose lawful custody he/she can give consent [6].

TYPES OF CONSENT:

1]Implied consent

2]Expressed consent (Tacit consent)

3]Proxy consent (Substitute Consent) [7]

4]Loco parentis [7]

5]Blanket consent [8]

6]Dental tourism and consent [9]

7]Valid Consent [10]

8]Oral consent-

9]Informed consent

10]Written consent

Valid consent consists of three related aspects:

1.Voluntariness [10]

2. Mental incapacity [11]

3.Competence

TYPES OF INFORMED CONSENT

Informed consent mainly comprises of implied and expressed consent.

1] Implied consent – This is a type of consent when a patient peacefully cooperates in a dental treatment process without explaining or formal consent.[12]

There is no documentation in the clinical record, but the dentist provides adequate and accurate information regarding the how and why of the procedure being performed. [13]

2] Expressed consent – Expressed consent is a more formal type of consent, which could be either in oral or written form. Such types of consent may be used for invasive procedures.[14] 3] Verbal Consent- A verbal consent is where a patient verbally gives their consent to a procedure but they do not sign any written form. Procedures and prophylaxis provided that full records are documented.[15]

DENTAL PROCEDURE REQUIRING CONSENT

As the demand for informed consent, consent becomes more transparent to the dental profession, a dental professional should know which procedures actually required written, informed consent.

Common elements for ligation crown and bridgework

1]Poor fit of dentures

2]Disturbance of function

3]Cost/value issue

4]Unexpected complications

ENDODONTICS

1]Fractured or retained instruments

2]pain

3]Recurrent pathology

4]Damaged to adjacent structures

5]Cost concerns

6]Foreign body left after treatment

RESTORATIVE DENTISTRY

1]Failure of multiple fillings

2]fillings,

ORAL SURGERY

1]Paraesthesia to lingual and inferior dental nerve including taste disturbance

2]Unexpected sequel

3]Removal of wrong teeth

4]Retained roots

5]Damaged to adjacent structures.

PERIODONTAL CARE

1]Failure to monitor periodontal disease

2]Failure surgery

ORTHODONTICS:

1]Unexpected relapse

2]Damaged to teeth and adjacent structures

3]Speciality versus non-specialist treatments

4]Inappropriate treatment plans

FAILURE TO DIAGNOSIS

1]Neglect in the diagnosis

2]Oral carcinoma

3]Risk of bacterial endocarditis.

DECLINED RECOMMENDED TESTS OR TREATMENT

If patients decline amalgam, X-rays, or any other recommendations it is prudent to note these in-patient treatment records and even get the patient to sign. [16]

IMPLANTS

The options of implants should be considered with patients, not only the full or partially edentulous, but also when standing teeth are seriously compromised.

Medical procedures requiring consent:

1]Most surgeries, even when they are not done in the hospital.

2]Other advanced or complex medical tests and procedures. Examples are an endoscopy) or a needle biopsy of the liver.

3]Radiation or chemotherapy to treat cancer.

4] Most vaccines.

5]Some blood tests, such as HIV testing (need for written consent varies by countries).

Informed consent is not needed in an emergency when delayed treatment would be dangerous for the patient.

MEDICOLEGAL GUIDELINES

Medico-legal cases are an integral part of medical practice that is regularly confronted by Medical Officers/Doctors.

All medical professionalize serving in hospitals, medical units, and non-medical units facing medico-legal issues. Medical Officers have to be compelled to acquaint themselves with medico-legal procedures that unit of measurement modern at intervals the state throughout that they are serving.

MLCs:

An MLC is defined as “any case of injury or affliction where the attending doctor after clinical examination and history taking considers that investigation by law implementation agencies and also superior military jurisdiction is warranted to ascertain circumstances and fix responsibility regarding the said injury or complaint according to the law”.

MLCs in Medical Practice: [17]

1] Section 39 of Cr. PC (Criminal Penal code)

2]Public to give information about certain offenses

3]In case of Medical care Doctor as public

4]Section 176 of IPC

Examples of MLCs:

The retinue are some of the examples of MLCs and Medical officers should use their professional perception to decide any other cases not enumerated in the list.

(a) Sexual Offences

(b)Industrial accidents Road Traffic Accidents (RTA), industrial accidents, etc.

(c) Assault and battery, together with force and ill-usage

(d) Drug overdose

(e) Unnatural deaths

(f) Death in the operation theatre

(g) Cases of trauma with suspicion of evil (h)Drug abuse

General pointers for managing Medico-legal cases: [17]

(a)All Clinics and hospitals will maintain an MLC register and the MLC will be initiated and documented in the register. Personal particulars, identification marks, fingerprints of the individual will be noted.

(b)Emergency treatment is going to be administered all told cases delivered to no matter their title.

(c) In emergencies, revitalization and stabilization of the patient are going to be administrated 1st. and medico-legal formalities could also be completed later on. The consent for treatment is implicit all told emergencies.

(d)In case of discharge/ transfer/death of such a case in the hospital, the police should be informed.

(e) The police should be informed. Under Section 39 of the Criminal Procedure Code, the attending Doctor is legally bound to inform the police about the arrival of an MLC. Any failure to report the occurrence of an MLC may invite prosecution under Sections 176 and/or 202 of I.P.C.

(f) Medico-legal documents ought to be thought-about as confidential records and may be kept in safe custody to avoid the change of state. Medical records should be thorough, complete, and may document every and each vital event within the course of care of the patient. All the documents as well as case sheets, X-rays, and investigation reports are preserved meticulously within the case history section indefinitely and two-handed over to the involved authorities as and once needed.

g)Prompt attention, correct triage, and safe transfer of a patient from one facility to a different as needed should be administered altogether cases and on time due to the medicolegal nature of the case.

(h) Samples and specimens collected for medico-legal purposes will be properly sealed, labeled, and handed over to the investigating officer detailed by the police

(i) . Opinion on the severity of injuries should be given after the X-ray reports are received in cases of injury to bones/joints. [17]

LAWS REGARDING MEDICAL PRACTICE

Medical law issues the responsibilities of medical professionals towards the patient and also the rights of the patient.so, the requirement for the medical laws arose thanks to errors and injustice done to the society intentionally or unknowingly. cognitive content of information isn't against the law; however, negligence is. So, over the years, many laws had to be enunciated to safeguard society against the harms from the medical community. Medical ethics is the study of ethical values and judgments as they apply to medication, encompassing history, philosophy, theology, and social science. The earliest proof of skilled oath is recorded within the 12th-century within the Byzantine manuscript. These could also be derived from pointers for physicians within the Hippocratic oath, early Christian teachings, Formula Comities Archiatrorum, in 1794, Thomas Percival, a British physician crafted the first modern code of medical ethics and extended it in 1803. In 1815, the Apothecaries Act of the United Kingdom introduced compulsory apprenticeship. The first code of ethics was adopted by the American Medical Association in 1847. I n the Nineteen Sixties and Seventies, building upon liberal theory and procedural justice, a lot of the discourse of medical ethics went through a dramatic shift and for the most part reconfigured itself into ethics.

MEDICAL NEGLIGENCE UNDER SECTION 304A

Medical negligence is roofed underneath wrongdoing Law, client Law, and legal code. whereas medical negligence attracts civil liability underneath wrongdoing and client Law, underneath legal code, it attracts penalization. While in Torts and Consumer Law, it is a breach of duty, under criminal law it is a state of mind. The basic principle of Criminal Law is that a forbidden act done with an evil mind alone could be an offense. However, there are exceptions to this. Strict liability offenses and offenses that only require negligence are some of them. To explain the term negligence more, two other terms should also be explained intention and recklessness. These terms or equivalent expressions are found in the Indian Penal Code too. [18]

Medical Profession in Criminal Law will be explained as follows:

The legal code has invariably placed the medical professionals on a pedestal completely different from normal mortals. The IPC enacted as so much back as within the year 1860 sets out a number of vocal examples in S 88t, 92, and 93 for all to visualize. Section 88 within the Chapter on General Exceptions provides associate exemption for acts not supposed to cause death, done by consent in straightness for a person’s profit. Section 92 IPC provides for an associate exemption for acts wiped out straightness for the advantage of an individual while not his consent tho' the acts cause damage to an individual which person has not consented to suffer such damage. Section 93 IPC saves from reprehensively bound communication created in straightness. [19]

The Bench also offered arguments in defense of the aforesaid Sections. it will be admitted that once the associate degree act is in itself innocent, to penalize the one that will it as a result of unhealthy consequences, that no human knowledge may have expected, he followed from it, would be within the highest degree barbarous and absurd. The utmost that he will do is to abstain from everything that is the least bit probably to cause death. A doctor isn't reprehensively answerable for a patient’s death unless his negligence or incompetence went on the far side a mere matter of compensation between subjects and showed such disregard forever and safety of others on quantity to against the law against State.

304 An IPC, it's necessary that the death ought to be the direct results of a rash and negligent act of the defendant, and also the act should be the proximate and economical cause while not the intervention of another’s negligence. within the matter of skilled liability, professions disagree from occupations for the rationale that professions operate in spheres wherever success can't be achieved in each case and really typically success or failure depends upon factors on the far side the skilled man’s management. A case of activity negligence is completely different from one among skilled negligence.[20] [21] In the Indian legal code, there's a provision that talks concerning rash or negligent act, that is employed for medical negligence cases also. These 2 terms area unit used as rash and negligent even within the judgments of the Supreme Court.[22] In the Indian Penal Code, there is a provision which talks about a rash or negligent act, which is used for medical negligence cases as well. These two terms are used as rash and negligent even in the judgments of the Supreme Court.[23]

CONSENT FOR GENERAL PAEDIATRIC DENTAL TREATMENT

Patients’ consent may be a legal regulation and an ethical principle. It represents patients’ rights to require half within the clinical choices regarding their treatment. The importance of getting consent in medicine is progressively recognized for ethical and legal arguments that the area unit explored.

It is the policy of this practice to tell oldsters of all procedures contemplated for your kid. At every examination appointment, we are going to determine any dental treatment required and describe this to you and your kid. every regular examination visit consists of oral hygiene directions, improvement of the teeth, topical application of halide, radiographs (x-rays) if required, and examination of the teeth, onerous and soft tissues of the mouth, and also the bite. the other treatment required like restorations, pulp medical aid, caps, extractions, etc. are performed at a separate appointment once getting your permission.

State law requires that we obtain your written informed consent for any treatment given to your child as a legal minor:[24]

I authorize, request and permit Dr.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and any employees under their supervision to perform any and all dental services in order to preserve and restore my child’s oral health. Additionally, I authorize the use of medications, anesthetics, nitrous oxide, and x-rays deemed necessary in the course of treatment. I acknowledge the risks inherent in providing dental treatment which though sensible results ought to be expected, the likelihood and nature of complications can't be accurately anticipated, and therefore no guarantee of results will be expressed or silent. I recognize that during the course of treatment unforeseen circumstances may change the diagnosis of the original condition, which would necessitate an extension of the original procedure or a different procedure.

I am aware that sometimes it's extraordinarily tough to perform dental treatment on a baby thanks to an absence of cooperation. Different techniques are utilized to shape children’s behavior so they may receive treatment in an office setting. These techniques include positive reinforcement, voice control modeling,tell-show-do, voice control, restraint (by dental auxiliary, dentist or parent), and nitrous oxide. The back of this consent form has details of the various techniques listed. These techniques are used alone or in combination so the child can be treated safely. I authorize Dr. \_\_\_\_\_\_\_\_\_\_\_\_\_ and any employees under their supervision to utilize these shaping techniques if deemed appropriate and necessary.

I comply with report any health changes to the medical man before every visit. This consent shall stay fully force till off by either party.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature / Date

There may be occasions when we may take photographs of your child at our office. We may use these images in our office’s documentation, on our web site, in our newsletters, or for the purposes of teaching or scientific endeavors.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Parent’s Signature /Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness Signature / Date

ASSENT FOR GENERAL PAEDIATRIC DENTAL TREATMENT:

I authorize, request and permit Dr.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and any employees under their supervision to perform any and all dental services in order to preserve and restore my oral health. Additionally, I authorize the use of medications, anesthetics, nitrous oxide, and x-rays deemed necessary in the course of treatment. I acknowledge the risks inherent in providing dental treatment which though sensible results ought to be expected, the chance and nature of complications cannot be accurately anticipated and so no guarantee of results are often expressed or tacit. I recognize that during the course of treatment unforeseen circumstances may change the diagnosis of the original condition, which would necessitate an extension of the original procedure or a different procedure.

Please speak this over together with your folks before you opt if you would like to try and do treatment or not. I'll additionally raise your folks to present their permission for you to try and do treatment, however, although your folks say “yes,” you'll be able to still say “no” and choose to not bear the treatment.

I conform to report any health changes to the medical practitioner before every visit. This consent shall stay fully force till off by either party.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature / Date

There may be occasions when we may take photographs of you at our office. We may use these images in our office’s documentation, on our web site, in our newsletters, or for the purposes of teaching or scientific endeavors.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature /Date

Doctor’s Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CONCLUSION:

Being human beings, it’s our duty to serve the people. As dentists, we are privileged to help and serve our patients as a part of our profession. However, while and doing so, it becomes our duty to stay within the limits as set by the ethical principles. Without a solid ethical foundation, one cannot be a true professional. Without a solid ethical foundation, one cannot be a true professional.

In this current era of consumer satisfaction, dentists are increasingly facing legal challenges from dissatisfied patients. With this dynamic situation, doctors have to be compelled to adapt to things and should have to be compelled to face such legal tangles, that are intangible and troubling typically. It is imperative that all dentists should be aware of the medicolegal aspects of the field.

As the times are changing, the patients, as well as doctors, are becoming more aware of various treatments as well as their implications. Hence, the set of laws and principles that have been set up, help the doctors and dentists to carry out their practice according to the ethical principles that have been known since the Hippocratic times. They will, in the long run, help the doctor as well as the patient to be satisfied and have a more fulfilling practice.

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