

Consent in Dental Practice: Are We Legally Safe?

Rachit Khatana¹, Shruti Khatana², Neha Sikka³, Ranu Rathore⁴,
Suresh Soni⁵, Neetika Thukral⁶

¹Senior Resident (Dental), Dr BSA Hospital, Sector 6, Rohini, New Delhi - 110085.

²Senior Resident (Maxillofacial Surgery), AIIMS, Jodhpur - 342005.

³Assistant Professor, Department of Prosthodontics, Post Graduate Institute of Dental Sciences, PGIMS, Rohtak, Haryana - 124514.

^{4,5}Junior Resident (Dental), AIIMS, Jodhpur-342005.

⁶BDS, Krishna Dental College, Ghaziabad, Uttar Pradesh - 201005.

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Abstract

Objective: Evaluation of awareness about the importance of “patient consent” among practicing and postgraduate endodontists all over India.

Materials and Methods: A cross-sectional survey was conducted using a self-designed questionnaire containing 20 questions. A list of 120 practicing and postgraduate endodontists from all over India was prepared and the questionnaire was sent to them. Out of these, 100 responses were received, based upon which results were calculated and tables and charts were prepared accordingly.

Results: It was found that the maximum number of cases for which consent was taken was for root canal treatments and periapical surgeries whereas other procedures like bleaching, veneering, etc., were neglected. Only 26% endodontists were taking written consent for the procedures being done on patients and 45.4% found taking written consent time consuming. The greatest barrier which prevented from taking consent was a lack of proper format and guidelines for written consent.

Conclusions: There is a need for proper format and guidelines for written consent which should include all the information necessary to be given to the patient. Also, the importance of written consent and the laws under which the dental treatments come should be well understood and implemented by dental practitioners.

Keywords: Consent, Dental treatment, Patient, Laws, Dental practitioners

Introduction

The concept of consent comes from the ethical issue of respect for autonomy, individual integrity, and self-determination. In this advanced era of modern facilities and technology, people have become more and more aware about their rights as consumers.

Informed consent is an educational process, which focuses on patients' right to understand their medical status and the practitioner's proposed treatment plan along with the alternative treatment plans available and the risks involved. Informed consent is not just a legal duty to warn the patient about potential risks and obtain their signature on the dotted line.¹

Corresponding Author: Dr. Rachit Khatana, Dr BSA Hospital, Sector 6, Rohini, New Delhi - 110085.

E-mail Id: rachitkhatana20@gmail.com

Orcid Id: <https://orcid.org/0000-0002-4135-3158>

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The term *consent* means voluntary agreement, compliance, or permission. It is the legal issue that protects every patient’s right not to be touched or in any way treated without the patient’s authorization. The issue assumes that it is a right of mentally competent adults and of sound mind to determine what should be done with their body and the surgeon who performs operation without patient’s consent commits assault for which the surgeon is liable in damages.²

Informed consent is a legal regulation under which the dentist provides information to the patient about the various procedures with their advantages and disadvantages including the treatment plan. It is then up to the patient, if he/she is comfortable with the proposed treatment then based on this he/she can either refuse the treatment or give the dentist permission to proceed.

Currently, the medical and dental professions are facing an ever-increasing rate of malpractice suits. Patients facing such situations may seek legal aid for redressal of their grievances. Therefore, one of the most important legal safeguards and moral obligations of dentists to their patients is obtaining consent for any course of healthcare action.

Aim

Evaluation of awareness about the importance of “patient consent” among practicing and postgraduate endodontists all over India.

Materials and Methods

A cross-sectional study was chosen as it would meet the objectives of obtaining the information required for this study. The target study population was practicing and postgraduate endodontists all over India. To serve the purpose of this study, we prepared a list of 120 practicing and postgraduate endodontists from all over India.

A questionnaire was prepared consisting of 20 questions regarding the procedures in routine clinical practice for which consents are being taken, type, and format of consent. This questionnaire was designed to know the awareness among dentists about the importance of consent in clinical practice.

In order to conduct the survey, the questionnaire was mailed to all 120 endodontists out of which we received 100 responses. These responses were evaluated thoroughly and based on these, results were calculated and tables and charts were prepared.

Results

The results were calculated and arranged tables based on the questions (Tables 1–20).

Table 1. Procedures for which Consents Were Taken

Pulpotomy	15.3%
Root canal Therapy	46.9%
Bleaching	10.2%
Post and Core	25.5%
Veenering	11.2%
Endodontic surgeries	55.1%
Indirect and direct pulp capping	11.2%
All of the above	30.6%
None of the above	4.1%
Others	2%

Table 2. Type of Consents Taken

Verbal	15.6%
Written	26%
Both	58.3%

Table 3. Awareness of a Standardized Consent Form in Practice or in Department

Aware	61.5%
Not Aware	38.5%

Table 4. Copy of Consent Is Provided to Patients or Not

Provided	30.9%
Not Provided	69.1%

Table 5. If Anyone Came Across an Information Booklet for the Patient that Includes Various Treatment Options, Advantages, Disadvantages and Possible Complication for Each Dental Problem

Yes	48.4%
No	51.6%

Table 6. Greatest Barrier Preventing Dentists from Taking Consent

Language	17.3%
Age of patient	9.9%
Low literacy	24.7%
Lack of time	25.9%
Lack of guidelines	29.6%
Lack of format	46.9%
Don’t feel the need	4.9%
Others	2.5%

Table 7. Are All the Findings and Treatment to be Followed Noted on the Case Paper?

Yes	50%
No	7.1%
Sometimes	42.9%

Table 8. Which of the Following are Mentioned while Taking a Written Consent

Complications involved	55.3%
Advantages of procedure	47.9%
Disadvantages of procedure	52.1%
Possibility of failure of treatment	34%
Need for retreatment	40.4%
Adjunctive procedures	11.7%
Refusal of treatment	46.8%
Name of each procedure	17%
Others	2.1%

Table 9. Is Written Consent Time Consuming?

Yes	45.4%
No	54.6%

Table 10. Consent Is Taken for –

Each treatment in specific	45.8%
Complete treatment in general	49%
Separate for emergency procedures	34.4%

Table 11. Consent Forms Are Meant for –

To protect doctor	20.6%
To protect patient	0%
Both	79.4%

Table 12. Following Should Cover the Dental Treatment for Medico-legal Practices –

Consumer Protection Act	59.8%
Indian Penal Code	32.6%
Dentists Act	28.3%
DCI Guidelines	43.5%
IDA Guidelines	13%
Others	1.1%

Table 13. Before Taking a Radiograph, Is Patient Informed about the Amount of Exposure to Radiation and the Various Negative Effects It Can Have on the Health of the Patient?

Yes	33.3%
No	66.7%

Table 14. Which of the Following Are Explained to/ Take a Consent from the Patient?

Complications of local anesthetic	60.4%
Allergic reactions to dental material	58.3%
Effect of medical comorbidities (like diabetes, etc.)	33.3%
Drug interactions	42.7%
Consent for pregnant patients	39.6%
Special consent for pediatric patients	12.5%

Radiation from radiographs	25%
Drug allergies	45.8%
Others	4.2%

Table 15. Is the Past/Present Medical and Dental History of Patient including Pregnancy Status Always Documented?

Yes	73.2%
No	26.8%

Table 16. Which of the Following the Patient Is Informed about Before Root Canal Treatment?

Success rate	80%
Failure rate	72.6%
Possibility of missed canals	16.8%
Instrument separation in the canals	41.1%
Blocked root canals that cannot be ideally completed	31.6%
Perforations	16.8%
Incomplete healing	30.5%
Tooth and/or root fracture that may require extraction	28.4%
Fracture, chipping, or loosening of existing tooth or crown	26.3%
Post-treatment discomfort	58.9%
Others	1.1%

Table 17. Which of the Following Is Documented?

Name of drug/medication given	63.5%
Dose or amount given	55.2%
Duration	31.3%
Any parallel medication	27.1%
Any side effects noted	49%

Table 18. Which of the Following Equipment Is Available in Department/Dental Practice?

Emergency drug tray	78.9%
Cannula set	14.7%
Oxygen mask	21.1%
Oxygen cylinder	17.9%
Oropharyngeal airway	6.3%
BP apparatus	68.4%
Stethoscope	51.6%
IV fluid set	44.2%
Adrenaline ampule	33.7%
Defibrillator	5.3%
Emergency contact numbers chart	60%
Fire extinguisher	57.9%
Others	2.1%

Table 19. Which of the Following Complications Are Encountered in Practice?

Missed canals	34.7%
Perforations	31.6%
Calcified canals	51%
Transportation	30.6%
Allergic reactions	20.4%
Broken instrument in canal	57.1%
Ledge formations	35.7%
Zippering	16.3%
Soft tissue burns	13.3%
All of the above	31.6%
Others	0%

Table 20. Which Method Is Used for Sterilization?

Boiler	14.3%
Hot air oven	8.2%
Autoclave	96.9%
Formaldehyde	4.1%
UV sterilizer	48%
Ethylene oxide	1%
Glass bead sterilizer	32.7%
Others	1%

Discussion

The study was able to provide a better understanding about awareness of the importance of consent among the dental professionals and brings into light the main factors that are responsible for consent not being taken by all the professionals.

Consent and Its Importance

There are two main purposes of taking consent from the patient:

Legal: Legal importance of consent in clinical practice lies to prevent the dentists from being sued for the mishaps that happen unintentionally during the treatment and for which dentists are considered responsible as the patient and their family were not aware about the chances of the mishaps to happen during the treatment.

Moral: On moral grounds, an adult and mentally sound individual has all the rights to take decision about the healthcare services they need to avail based on the discussion they have with their dentist regarding the treatment procedure, alternative treatment available, and the risks involved.

Types of Consent

Implied Consent: Implied consent refers to when a patient passively cooperates in a process without discussion or

formal consent.³ It is a duty of the dentist to work on the basis of consent, which is implied either by words or by behavior of the patient or by the circumstances under which the treatment is given. Though an implied consent is not written and its existence is not expressly asserted but nonetheless, it is legally effective. It implies consent to medical examination in a general sense, i.e., when a patient approaches the dentist for treatment, it is presumed that there is consent for routine physical examination.

Expressed Consent: Expressed written consent should be obtained for all major diagnostic procedures, general anesthesia, for surgical operations, intimate examinations, and examination for determining age, potency and virginity, and in medico-legal cases. It should be obtained when the treatment is likely to be more than mildly painful, when it carries appreciable risk, or when it will result in diminishing of a bodily function.⁴

Expressed consents are of two types: oral and written.

When the patient expresses his consent verbally it is termed as 'oral or verbal expressed consent' and when it is expressed in writing, it is known as 'written'/expressed consent.

Proxy Consent (Substitute Consent): This type of consent is utilized in the event the patient is unable to give consent because he/she is a minor or is mentally unsound/unconscious. In such situations, a parent or a close relative can provide proxy consent.⁵

Informed Consent: All information must be explained in comprehensible non-medical terms, preferably in local language, about-diagnosis, treatment plans, alternatives of treatment, risks involved, prospects of success, and prognosis.

Consent is not considered justifiable if:⁶

- Patient's age is under 18 years
- Patient's mental status is not sound
- Provided by a patient under fear, fraud or misrepresentation of facts
- Provided by a patient who is ignorant of the implications of the consent
- If forced consent is taken for illegal surgical procedure
- Patient who is unaware of harmful consequences of treatment

Conditions When Consent Is Not Required⁶

- In case of emergency, when treatment is necessary to save the life of the patient
- Under section 92 of the IPC, treating without consent is permissible if patient is unconscious, is of unsound mind, gravely sick, and there is no attendant with the patient

- In medico-legal cases brought by the police, consent is implied under Section 53 of Criminal Procedure Code, hence can be examined
- Examination under court order

Conclusion

Under limitations of this study, following conclusions are drawn:

- Procedures such as RCT and periapical surgeries are the ones for which consents are being taken by the dentists while the other procedures such as bleaching, veneering, restorations, DPC, IPC, are usually ignored.
- Written consent is being taken by only 26% dentists while 45.4% dentists consider that taking written consent is not valuable and it leads to wastage of procedural time.
- The main reason because of which written consent is not being taken is lack of proper format and guidelines for consent

So, there is a need that proper format and guidelines for written consent should be made available in all institutions and clinical settings, which should include all the information necessary to be given to the patient.

Also, the dentists should be made aware of importance of written consent and the laws under which the dental

treatments come, through seminars, conferences and discussions. This will not only safeguard the dentists from the medico-legal implications but also preserve and respect the patient's right to take decision regarding their health and the treatment that they have to undergo.

Conflict of Interest: None

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