

Sedation, Anesthesia and the Practice of Dentistry

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The administration of anesthesia and other types of sedation is a common part of the provision of dental care. Dentists throughout the country routinely administer sedation, local anesthesia, and general anesthesia while performing both diagnostic and therapeutic procedures. In order to administer anesthesia, dentists and other healthcare providers must comply with their respective state laws and regulations, as well as with the applicable rules and education requirements of their state licensing boards.

The level of sedation administered by dental providers varies based on the procedure being performed and the patient's individual needs. For each level of sedation, state law typically requires the qualified professional that is anesthetizing the patient to have the training and drugs required and approved by the appropriate agency for the specific patient receiving treatment. For instance, special considerations may apply to pediatric dentistry patients. This article provides an overview of various aspects of the administration of dental anesthesia by examining the statutes, rules, and regulations of the states of California, Texas, and Georgia, and their respective dental boards.

I. Levels of Dental Sedation and Anesthesia

Many dental boards across the country include in the definition of the "practice of dentistry" administering, prescribing, or dispensing anesthesia in any way related to the evaluation, diagnosis, prevention, and or/treatment of conditions of the mouth, teeth and associated areas of the body by a dentist. Accordingly, the administration of sedation or anesthesia is often within the practice of dentistry and subject to the rules of the appropriate dental board.

Dental boards often regulate and define the types of anesthesia and sedation used in the practice of dentistry by describing the impact each level of sedation or anesthesia has on an applicable patient. These regulations include the level of anesthesia administered by a treating dentist, which may range from minimal sedation to general anesthesia, depending on a variety of factors, including the procedure being performed and the age and health of the patient.

1. Sedation is often considered the lowest level of service provided to dental patients. In many cases, dentists use dental sedation to reduce a patient's anxiety in order to facilitate the provision of the necessary dental treatments on the patient.²

Many dental boards further delineate the type of sedation used by classifying it as minimal, moderate or deep based on the impact it has on the patient's ability to respond to verbal commands and maintain breathing without intervention.³

2. Local anesthesia is typically considered the intermediate level of services provided to dental patients. Local anesthesia is used to numb a small area and is administered by injecting or topically applying an anesthetic where an incision will be made. The American Society of Dentist Anesthesiologists notes that when local anesthesia is used alone, it poses the least number of risks.⁴

3. Finally, general anesthesia is the highest level of service provided to dental patients. General anesthetics, which are used for more invasive procedures, cause patients to enter an unconscious state during which the patient is unaware of his or her surroundings, does not feel pain, loses the ability to move, and does not remember the period of time during which he or she is anesthetized.⁵

II. Regulation of In-Office Dental Anesthesia (A Georgia Case Study)

The level of deep sedation and general anesthesia that may be administered in an in-office setting often varies based on the rules of each state's dental board. For example, the Georgia Board of Dentistry specifies certain guidelines that apply to the administration of deep sedation/general anesthesia in-office or in a site approved by the Georgia Board of Dentistry.⁶

Examples of these rules are discussed below, but each dental provider should review their applicable dental board's rules before providing anesthesia in any setting.

In Georgia, when deep sedation or general anesthesia is utilized, a Georgia dentist must maintain "a properly equipped facility for the administration of deep sedation/general anesthesia, staffed with appropriately trained and supervised personnel."⁷

Moreover, the Georgia Board of Dentistry requires that the facility where the deep sedation/general anesthesia is administered have available certain specific medical equipment and supplies, including but not limited to, "equipment capable of delivering positive pressure oxygen ventilation, ... an operating table or chair that allows for the patient to be positioned to maintain an airway, ... appropriate emergency drugs per [advanced cardiac life support] protocol including reversal agents for narcotics and/or benzodiazepines depending on which is actually utilized, a manual or automatic external defibrillator, and a recovery area with available oxygen and suction."⁸

The dental facility where the anesthesia is administered must also have continual monitoring of end tidal CO₂ (expired carbon dioxide) unless invalidated by the nature of the patient, procedure or equipment.⁹

In addition to setting requirements for the supplies and equipment that must be available at a facility where deep sedation/general anesthesia is administered, the Georgia Board of Dentistry rules require the operating dentist and the staff must be "certified in cardiopulmonary resuscitation at the basic life support level given by a board-approved sponsor with an update not to exceed two years per board rules."¹⁰

The specific requirements vary widely by state on the equipment necessary in-office, the staff members who must be present or available and their levels of training, and the education of the dentist administering the anesthesia. These regulations should be researched thoroughly prior to administering any types of sedatives or anesthetics to patients in-office at a dental facility.

III. Regulation of Anesthesia Providers (Examining California, Texas and Georgia Rules)

Many states require that dentists seeking to administer dental anesthesia apply for a permit from the dentist's licensing Dental Board. For example, the Dental Boards of California, Texas, and Georgia all have permit requirements for the administration of dental anesthesia that vary based on the education and experience of the person administering the anesthesia and the level of sedation at issue.

As a specific example, the Dental Board of California has promulgated separate requirements for the administration of general anesthesia and (moderate) conscious sedation, than those for oral conscious sedation. California does not require a licensed dentist in California to hold a general anesthesia or conscious sedation permit if the person directly administering the general anesthesia or conscious sedation in that dentist's office is a licensed dentist, physician, or surgeon who possesses a general anesthesia or conscious sedation permit, as may be applicable to the type of anesthesia services being provided.¹¹

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To obtain a general anesthesia or conscious sedation permit in California, a licensed dentist must complete either a Board-approved residency program in general anesthesia lasting at least one calendar year, or a graduate program in oral and maxillofacial surgery which has been approved by the Commission on Dental Accreditation, in addition to meeting the other requirements set forth by the Dental Board of California.¹²

To administer oral conscious sedation in California, a dentist is not required to possess an oral conscious sedation certificate if the oral conscious sedation administered to his or her patient is directly administered and monitored by a dentist who possesses a general anesthesia permit, a conscious sedation permit, or an oral conscious sedation certificate for a minor patient or is administered by a licensed physician and surgeon who possesses a general anesthesia permit.¹³

A dentist who only possesses an adult oral conscious sedation certificate may not provide oral conscious sedation to a minor patient.¹⁴

A. *Delegation by Dentist*

Pursuant to the rules of the applicable dental board, dentists may delegate certain duties, including the administration of dental anesthesia, to qualified professionals who meet the requirements specified by the board. Under the rules of the Texas Board of Dentistry, a dentist licensed in Texas may only delegate the authority to administer anesthesia or other forms of sedatives to: (i) a licensed dentist with a permit issued by the Texas Board of Dentistry for the procedure being performed (if permit is required); (ii) a certified nurse anesthetist (CRNA) licensed by the Texas Board of Nursing, only if the delegating dentist holds a permit issued by the Texas Board of Dentistry for the procedure being performed, if a permit is required; or (iii) a physician anesthesiologist licensed by the Texas Medical Board.¹⁵

A delegating dentist remains responsible for the dental act performed by the person to whom the dentist delegates the act.¹⁶

B. *Supervision of Non-Dentists*

Whether a certified nurse anesthetist may administer anesthesia for a dental procedure without dentist supervision depends on the jurisdiction where the CRNA is licensed. Currently, some states permit CRNAs to practice independently without the need for a written collaborative agreement, direct supervision, or without certain conditions of practice.¹⁷

Other states require that a CRNA enter into a written agreement with a supervising dentist specifying the scope of the CRNA's practice or the level of direct supervision required.

Understanding the regulations of the state boards of nursing and dentistry relevant to sedation, anesthesia, delegation, supervision, and scope of practice is important for dentists and CRNAs administering dental anesthesia. For example, under the regulations of the Georgia Board of Dentistry, an operating dentist must have completed training and must hold a valid conscious sedation permit issued by the Georgia Board of Dentistry that incorporates "the level and mode of sedation administered by the CRNA" in order for a CRNA to practice "under the direction and responsibility of a dentist for the administration of conscious sedation."¹⁸

Similarly, in order for a CRNA to be properly authorized to administer deep sedation or general anesthesia under the direction and responsibility of a dentist, the operating dentist must have "completed training in deep sedation/general anesthesia, commensurate with" the rules of the Georgia Board of Dentistry.¹⁹

IV. Acquisition and Storage of Controlled Substances

The Drug Enforcement Administration (DEA) requires every person who handles controlled substances to register with the DEA or be exempt by regulations from registration. Therefore, every dentist or mid-level practitioner who administers anesthesia must register with the DEA in order to handle the controlled substance. Lidocaine, which may be injected or applied topically, is one of the most commonly used local anesthetics in dentistry.²⁰

Stronger anesthetics used in dental procedures include propofol and fentanyl (a Schedule II controlled substance).²¹

DEA regulations and federal law require that all persons registered to handle controlled substances provide effective controls and procedures to guard against theft and diversion of the controlled substances.²²

The DEA Practitioner Manual lists several factors used to determine the adequacy of security controls. These factors include: (i) the location of the premises and the relationship such location bears on security needs; (ii) the type of building and office construction; (iii) the type and quantity of controlled substances stored on the premises; (iv) the type of storage medium (safe, vault, or steel cabinet); (v) the control of public access to the facility; (vi) the adequacy of registrant's monitoring system (alarms and detection systems); and (vii) the availability of local police protection.²³

The DEA also places restrictions on who dentists may employ that will have access to controlled substances based on that person's criminal record and prior history with the DEA. The DEA instructs practitioners to notify the DEA upon discovery of any thefts or significant losses of controlled substances. Understanding federal and state controlled substance requirements is important when hiring a dentist, opening a new site, or conducting procedures that require the use of controlled substances.

V. Risks Associated with Improper Anesthesia and Resulting Legislation

The improper administration of anesthesia may be harmful to patients and could result in a dental board investigation that could lead to the suspension or termination of a dentist's license to practice dentistry, and a medical malpractice action against the dentist.

In September 2016, the California legislature passed Caleb's Law, which became effective on January 1, 2017. Caleb's law governs the use of general anesthesia, conscious sedation, and oral conscious sedation for both pediatric and adult patients.²⁴

Caleb's law requires pediatric dentists to include specified information about general anesthesia or conscious sedation when obtaining the parent's written informed consent.²⁵

Additionally, Caleb's Law requires that dentists report the report of the death of a patient, or removal of a patient to a hospital or emergency center for medical treatment, on a form or forms approved by the California Dental Board.²⁶

Such report must include information specified in the law, including but not limited to, the category of the provider monitoring the patient during the period of sedation, the category of the provider administering the sedation, the complications that occurred, and a description of what was unexpected about the airway management.²⁷

As a follow-up bill to Caleb's Law, the California legislature is expected to vote on Assembly Bill 224, a comprehensive dental anesthesia law which would increase regulation around the administration of dental anesthesia and sedation to pediatric patients and directly impact the way dentists administer sedation and anesthetics.²⁸

If enacted, Assembly Bill 224 will require dentists administering anesthesia to patients younger than thirteen years old to have a pediatric endorsement of their general anesthesia permit and to have completed an approved residency training program to develop competency in the administration of deep sedation or general anesthesia.²⁹

Assembly Bill 224 also specifies additional requirements for dentists administering sedation or anesthesia to patients under seven years of age. Among these additional requirements for patients under seven is the requirement that dentists complete at minimum 20 cases to establish competency and perform a physician evaluation and a medical history of the patient prior to administering deep sedation or general anesthesia.³⁰

Notably, Assembly Bill 224 would change the staffing requirements of a dental office administering deep sedation or general anesthesia to patients between seven and thirteen years old by requiring that the dentist and at least two

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support staff be present, except as specified in the law. The dentist and at least one support staff would also be required to have certain advanced life support and airway management training.³¹

For patients under seven, Assembly Bill 224 further requires that an operating dentist, an assistant, and a dedicated monitor (as defined in the Bill and subject to certain advanced life support and airway management training) be present during such procedures.³²

California Assembly Bill 224 passed the Assembly floor on May 31, 2017 and is expected to be voted on by the California State Senate Committee on Business, Professions, and Economic Development this June 2017.³³

Conclusion

The statutes and regulations governing the administration of sedation or anesthesia in the practice of dentistry are specific to the governing state dental boards and may vary widely by state. Prior to administering anesthesia in a dental facility, dentists should understand the various licensing and training, delegation and supervision, and controlled substance requirements promulgated by the state, the dental board, and other governing agencies.

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² *Sedation*, AM. SOC'Y OF DENTIST ANESTHESIOLOGISTS, <http://www.asdahq.org/sedation> (last visited June 16, 2017).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ See Ga Comp. R. & Regs. 150-13.

⁷ Ga Comp. R. & Regs. 150-13-.01-.02.

⁸ Ga Comp. R. & Regs. 150-13-.02(3).

⁹ *Id.*

¹⁰ *Id.* at (2)(a).

¹¹ 16 CCR § 1043.1.

¹² *Id.*

¹³ 16 CCR § 1044.1.

¹⁴ *Id.*

¹⁵ TEX. STAT. CODES ANN., OCCUPATIONS CODE § 258.001(4).

¹⁶ TEX. STAT. CODES ANN., OCCUPATIONS CODE § 258.003.

¹⁷ See *CRNA Independent Practice Map*, NAT'L COUNCIL OF ST. BOARDS OF NURSING, <https://www.ncsbn.org/5404.htm> (last visited June 16, 2017).

¹⁸ Ga Comp. R. & Regs. 150-13-.01(6)(c).

¹⁹ Ga Comp. R. & Regs. 150-13-.02(2)(b).

²⁰ *Local Anesthesia*, AM. SOC'Y OF DENTIST ANESTHESIOLOGISTS, <http://www.asdahq.org/local> (last visited June 16, 2017).

²¹ U.S. DEP'T OF JUSTICE, DRUG ENF'T AGENCY, *Controlled Substances Schedules*, <https://www.deadiversion.usdoj.gov/schedules/> (last visited June 16, 2017).

²² 21 C.F.R. § 1301.71(a).

²³ UNITED STATES DEP'T OF JUSTICE, DRUG ENFORCEMENT ADMIN., PRACTITIONER'S MANUAL, SECTION III SECURITY REQUIREMENTS, https://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract_manual012508.pdf (last accessed June 19, 2017).

²⁴ A.B. 2235 (Sept. 23, 2016), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2235 (last visited June 19, 2017).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ A.B. 224 (Jan. 26, 2017), http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB224 (last visited June 19, 2017).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ See CALEB'S LAW, <http://www.calebslaw.org/current-bill/> (last visited June 16, 2017).