Informed Consent

• Long gone are the days when patients would enter a dental office, sit quietly in an operatory and allow the dentist to perform whatever treatment he deemed necessary, and then pay the fee in full on the way out…no questions asked.

• Today’s patients are better educated, more informed and less trusting than the patients 30 years ago.
  – They want to know:
    • Exactly what their options are
    • How much it will cost
    • What will happen if they don’t receive the prescribed treatment
    • How long they can prolong expensive restorative treatment before serious damage occurs.
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• There is also the added factor of dental insurance coverage. Patients are often swayed by coverage benefits rather than prescribed treatment.

  – This leaves the dentist open to future litigation should the patient complain he or she was inadequately informed of options or risks if the practice has no documentation detailing this discussion took place.
Informed Consent

• What actually is an Informed Consent?
  – Informed Consent is defined as: “a person’s agreement to allow something to happen, made with full knowledge of the risks involved and the alternatives”

• Dentists need to understand that informed consent is no casual issue.
  – Although procedures such as root canal therapy and extractions seem obvious when it comes to the need for informed consent, dentists often overlook or take for granted minor procedures such as fillings and local anesthesia that also require informed consent.
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• Informed consent protects not only the patient, but the doctor as well.

  – In the eyes of the law, dentists are experts in their field and bear a duty to their patients to educate them about their condition and the treatments or procedures available to them as well as the risks involved if proper treatment is not completed.
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• What treatments require an Informed Consent?
  – any procedure that is “invasive or irreversible” requires informed consent

• The mouth is an extremely dynamic environment, subject to the forces of the tongue, lips, cheeks and teeth.
  – Any change to that environment, even with the best of intentions, may lead to unwanted results
  – Those possibilities need to be presented to the patient and documented in writing
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• In some cases, informed consent may be in the form of an “informed refusal.”

• For example: If a patient specifically states that they wish to forgo diagnostic procedures such as radiographs or periodontal probing.
  – The dentist’s focus should immediately turn to “informed refusal”
  – Patients must be informed that refusing radiographs may lead to undetected decay, abscesses or bone loss, and that refusing periodontal probing will prevent an accurate assessment of periodontal health which may lead to eventual shifting of the dentition or complete tooth loss.
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• Patients, especially those that are pain-free, often fail to understand the need for certain diagnostic procedures, but once informed of their importance either submit to the procedure or agree to sign an “informed refusal.”
  – In either instance, it is a win-win situation for both patient and dentist.
  • If the patient submits to the diagnostic procedure, then an accurate diagnosis can be made
  • If the patient refuses the diagnostic procedure, there is written documentation proving that the need was discussed between doctor and patient.
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• What information is needed for an Informed Consent?
  – It is NOT sufficient that a dentist simply document in the chart that he “went over all risks of treatment and the patient understands.”

• Specific risks must be written down, and patients must be given the opportunity to discuss with the doctor and question those issues which they do not understand.
  – It is highly recommended that the dentist have informed consent verbiage prepared for each procedure that is performed in the office.
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• Although there is no mandatory set format for how an informed consent should be written, there are several key points that should be included:
  – A description of the procedure to be performed
  – A list of the risks involved in the procedure
  – Alternative treatment options and the risk of delaying or declining treatment
  – Wording to the effect that the patient agrees that he or she understands the risks involved in the procedure and has had the opportunity to discuss such risks with the dentist
  – Signatures (and dates) from the patient and a witness
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• For dentists who do not feel comfortable putting together their own informed consent verbiage, it is best to either consult an attorney or contact a malpractice carrier.
  – FYI: Most malpractice insurance carriers will be happy to help with this endeavor.
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• Patterson EagleSoft allows the doctor to create the Informed Consent record directly from the treatment plan screen.
  – Radiographs, images, notes and viewed CAESY presentations can be easily stored within this record.
  – Auto notes can be created to easily add the necessary informed consent narratives.

• The patient and office staff (witness) can then digitally sign the agreement and it can (and should) be stored in SmartDoc to become a permanent part of the patient record.
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• At first glance, most patients appear friendly and most dental procedures appear routine, but once a procedure goes bad, an unhappy patient with a skilled attorney can turn into a dentist’s worst nightmare.
  – A signed, written informed consent may be the only evidence that the mishap that occurred was a foreseeable risk acknowledged by the dentist and accepted by the patient.
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• Keep in mind that while the idea of informed consent is universal, laws may vary by state.
  – If you have questions about the legality of informed consent in your state, you should consult your attorney.