

Submitted via online form 12 July 2024



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Review of the Act and Code 2024

We have concerns with the proposal to change Right 7 (6) c:

- To expand the requirement for written consent for sedation that is equivalent to anaesthetic, away from general anaesthetic;
- And, requiring written consent before induction of a general anaesthetic isn't appropriate or possible in some acute circumstances.

Our feedback is that this that this Right should:

- Be clear that a general anaesthetic is not sedation, to give consumers clarity.
- Consider levels of sedation to avoid unnecessary increases in workloads and impact patient flow.
- Allow for acute circumstances when written consent for a general anaesthetic may not be possible.

Sedation and general anaesthetic are on a spectrum.

Mild sedation, usually achieved by the oral route, occurs in many settings and would only require verbal consent, e.g. oral sedation for dental work, to facilitate MRI and CT scans. These oral medications may not even be prescribed by the person completing the procedure and may be taken by the patient before arrival to facilitate the procedure. Requiring written consent for such sedation will significantly increase workload and impact flow without necessarily improving patient safety.

However, intravenous (IV) sedation can quickly move from moderate-to-deep-to-general anaesthesia. A patient must understand what they are being offered and the risks that come with IV sedation.

Anaesthetists see many patients in their work who have had sedation for a procedure but were expecting a general anaesthetic. They then believe they were not given enough because they can remember things. Setting expectations is already part of the consent process for sedation and this may be enhanced by having it specifically mentioned here in the code.

We recommend the currently proposed: ***the consumer will be given medication designed to alter their level of consciousness, or awareness or recall, for the purpose of undertaking the procedure.***

Instead, be changed to: ***The consumer will be given medication designed to achieve moderate or deep sedation or general anaesthesia.***

This change would need a definition of sedation levels and a useful guide may be the [ANZCA PG09 Guideline](#) that defines sedation levels as:

- Minimal: A drug-induced state of diminished anxiety, during which patients are conscious and respond purposefully to verbal commands or light tactile stimulation.
- Moderate: A drug-induced state of depressed consciousness during which patients retain the ability to respond purposefully to verbal commands and tactile stimulation.
- Deep: A drug-induced state of depressed consciousness during which patients are not easily roused and may respond only to noxious stimulation.

This Right should also allow for certain acute circumstances when it may not be appropriate or possible to document written consent prior to induction of anaesthesia. An example of this would be an emergency general anaesthetic caesarean section. Requiring written consent could delay an emergency procedure with a risk of morbidity and mortality. In these circumstances, informed consent can be obtained verbally, and must be documented as such. This could be expressed through an exception to this Right with the requirement that informed consent is still attained as per Rights 7(1-3) and accurately documented.