

Report of the Special Committee on Sedation Dentistry to the 2025 Kansas Legislature

CHAIRPERSON: Representative Will Carpenter

VICE-CHAIRPERSON: Senator Beverly Gossage

OTHER MEMBERS: Senators Larry Alley, Renee Erickson, Carolyn McGinn and Pat Pettey; and Representatives Emil Bergquist, Doug Blex, Ron Bryce, Kirk Haskins, and Cindy Neighbor

STUDY TOPIC

The Committee is directed to consider the current availability of sedation dentistry services for Medicaid beneficiaries in the state and the challenges in accessing and providing those services. Such review will include:

- Soliciting testimony from Medicaid beneficiaries, providers, and other stakeholders regarding the accessibility and availability of sedation dentistry services;
- Identifying challenges faced by stakeholders in providing or accessing sedation dentistry services; and
- Making recommendations to the 2025 Legislature on matters related to sedation dentistry.

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Special Committee on Sedation Dentistry

REPORT

Conclusions and Recommendations

The Special Committee on Sedation Dentistry recommends:

- Reviewing the scope of practice of certified registered nurse anesthetists to determine if the authority to procure their own medicines under a U.S. Drug Enforcement Administration license could be included;
- An overall rate increase for dental providers, including allowing for the reimbursement of partial services that do not result in a dental service being provided;
- That the Kansas Department of Health and Environment (KDHE) share with the Committee the Sedation Dentistry Report totals using the current Missouri rates as well as rates that are 80 percent of the usual and customary rate;
- That KDHE provide a fiscal note regarding the cost to raise the dental code G0330 to the current Medicare rate of \$3,087 and index the full rate in future years to the current Medicare reimbursement rate;
- Providing a complete and accurate list of dental providers and anesthesiologists providing sedation dentistry that parents and other providers can easily access and know who they can call for assistance;
- Consumer education regarding the importance of the connection between dental care and overall long-term health care;
- Exploring dental incentives with the intention of recruiting more dentists in the KanCare program; and
- Support for the My Dental Care Passport.

Proposed Legislation: None.

BACKGROUND

The Special Committee on Sedation Dentistry (Committee) was created by the Legislative Coordinating Council (LCC). The LCC directed the Committee to request testimony from Medicaid beneficiaries, providers, and other stakeholders on the accessibility and availability of sedation dentistry services and identify challenges experienced in either providing or accessing

sedation dentistry. The Committee was granted one meeting day during the 2024 Interim.

COMMITTEE ACTIVITIES

The Committee met on October 10, 2024, and heard testimony from multiple providers, individuals, and organizations on the topic of sedation dentistry in Kansas.

Presentation on the Kansas Medicaid Sedation Dentistry Report

The Director of Kansas Medicaid on behalf of the Kansas Department of Health and Environment (KDHE) presented key points of the 2024 Sedation Dentistry Report. She reviewed the current Medicaid dental codes for sedation dentistry and provided information on the location of dentists using sedation by county as well as the utilization rate for 2023. Additionally, she advised the Committee that the dental codes are currently under review by Oral Health Kansas to determine the sufficiency of available codes as well as the permitted billing amount for the code.

Presentations on Sedation Dentistry by Providers

Dentists

The Committee heard oral testimony from two Kansas dentists who provide sedation dentistry services for Medicaid patients and received written-only testimony from the Kansas Dental Association. The providers identified two patient populations most in need of sedation dentistry: special needs patients of all ages and pediatric patients.

The dentists reviewed the three types of conscious sedation used in dentistry: nitrous oxide, oral conscious sedation, and intravenous (IV) sedation. One provider identified the patient's level of anxiety, the length of the procedure, and the patient's health history as factors in determining the level of sedation needed. He stated that, in some cases, general anesthesia, a type of unconscious sedation, may be necessary in a hospital or ambulatory surgery center when treating young children, adults with special needs, or people with severe dental anxiety.

He further stated that young children from lower socio-economic levels and children who are members of minority groups are at risk for severe early childhood caries and advised the Committee that, according to the U.S. Centers for Disease Control and Prevention, children from low-income families are twice as likely to have cavities as compared with children from higher-income households and have the most difficulty finding dental care.

The providers stated there are 1,500 licensed dentists in Kansas but many are not part of the KanCare network. The reimbursement provided by KanCare is at 40.0 percent of the billed fee. This is a challenging economic model for dentists as the reimbursement may be below the actual cost of the care provided.

It was noted that the educational requirements for a pediatric dentist are different from those of a general dentist and that pediatric dentists are less likely to practice in rural areas. The conferees also stated many patients with special needs may receive care from a pediatric dentist but, once the patient becomes an adult, it is difficult to find a general dentist who provides care in either their location or under KanCare.

The providers also shared their experiences of working with patients with special needs, noting that this population has different behavioral, medical, and physical responses than the general population. These characteristics require dental practices that treat patients with special needs to manage practice resources differently to ensure sufficient time and equipment, appropriate patient care, and appropriate staffing levels, to ensure that the practice is ready to treat the patient as scheduled.

It was highlighted that the billing codes in Kansas Medicaid do not permit billing for behavioral management services or the use of sedation if the dental treatment is not fully completed. The conferee shared that, in some cases, a patient may be prepared for treatment but, for a reason beyond their control, the planned dental treatment cannot be completed for the patient that day. Private insurance generally does permit the billing of the provided services even if the planned dental treatment was not completed. It was further noted the federal government mandates that access to care for patients covered by Medicaid be on par with access to care for patients covered by private insurance and, in their opinion, this has never been the case in Kansas.

Certified Registered Nurse Anesthetists

The Committee heard testimony from two certified registered nurse anesthetists (CRNAs) who provide anesthesia services during sedation dentistry procedures both in office and in hospital

settings. The providers highlighted the concern that the current KanCare reimbursement process does not encourage or incentivize dentists or other providers to participate in the program. Their observation is that a dental practice is able to participate in KanCare only if their private insurance practice is abundant enough to balance out the administrative burden of KanCare billing and the longer reimbursement time period, as well as the lower reimbursement rates.

The conferees also expressed concern that Kansas does not have a sufficient professional network in KanCare to provide dental care to vulnerable populations, specifically the dual-eligible special needs adult population. Concern was expressed about availability of care for the young U.S. residents without legal immigration status brought to the United States as children who are more likely to have high dental needs, as well as that dentists do not have equal hospital privileges or operating room availability. It was also noted that hospitals do not have any incentives to recruit dentists to address dental-related issues that patients may have during an emergency room or other hospital stay. In addition, it was noted that, due to the reimbursement structure for sedation dentistry, providers may need to subsidize some professional services when it is offered at the provider's facility.

The providers suggested that solutions be formulated around the following:

- Retaining and attracting new dentists to participate in KanCare by raising the dental reimbursement rates to be similar to those in Missouri;
- Providing an increased reimbursement rate to providers of sedation dentistry after five years of participation in KanCare;
- Allowing existing dental clinics at Kansas Neurological Institute and Parsons State Hospital and Training Center to see special needs children and adults outside their facilities and to bill Medicaid for those services;
- Encouraging federally qualified health centers to see special needs adults for

dental care and to provide sedation services on a routine basis;

- Addressing the disparity between Medicaid reimbursement rates and Medicare reimbursement rates as the current Medicaid rate is insufficient to cover costs; and
- Allowing mobile anesthesia providers to bill KanCare by creating a billing code for mobile sedation services.

Surgical Center

The Director of Surgery and Specialty Clinic Manager (Director) of the South Central Kansas Medical Center (SCKMC) provided insight regarding facilities used in the sedation dentistry process.

She stated that most patients who require dental work to be performed outside of a typical dental facility have severe cognitive, behavioral, or physical disabilities or some combination of those. Before a patient is permitted to undergo surgery in a hospital, the patient must complete a medical history and physical examination within 30 days of the surgery date. This documentation is submitted to the anesthesia and surgery medical teams two weeks prior to the surgery so they can evaluate the patient and develop a care plan, as well as identify any additional testing that may be needed prior to surgery. The surgical teams will also formulate a backup plan for the patient if the procedure does not proceed according to the original surgery plan.

She walked the Committee through the day of surgery and highlighted that, often, due to the high needs of the patient, the facility needs additional staffing. A typical team for a high-needs patient includes two anesthesia providers, two registered nurses, a surgical technologist, and the necessary dental staff. Additional concerns for these types of procedures include the challenging moments of intubation and extubation and longer hospital stays for monitoring, due to the complexity of the health needs.

The Director noted that other health care needs are addressed as necessary but the care team does

not always receive reimbursements for these additional services.

The Director stated SCKMC serves patients from all over Kansas because it is one of the few facilities in Kansas that provides sedation dental care for the adult special needs population. She cited the low Medicaid reimbursement rate combined with the increased time, risk, and effort involved for providing this service as the main reason for the lack of providers in the state.

Presentations on Sedation Dentistry by Individuals and Organizations

The Committee heard testimony from three private citizens regarding sedation dentistry. Two private citizens and the organization InterHab provided written-only testimony to the Committee.

The conferees shared stories of their families' experience with sedation dentistry. They noted that the availability of sedation dentistry (especially through a KanCare provider) and regular dental care decreased when the family member became an adult although the need for the service was just as high.

The private citizens shared how the My Dental Care Passport (passport) tool provided both their families and the dental provider insight into their prior experiences and made changing dental providers an easier process. [Note: A description of the passport was provided by the Oral Health Kansas Medicaid Projects Manager, summarized below.]

The testimony highlighted the challenge of finding providers who accept KanCare and patients with special needs, noting that a lot of time was spent contacting providers who were listed as KanCare providers who were not willing to accept special needs patients.

Sedation Dentistry Status and Innovations to Consider

The Medicaid Projects Manager and the Executive Director of Oral Health Kansas, Inc., shared that sedation dental care access is a persistent and complex issue. The representatives identified a combination of the lack of KanCare dental providers and the lack of providers who see

individuals with disabilities as reasons that Kansans with disabilities have the greatest barriers to dental care, particularly adults with disabilities.

One identified barrier is the limited participation by dentists in the KanCare dental program. The American Dental Association estimates only 39 percent of dentists in Kansas participate in Medicaid, while the national average is 43 percent. The Medicaid Projects Manager noted that recent data from KDHE shows that less than 15 percent of Kansas dentists see 100 KanCare patients and only 13 percent of Kansas dentists provide any sort of Medicaid dental services. It was noted that some dentists may be enrolled as KanCare providers but the number of KanCare patients they see is very small, they may not be accepting new patients, or they no longer see any KanCare patients.

Other barriers to the provision of sedation dentistry identified by the Oral Health Kansas representative include the low KanCare reimbursement rates for services, a lack of training and education in treating patients with disabilities and when to use sedation, increased non-reimbursable time, and the persisting misunderstanding and stigma of disabilities.

The Medicaid Projects Manager noted that a lack of training around treating patients with disabilities may perpetuate a pattern of misinformation. She noted information and support regarding the care options can help people navigate the system and advocate for their own health, including working with health care professionals to explore all their treatment options. It was highlighted that Kansas does not have a complete and reliable list or directory of sedation dental providers in the state.

The Medicaid Projects Manager identified the CRNA reimbursement rate for dual Medicare and Medicaid patients and the hospital and facility fees as additional barriers in providing sedation dental services. She stated the KDHE report shows that the KanCare rate for CRNAs is approximately \$18 for 15 minutes of care and this is not an adequate rate to cover all the needed provisions to safely care for individuals under sedation, particularly those with complex needs. Compounding the reimbursement issues for CRNAs are the dual Medicare Advantage-Medicaid plans. Medicaid is

the payor of last resort and, due to the application of “lesser of logic” when billing for sedation services, CRNAs receive the federally set Medicare rate for their services. This rate does not allow providers to provide ongoing services for this population without losing money.

The Medicaid Projects Manager noted that some individuals require dental care in a hospital setting due to safety issues associated with complex medical needs. Medicaid began implementing a policy change last fall to pay the hospital and ambulatory care center a facility fee of \$1,722 for dental procedures. Unfortunately, utilization has been low and access to surgical space for dental procedures is still difficult.

The Medicaid Projects Manager stated the Sedation Dentistry Task Force has focused on understanding the existing sedation dental provider network to eliminate barriers. She noted that the KanCare managed care organizations will be required to maintain a list of sedation dental providers. It was recommended that this list include the type of sedation each provider offers, the insurance they accept, the populations they treat, and the geographic areas they serve. In addition, training or education opportunities should be offered to dental providers and dental teams to improve the network of dentists who feel confident in serving individuals with disabilities.

The Medicaid Projects Manager described the passport as a communication tool created by Oral Health Kansas and its partners to improve dental office visits by providing a tool to patients to voice their specific needs. The passport was designed to help people with disabilities share with the dental office how they like to communicate, what worked well for them in past dental visits, and what parts of the appointment might be hard for them. The aim is to reduce communication barriers, save time and money, and perhaps even remove the need for sedation in certain circumstances.

The Executive Director provided testimony regarding avenues for improvement and some policy changes the Legislature could consider. She shared that, in October 2024, Oral Health Kansas was awarded an American Rescue Plan Act grant from the KDHE Division of Health Care Finance to help improve access to dental care for people with disabilities.

The organization plans to work on improving communication regarding the passport and promote its use. There will be resources in 2025 to launch a Project ECHO (Extension for Community Healthcare Outcomes) training series for dental teams that is focused on providing services to persons with disabilities. The organization also plans to use resources for consumer education programs, such as the Feeling Good About Your Smile program, as well as develop new educational videos for individuals with disabilities.

Another goal of the organization is to review the Centers for Inclusive Dentistry Model. This is a home training model that helps dentists with hands-on experience, including mentorship, to help them gain more confidence in seeing people with disabilities.

The organization is also planning to develop a Medicaid Dental Facilitator Program to recruit and support Medicaid dental providers in serving people with disabilities and review ways to regularly update and maintain the sedation dental provider survey. She noted that the survey will accomplish three important goals. First, consumers who are looking for sedation dental care will have a realistic list of offices to call. Second, the managed care organizations will be able to realistically update their sedation provider lists annually, as required in the new KanCare contract. Third, the organization will learn where gaps in the sedation network remain.

The Executive Director highlighted that the capacity in the Kansas Medicaid dental provider network is limited. Federally qualified health centers and safety clinics bear an outsized burden in seeing Medicaid members in Kansas. The only real solution to increase the provider network is to encourage more private dental offices to see Medicaid patients. Oral Health Kansas is requesting that the Committee recommend the 2025 Legislature increase the Medicaid dental rates to the level of the Missouri Medicaid dental rates.

Additionally, Oral Health Kansas is requesting study of models of providing enhanced rates for dental care provided under IV and hospital sedation, as dental providers who offer sedation care generally do it at their own expense. Procedures that require sedation take longer

because of all the work to prepare for the visit, get the person ready for sedation, and to ensure they come out of the sedation safely. The dentist is able to bill only the regular procedure codes for the care provided, which do not adequately compensate them for the actual care provided.

Another rate change the Executive Director requested be reviewed is the hospital facility fee code (G0330). The rate was set at the federal Medicare rate of \$1,722.43. In January of 2024, the federal Medicare rate for that code increased to \$3,087. The Executive Director requested the Kansas rate be increased to \$3,087 and the rate indexed to the federal Medicare rate.

She noted that the most complex issue the Committee is looking at is treating those patients who have dual Medicare and Medicaid coverage. Oral Health Kansas is requesting to continue exploration of changes to policy, reimbursement, or both to mitigate the sedation reimbursement rate issue for people who have dual Medicare and Medicaid eligibility.

Sedation Dentistry Statutes and Regulations

An Assistant Revisor of Statutes from the Office of Revisor of Statutes provided a written overview of the relevant Kansas statutes on sedation dentistry. She noted that, generally, the Dental Practices Act requires a license to practice dentistry or dental hygiene in Kansas. She noted exceptions for three practices related to sedation dentistry: a licensed nurse performing a task as part of administering anesthesia under the supervision of a licensed dentist, a CRNA giving anesthesia during a dental operation as part of the health care team, and a nonlicensed person completing certain tasks in a dental office but not administering anesthesia. KSA 65-1423 provides a definition of general and local anesthesia of any nature in connection with a dental operation. This does not include nitrous oxide (also known as laughing gas), oxygen, or both.

The Assistant Revisor stated that regulation of sedation dentistry is addressed in the Dental Practices Act at KSA 65-1444. This statute requires a dentist to get a permit issued by the Kansas Dental Board (Board) to practice sedation dentistry and follow the Board's rules and

regulations. The Board is authorized to issue permits, establish requirements and qualifications based on the type of sedation, and require periodic renewals of that authorization. In an office where a dentist is authorized to administer sedation and anesthesia, the dentist is subject to inspection by the Board to ensure compliance with the rules and regulations. Subsection (b) authorizes a dentist to use a nonlicensed assistant in the administration and monitoring of nitrous oxygen and oxygen if the nonlicensed assistant is certified in CPR and has completed a course of instruction approved by the Board.

She stated KSA 65-1158 requires CRNAs to receive an order of a physician or a dentist requesting anesthesia or analgesia care. She noted only the Senate passed 2024 SB 112, which would have extended practice authority for advance practice registered nurses. The bill did not include statutes dealing with other providers, including the CRNAs.

She also summarized the regulations provided to the Committee, noting that Kansas laws and regulations permit dentistry members of medical staff, as well as physicians, to have admitting or clinical privileges, but those privileges are generally up to the hospital. A dentist would have to apply to that hospital to be a member of its staff or to receive those privileges. The standards are up to each individual hospital.

CONCLUSIONS AND RECOMMENDATIONS

The Committee discussed a variety of issues raised by the conferees and agreed to the following recommendations:

- Reviewing the scope of practice of certified registered nurse anesthetists to determine if the authority to procure their own medicines under a U.S. Drug Enforcement Administration license could be included;
- An overall rate increase for dental providers, including allowing for the reimbursement of partial services that do not result in a dental service being provided;

- That KDHE share with the Committee the Sedation Dentistry Report totals using the current Missouri rates as well as rates that are 80 percent of the usual and customary rate;
- That KDHE provide a fiscal note regarding the cost to raise the dental code G0330 to the current Medicare rate of \$3,087 and index the full rate in future years to the current Medicare reimbursement rate;
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