



DDU

Tooth whitening

Advice for dental professionals

Dentists, dental hygienists, dental therapists and clinical dental technicians can provide tooth whitening treatments to adult patients without fear of prosecution, provided they act within the legal and ethical parameters.

Legal background

The current legal position on tooth whitening is set out by the Cosmetic Products (Safety) (Amendment) Regulations 2012¹, and the GDC has also issued its own guidance for dental professionals².

It is legal for certain groups of dental professionals to use whitening compounds containing or releasing up to 6% hydrogen peroxide, or to supply home-whitening products at this concentration, provided the following conditions are met:

- the products are sold to dental practitioners
- for each cycle, the treatment is first administered by a dental practitioner or under their direct supervision if an equivalent level of safety is ensured. It can then be completed by the patient
- the patient is 18 years old or over.

The maximum penalties for illegal use of whitening products under The Consumer Protection Act 1987³ are six months imprisonment and/or a fine of up to £5000.

Whitening products

The limits apply to hydrogen peroxide and any other compound that releases hydrogen peroxide, including carbamide peroxide and zinc peroxide. If you are using a product containing carbamide peroxide, study the manufacturer's data sheet or contact the manufacturer to check the concentration of hydrogen peroxide released does not exceed the maximum legal limit of 6%.

Products containing or releasing more than 6% hydrogen peroxide are illegal, while those containing or releasing less than 0.1% are freely available.

Supply

The regulations, as amended, prohibit the 'supply' of any tooth whitening product that does not meet the specified conditions. This includes products administered during a course of treatment that takes place entirely within the dental practice.

Scope of practice

The GDC regards all tooth whitening procedures, including bleach and laser treatment, as the practice of dentistry. All dental professionals involved in tooth whitening must be trained and competent to carry out the procedure and have appropriate indemnity.

The first use of a tooth whitening product can only be carried out by a dentist, or under their direct supervision as long as an equivalent level of safety is ensured and the patient has first been examined by a dentist. It is generally accepted that 'direct supervision' means a dentist must be on the surgery premises during the time the treatment takes place.

Dentists can delegate treatment to a dental hygienist, therapist or clinical dental technician as long as a dentist is on the premises during the first whitening treatment, and a dentist has already assessed the patient's suitability for the treatment.

In-surgery and home whitening

Patients can only be provided with a home whitening kit containing up to 6% hydrogen peroxide after they have been examined by a dentist and received the first cycle of treatment from a dentist, or under the direct supervision of a dentist.

Internal whitening

In our view the 6% limit applies to any compound that contains or releases hydrogen peroxide, whether used internally or externally on teeth.

Patients under 18

Under the law, patients must be aged 18 or over. Although the GDC makes an exception for whitening the teeth of under 18s when used 'wholly for the purpose of treating or preventing disease', the DDU[†] can't envisage a circumstance where this might be the case.

Our legal advice is that there are no exceptions to the rule and all patients must be aged 18 years or over.

References

1. *Cosmetic Products (Safety) (Amendment) Regulations 2012*, UK Government, laid before Parliament 5 September 2012.
2. *Tooth whitening Q & As*, GDC, www.gdc-uk.org/professionals/standards/tw-qas
3. *Section 12, Consumer Protection Act 1987*, UK Government, www.legislation.gov.uk/ukpga/1987/43

Our advice

Enforcement and disciplinary proceedings

Prosecutions resulting from a breach of the regulations would be brought by Trading Standards.

However, the matter could also be reported to the GDC. A criminal offence is relevant to any assessment of a practitioner's fitness to practise irrespective of whether there has been a prosecution.

If the GDC receives information or a complaint about the illegal use of tooth whitening products, the practitioner concerned may face fitness to practise proceedings. The matter would also likely be referred to the relevant Trading Standards department.

Consent and record keeping

As with any treatment, dental professionals who provide whitening treatment must:

- act in the best interests of the patient by ensuring the patient's suitability for the treatment and providing a high standard of care
- obtain fully informed consent for treatment, which they must be competent to carry out
- obtain a medical history of the patient before starting treatment
- give necessary explanations about benefits and risks.

When providing tooth whitening treatment, we advise that dental professionals should make a complete, clear and contemporaneous record of their treatment plan, the consent process, including warnings about potential risks and complications, any instructions given to the patient (such as how to continue the treatment at home) and any adverse incident or outcome.

This is an important part of effective patient care and can also provide evidence that you have complied with the law.

Members can contact our dento-legal advice line on **0800 374 626** if they have specific queries or concerns about tooth whitening.

Indemnity

Access to indemnity for tooth whitening is included in our standard subscription rates for dentists, dental hygienists and dental therapists.

Hygienists and therapists should let us know they intend to carry out whitening treatments by calling our membership team on **0800 085 0614**.

For dento-legal queries

24-hour advice helpline

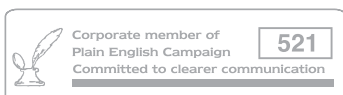
Call **freephone 0800 374 626**

Email **advisory@theddu.com**

Visit **theddu.com**

This information is intended as a guide. For the latest dento-legal advice relating to your own individual circumstances, please contact us directly.

Our dento-legal team is available between 8am - 6pm Monday to Friday. Advice is available 24 hours a day, 365 days a year for dento-legal emergencies or urgent queries.



[†] The Dental Defence Union (DDU) is the specialist dental division of The Medical Defence Union Limited (MDU) and references to DDU and DDU membership mean MDU and membership of the MDU. MDU Services Limited (MDUSL) is authorised and regulated by the Financial Conduct Authority for insurance mediation and consumer credit activities only. MDUSL is an agent for The Medical Defence Union Limited (MDU). MDU is not an insurance company. The benefits of MDU membership are all discretionary and are subject to the Memorandum and Articles of Association. MDU Services Limited, registered in England 3957086. Registered Office: One Canada Square, London E14 5GS © 2017 ADV214-a-1704