



# Your Guide to California Dental Practice Act Compliance

The California Dental Association is pleased to provide a guide that is intended for use by dentists and allied dental health professionals to assist them in complying with the California Dental Practice Act. This guide summarizes portions of the Dental Practice Act and organizes information in alphabetical order by subject. Citations are provided to the appropriate Business & Professions Code (B&P), Health & Safety Code (H&S) and to the California Code of Regulations Title 16 (CCR 16) sections. For details on license and permit requirements, educational requirements, fees, timelines, citations, license suspension or revocations, disciplinary guidelines, descriptions of disciplinary actions, appeals process and exact language of the law, please refer to the websites of the Dental Board of California ([dbc.ca.gov](http://dbc.ca.gov)) and the Dental Hygiene Committee of California ([dhcc.ca.gov](http://dhcc.ca.gov)). Links to laws and regulations found at the following sites:

- Business & Professions Code  
[leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=BPC&tocTitle=+Business+and+Professions+Code+-+BPC](http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=BPC&tocTitle=+Business+and+Professions+Code+-+BPC)
- Health & Safety Code  
[leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=HSC&tocTitle=+Health+and+Safety+Code+-+HSC](http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=HSC&tocTitle=+Health+and+Safety+Code+-+HSC)
- California Codes (statutes)  
[leginfo.legislature.ca.gov/faces/codes.xhtml](http://leginfo.legislature.ca.gov/faces/codes.xhtml)
- California Code of Regulations  
[govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I79C6DF80D48C11DEB C02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](http://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I79C6DF80D48C11DEB C02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

Dental Hygiene Committee of California (DHCC) has primary responsibility for licensing dental hygienists and approving dental hygiene educational programs. The Dental Board of California is responsible for the licensing of dental assistants and approval of dental assisting educational programs in addition to the licensing of dentists and enforcement. A Dental Assisting Council (DAC) was appointed in 2012 and considers all matters relating to dental assistants in the state and makes recommendation to the Dental Board. New and revised sections of this guide are noted with an asterisk (\*) in the table of contents.

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## Academic Degree

See also *Licenses and Name Tags*

Every dental licensee must communicate to a patient his or her name, license type and highest level of academic degree by one or both of the following methods:

- (1) In writing at the patient's initial office visit.
- (2) In a prominent display in an area visible to patients in his or her place of practice.

If method #1 is chosen, the required information must be presented in 24-point type in the following format:

Health Care Practitioner Information

1. Name and license type
2. Highest level of academic degree
3. Board certification, where applicable

This same information must also be prominently displayed on a website that is directly controlled or administered by the licensee or his or her staff.

This law does not apply to a person working in a facility licensed under Section 1250 of the Health and Safety Code (includes hospitals and skilled nursing facilities) (B&P 680.5).

Comply with the requirement to notify patients of clinical staff names, licenses and academic degrees by following these three actions:

- (1) Clinical staff wear name tag or have license or certificate posted.
- (2) Prominently post the name, license type and highest level of academic degree of each licensed individual or provide the information in writing in 24-point type to the patient at the initial visit.
- (3) Prominently display the name, license type and highest level of academic degree of each licensed individual on the practice website.

## Acupuncture

### Employment of Acupuncturist

A licensed dentist, or group of dentists, or dental corporation shall not share in any fee charged by a person for performing acupuncture or receive anything of value from or on behalf of such acupuncturist for any referral or diagnosis. A licensed dentist shall not employ more than one person to perform acupuncture services. A group of dentists or a dental corporation shall not employ more than one person to perform acupuncture services for every 20 dentists in such group or corporation (B&P 1626.5).

Directing or supervising the performance of acupuncture or performing acupuncture except as licensed pursuant to the Acupuncture Licensure Act is unprofessional conduct (B&P 730.5).

## Address Change

All licensees must notify the Dental Board within 30 days of any new place of practice (B&P 136).

## Adverse Event Reporting

A licensee must report the following to the Dental Board, or DHCC if applicable, within seven days of:

- The death of his or her patient during the performance of any dental or dental hygiene procedure;
- The discovery of the death of a patient whose death is related to a dental or dental hygiene procedure performed by the dentist, dental hygienist, dental hygienist in extended functions or dental hygienist in alternative practice;
- Except for scheduled hospitalization, the removal to a hospital or emergency center for medical treatment exceeding 24 hours of any patient to whom oral conscious sedation, conscious sedation or general anesthesia was administered or any patient as a result of dental or dental hygiene treatment. With the exception of patients to whom oral conscious sedation, conscious sedation or general anesthesia was administered, removal to a hospital or emergency center that is the normal or expected treatment for the underlying dental condition is not required to be reported.

A dentist must report to the Dental Board all deaths occurring in his or her practice using a form provided by the board. A dentist must send a copy of the report to the DHCC if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice or registered dental hygienist in extended functions. The Dental Board may conduct an inspection upon receipt of the report.

The requirement to report an adverse event in a dental facility also is applicable to a physician anesthesiologist (B&P 1680(z)).

## Advertising and Marketing

“Advertising” or “advertisement” is defined as any written or printed communication for the purpose of soliciting, describing or promoting a dentist’s licensed activities; any directory listing caused or permitted by a dentist that indicates his or her licensed activity; any radio, television or airwave or electronic transmission which solicits or promotes the dentist’s practice; or any printing or writing on novelty objects or dental care products. It does NOT include the following: any printing or writing used on buildings or uniforms where the purpose of the writing is for identification; or any printing or writing on memoranda or other communications used in the ordinary course of business other than for solicitation or promotion of the dentist’s practice (CCR 16 Section 1054.3).

Advertising by a licensee may include the following:

- (1) A statement of the name of the practitioner.
- (2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.
- (3) A statement of office hours regularly maintained by the practitioner.
- (4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner’s office.
- (5) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields (B&P 651 (h)).

## False, Fraudulent, Misleading or Deceptive Statements, Images or Claims

It is unlawful for any licensee to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading or deceptive statement, claim or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice.

“Public communication” includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, internet or other electronic communication (B&P 651(a)).

A false, fraudulent, misleading or deceptive statement, claim or image includes a statement or claim that does any of the following:

- (1) Contains a misrepresentation of fact.
- (2) Is likely to mislead or deceive because of a failure to disclose material facts.
- (3) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.
- (4) Uses any photograph or other image of a model (that is, anyone other than an actual patient of the advertising dentist) without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model.
- (5) Uses any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents “before” and “after” views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient. Any “before” and “after” views shall be comparable in presentation so that the results are not distorted by favorable poses, lighting or other features of presentation, and shall contain a statement that the same “before” and “after” results may not occur for all patients.
- (7) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.
- (8) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence (also see B&P 1680(i)).
- (9) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.
- (10) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts (B&P 651(b)).

A licensee may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading or deceptive. (B&P 651(e)).

The use of any false, assumed or fictitious name, or any name other than the name under which a dentist is licensed to practice or has a valid permit for, in advertising is considered unprofessional conduct (B&P 1680(f)).

The use of any advertising statements of character tending to deceive or mislead the public is unprofessional conduct (B&P 1680(h)).

It is unprofessional conduct to advertise a guarantee that any dental service or dental operation will be performed painlessly (B&P 1680(l)).



## Group Advertising and Referral Services

It is unprofessional conduct to participate in group advertising and referral services that violate the law. See section on *Referral Services and Referrals* (B&P 1680 (aa))

## Online Advertising Services

It is not considered a referral of patients when a licensee offers or sells services through a third-party advertiser that does not itself recommend, endorse or otherwise select a licensee on behalf of a consumer. This provision allows dental practices to advertise through Groupon and other similar services. The law requires the fee paid to the third-party advertiser be commensurate with the service provided by the advertiser. The licensee must disclose in the advertisement that a consultation is required and that the purchaser will receive a refund if not eligible to receive the service. In any advertisement offering a discount price for a service, the licensee must also disclose the regular, nondiscounted price for that service. If the licensee determines, after consultation with the purchaser of the service, that the service is not appropriate for the purchaser or if the purchaser elects not to receive the service for any reason and requests a refund, the purchaser shall receive a refund of the full purchase price as determined by the terms of the advertising service agreement between the advertiser and the licensee. The third-party advertiser must be able to show that the licensee consented in writing to the requirements described here and must make available to prospective purchasers advertisements for services of all licensees advertising with the advertiser in the applicable geographic region. This provision is not applicable to advertisements of "basic health care services" or "essential health benefits," such as pediatric oral health care, as defined by law (B&P 650 (g)).

## Fee Advertising

Any fee advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices" or words or phrases of similar import. Any advertisement that refers to services or costs for services and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Fee advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with fee advertising, the fee for each product or service shall be clearly identifiable. The fee advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise. Fee advertising for a dental service must fully disclose all services customarily included by the dental profession as part of the advertised service, including but not limited to necessary diagnosis, radiographs, restorative treatment, drugs, local anesthesia or analgesia, materials, laboratory fees and post-operative care. The advertisement must also disclose any additional services not part of the procedure but for which the patient will be charged, together with the fees for such services (B&P 651(c) and CCR 16 Section 1050).

## Academic Degree and License

A dental practice website that is directly controlled or administered by the licensee or his or her staff must have displayed prominently on the website the name, license type, highest level of academic degree and board certifications, where applicable, of all who work at the practice (B&P 680.5).

## Advertising Discounts

The advertisement of a discount must:

- List the dollar amount of the nondiscounted fee for the service.
- List either the dollar amount of the discount fee or the percentage of the discount for the specific service.
- Inform the public of the length of time the discount will be honored.
- List verifiable fees.

Identify specific groups who qualify for the discount or any other terms, conditions, or restrictions for qualifying for the discount (CCR 16 Section 105).

### **Denture Advertising**

Advertising of dentures must include whether the dentures are preformed or custom-made and, in the case of “immediate dentures,” details of (including charges for) later relines or other necessary procedures. Advertising may include fees for various grades of dentures, providing that potentially misleading descriptive phrases are not used and the advertising discloses the variables (CCR 16 Section 1053).

### **Press/Media Compensation**

A licensee shall not compensate or give anything of value to a representative of the press, radio, television or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity (B&P 651(d)).

### **Specialty Advertising**

Limitations on specialty advertising were removed with the passage of legislation in 2011. However, other advertising rules still apply to specialty advertising.

Violations of B&P Section 651 on advertising can be charged as misdemeanors and may subject the licensee to disciplinary action.

### **Conscious Sedation Permit**

See also sections on *General Anesthesia Permit* and *Oral Conscious Sedation Certificates*

“Conscious sedation” is defined as “a minimally depressed level of consciousness produced by a pharmacologic or nonpharmacologic method, or a combination thereof, that retains the patient’s ability to maintain independently and continuously an airway, and respond appropriately to physical stimulation or verbal command.” Conscious sedation does not include the administration of oral medications or the administration of a mixture of nitrous oxide and oxygen, whether administered alone or in combination with each other.

A dentist is required to have either a conscious sedation permit or a general anesthesia permit before ordering or administering conscious sedation on an outpatient basis.

A permit is not necessary, however, if the conscious sedation is directly administered by another licensed dentist or physician and surgeon who possesses a conscious sedation permit from the Dental Board (CCR 16 Section 1043.1).

Conscious sedation permit requirements include:

- Successful completion of a conscious sedation training course that meets Dental Board requirements.
- Documentation that required equipment and drugs are at the dental office.
- Maintenance of medical history, physical evaluation and conscious sedation records.
- Onsite inspection and evaluation, at the discretion of the Dental Board. Requirements for the onsite inspection and evaluation are detailed in CCR 16 Sections 1043.3 and 1043.4.

Renewal of a permit requires:

- Completion of 15 hours of approved courses of study related to conscious sedation.
- Onsite inspection and evaluation is mandatory every six year and may be done at each permit renewal at the discretion of the Dental Board (B&P 1647 – 1647.9).

A violation of the laws regarding conscious sedation is considered unprofessional conduct.

### **Patient Monitoring**

In offices where conscious sedation is administered, a dentist may not perform dental procedures on more than one patient undergoing conscious sedation on an outpatient basis unless each patient is being continuously monitored on a one-to-one ratio while sedated by either the dentist or another licensed health professional authorized to administer conscious sedation. Patients recovering from conscious sedation must be closely monitored by a licensed health professional experienced in the care and resuscitation of patients recovering from conscious sedation. If one licensed professional is responsible for the recovery care of more than one patient at a time, all of the patients shall be physically in the same room to allow continuous visual contact with all patients and the patient-to-recovery-staff ratio should not exceed three to one. A pulse oximeter or similar or superior monitoring equipment required by the Dental Board must be used to continuously monitor patients undergoing conscious sedation. Any dental office personnel directly involved with the care of patients who are undergoing conscious sedation must hold current certification in basic cardiac life support. A dentist must obtain written informed consent of a patient or, if the patient is a minor, the patient's parent or guardian prior to administering conscious sedation (B&P 1682).

### **Continuing Education**

Possession of a **conscious sedation permit** requires completing, every two years, at least 15 total units of courses related to the administration of conscious sedation and to medical emergencies (CCR 16 Section 1017(b)).

### **Continuing Education**

#### **Requirements for All Licensees**

For each licensure period of two years, licensees must take 2 units of a Dental Board-approved course in California Dental Practice Act, 2 units of a Dental Board-approved course on infection control, and a basic life support course that meets the requirements of the Dental Board. The requirement for mandatory courses also applies to unlicensed dental assistants who renew a specialty permit in orthodontics or sedation.

The employer of a dental assistant is responsible for ensuring that the dental assistant maintains certification in basic life support (B&P 1750(d)).

#### **What is Eligible for C.E. Credit?**

Courses of study for which continuing education credit may be earned include:

- Courses in preventive services, diagnostic protocols and procedures (including physical evaluation, radiography, dental photography) and comprehensive treatment planning, charting of the oral conditions, informed consent protocols and recordkeeping.
- Courses dealing primarily with nutrition and nutrition counseling of the patient.
- Courses in esthetic, corrective and restorative oral health diagnosis and treatment.
- Courses in dentistry's role in individual and community health emergencies, disasters and disaster recovery.

- Courses that pertain to the legal requirement governing the licensee in the areas of auxiliary employment and delegation of responsibilities; the Health Insurance Portability and Accountability Act (HIPAA) and actual delivery of care.
- Courses pertaining to federal, state and local regulations, guidelines or statute regarding workplace safety, fire and emergency, environmental safety, waste disposal and management, general office safety and all training requirements set forth by the California Division of Occupational Safety and Health (Cal/DOSH) including the Bloodborne Pathogens Standard.
- Courses pertaining to the administration of general anesthesia, conscious sedation, oral conscious sedation or medical emergencies.
- Courses pertaining to the evaluation, selection, use and care of dental instruments, sterilization equipment, operatory equipment, and personal protective attire.
- Courses in dependency issues and substance abuse such as alcohol and drug use as it relates to patient safety, professional misconduct, ethical considerations or malpractice.
- Courses in behavioral sciences, behavior guidance and patient management in the delivery of care to all populations including special needs, pediatric and sedation patients when oriented specifically to the clinical care of the patient.
- Courses in the selection, incorporation and use of current and emerging technologies.
- Courses in cultural competencies such as bilingual dental terminology, cross-cultural communication, provision of public health dentistry and the dental professional's role in provision of care in nontraditional settings when oriented specifically to the needs of the dental patient and will serve to enhance the patient experience.
- Courses in dentistry's role in individual and community health programs.
- Courses pertaining to the legal and ethical aspects of the insurance industry, to include management of third-party payer issues, dental billing practices, patient and provider appeals of payment disputes and patient management of billing matters.

Continuing education credit may be earned, up to a maximum of 20 percent of the total units required for license renewal, for courses in the following areas considered to be primarily of benefit to the licensee:

- Courses to improve recall and scheduling systems, production flow, communication systems and data management.
- Courses in organization and management of the dental practice including office computerization and design, ergonomics and the improvement of practice administration and office operations.
- Courses in leadership development and team development.
- Coursework in teaching methodology and curricula development.
- Coursework in peer evaluation and case studies that include reviewing clinical evaluation procedures, reviewing diagnostic methods, studying radiographic data, study models and treatment planning procedures.
- Courses in human resource management and employee benefits.

Only courses offered by Dental Board-approved continuing education providers, ADA CERP providers and AGD PACE providers may be eligible for continuing education credit as long as the courses comply with the Dental Board's regulations. Requirements of Dental Board-approved continuing education providers can be found in CCR 16 Section 1016. The Dental Board will consider, upon petition, courses offered by other providers for continuing education credit.

Current and active licensees enrolled in a full-time dental educational program, including dental school program, residency program, postdoctoral specialty program, dental hygiene school program, dental hygiene in alternative practice program or registered dental assisting in extended functions program approved by the Dental Board or the ADA Commission on Dental Accreditation, can earn continuing education credits for completed curriculum during

that renewal period. Current and active dental sedation assistant and orthodontic assistant permit holders enrolled in a full-time dental hygiene school program, dental assisting program or registered dental assisting in extended functions program approved by the Dental Board or the ADA Commission on Dental Accreditation can earn continuing education credits for completed curriculum during that renewal period. In the event of audit, both licensees and assisting permit holders must provide school transcripts to the committee or Dental Board as evidence of enrollment and course completion.

Continuing education credit may be earned, up to a maximum of 20 percent of the total units required for license renewal, for participation in certain Dental Board activities. The Dental Board will issue to participants a certificate that contains the date, time, location, authorizing signature, 11-digit course registration number and number of units conferred for each activity consistent with all certificate requirements. Credit may be earned for:

- Participation in any Dental Board of California or Western Regional Examination Board (WREB) administered examination including attendance at calibration training, examiner orientation sessions and examinations.
- Participation in any site visit or evaluation relating to issuance and maintenance of a general anesthesia, conscious sedation or oral conscious sedation permit.
- Participation in any calibration training and site evaluation training session relating to general anesthesia, conscious sedation or oral conscious sedation permits.
- Participation in any site visit or evaluation of an approved dental auxiliary program or dental auxiliary course.

### **What is NOT Eligible for C.E. Credit?**

Continuing education credit will not be allowed for:

- Courses in money management, the licensee's personal finances or personal business matters, such as financial planning, estate planning, and personal investments.
- Courses in general physical fitness, weight management or the licensee's personal health.
- Presentations by political or public figures or other persons that do not deal primarily with dental practice or issues impacting the dental profession.
- Courses designed to make the licensee a better business person or designed to improve licensee personal profitability, including motivation and marketing.
- Courses pertaining to the purchase or sale of a dental practice, business or office; courses in transfer of practice ownership, acquisition of partners and associates, practice valuation, practice transitions or retirement.
- Courses pertaining to the provision of elective facial cosmetic surgery as defined by the Dental Practice Act, unless the licensee has a special permit obtained from the Dental Board to perform such procedures.

### **C.E. Certificates**

To renew a license, a licensee provides a summary of C.E. units earned on a Dental Board-approved form. Each licensee must retain C.E. certificates for at least three renewal periods. If requested by the board, the licensee shall submit the certificates to the board. Individual licensees are responsible for obtaining C.E. certificates from course providers when original certificates are lost. Course providers may issue duplicate certificates only to licensees whose names appear on the provider's roster of course attendees. The certification shall be clearly marked "duplicate" and shall contain the licensee's name, as well as the provider's name, course registration number, dates attended and units earned. Any licensee who furnishes false or misleading information to the board regarding his continuing education units shall be subject to disciplinary action. The board will audit licensee records as it deems necessary to assure that the continuing education requirements are met (CCR 16 Section 1017(f)).

## **Out-of-State Courses**

A licensee who attends a course or program that meets all requirements for continuing education courses but was administered outside California by an unregistered provider may request continuing education credit by submitting information on course content and duration to the board and furnishing evidence from the course provider that the licensee was in attendance. In the case of a scientific meeting or convention, such evidence shall indicate that the licensee attended the specific lecture for the credit requested. When the necessary requirements have been fulfilled, the board may issue a written certification that the licensee may then use for documentation of continuing education credits.

## **Correspondence Courses**

Credit for tape-recorded courses, home study materials, video courses and computer courses offered by registered continuing education providers are acceptable for no more than one-half of the units required for license renewal. Full credit is allowed for interactive instruction courses such as live lectures, live telephone conferencing, live video conferencing or live classroom study offered by registered providers.

## **Units Required for License/Permit Renewal**

### *Dentists*

Dentist – 50 units

Disabled Dentist – 0 units during the renewal period he or she is disabled. A disabled dentist is one who has not practiced in the state for more than one year because of the disability.

Retired/Inactive Dentist – 0 units

Retired/Active Dentist – 30 units, after the Dental Board adopts regulations implementing the legislation (anticipated 2017).

A retired/active dentist is a dentist who:

- Has practiced dentistry in California for 20 years or more.
- Has reached the age of retirement under the federal Social Security Act.

### *Dentists with Permits*

Certain permit holders are required to meet specific continuing education requirements. These specified hours may be included in the total number of units required for license renewal.

Conscious sedation permit renewal requires completion of 15 hours of courses related to the administration of conscious sedation and to medical emergencies.

General anesthesia permit renewal requires completion of 24 hours of courses related to general anesthesia, and either (1) an advanced cardiac life support course which is approved by the American Heart Association (AHA) and which includes an examination on the materials presented in the course or (2) any other advanced cardiac life support course which is identical in all respects, except for the omission of materials that relate solely to hospital emergencies or neonatology, to the course entitled "2005 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care" published by the AHA in November 2005.

Oral conscious sedation for pediatric patients permit renewal requires completion of 7 hours of approved courses related to oral conscious sedation of pediatric patients.

Oral conscious sedation for adult patients permit renewal requires completion of 7 hours of approved courses related to oral conscious sedation of adult patients.

### *Dental Auxiliaries*

Registered Dental Assistant, RDA – 25 units

– As of Jan. 1, 2006, must provide evidence of successful completion of board-approved courses in radiation safety and coronal polishing (B&P 1645.1).

Registered Dental Assistant in Extended Functions, RDAEF – 25 units

Unlicensed Dental Assistant with a Dental Sedation Permit – 25 units

Unlicensed Dental Assistant with an Orthodontic Permit – 25 units

Registered Dental Hygienist, RDH – 25 units

Registered Dental Hygienists in Extended Functions, RDHEF – 25 units

Registered Dental Hygienists in Alternative Practice, RDHAP – 35 units  
(CCR 16 Sections 1016 and 1017)

A licensee who holds another dental license or a dental assistant specialty permit is not required to maintain separate continuing education credits for renewal of each license or permit. In other words, the continuing education credits earned during a license renewal period can apply to renewal of both license(s) and/or permit. Renewal of a license or permit requires payment of separate renewal fees. For example, a registered dental assistant with a sedation permit would pay the two separate fees.

## **Credit/Financing Offered to Patients**

Prior to establishing a commercial credit card, line of credit or loan for a patient in the dental office (the law does not apply to credit established by patients on their own, outside the dental office or to financing arrangements made directly between the dental office and the patient without involving a commercial third party):

1. The dentist must provide a treatment plan to the patient.

**Treatment plan requirements:** A dentist shall give a patient a written treatment plan prior to arranging for or establishing credit extended by a third party. The treatment plan shall include each anticipated service to be provided and the estimated cost of each service. If a patient is covered by a private or government dental benefit plan or dental insurance from which the dentist takes assignment of benefits, the treatment plan shall indicate the patient's private or government-estimated share of cost for each service. If the dentist does not take assignment of benefits from a patient's dental benefit plan or insurance, the treatment plan shall indicate that the treatment may or may not be covered by a patient's dental benefit or insurance plan and that the patient has the right to confirm dental benefit or insurance information from the patient's plan, insurer or employer before beginning treatment.

2. The dentist, or his or her staff, must obtain the patient's signature on a specified written disclosure notice.

**Disclosure notice requirements:** A sample of the required notice is included in a zip file, California Commercial Credit Law, available on [cda.org/practicesupport](http://cda.org/practicesupport). The required notice must be offered in the primary language in which the dentist or staff members are communicating with the patient (limited to the following languages – English, Chinese, Hmong, Russian, Spanish and Vietnamese). The notice explains in detail the nature of the credit product being offered and the patient's rights and responsibilities with regard to that product. The notice, which may be printed on office letterhead, must appear on one page in at least 14-point type. Credit companies offering these products may make this sample form available to the dental office as well.



3. The dental office may only apply charges to a credit card or line of credit established in the office before the dentist has rendered or incurred the costs of the treatment being charged if the patient is first provided a specific list of services being paid for in advance and their estimated costs. This requirement can be met by providing the patient with a ledger statement or other form of receipt that includes this detail.
4. The dental office may not arrange for or establish any of these credit products for a patient who has been administered or is under the influence of general anesthesia, conscious sedation or nitrous oxide.
5. The dentist must refund to the lender within 15 business days of a patient's request any payment received for treatment not rendered or costs that have not been incurred, made through such a credit arrangement (B&P 654.3 and H&S 1395.7).

## **Criminal and Disciplinary Proceedings**

It is unprofessional conduct for a licensee to fail to report to the Dental Board within 30 days any of the following:

1. The bringing of an indictment or information charging a felony against the licensee.
2. The conviction of the licensee, including any verdict of guilty or pleas of guilty or no contest, of any felony or misdemeanor.
3. Any disciplinary action taken by another professional licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

For the purposes of this section, "conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere or "no contest" and any conviction that has been set aside or deferred pursuant to Sections 1000 or 1203.4 of the Penal Code, including infractions, misdemeanors and felonies. "Conviction" does not include traffic infractions with a fine of less than (\$1,000) unless the infraction involved alcohol or controlled substances (CCR 1018.05).

## **Dental Corporations**

A dental corporation is defined in Business & Professions Code Section 1800 as:

" . . . a corporation that is authorized to render professional services, as defined in Sections 13401 and 13401.5 of the Corporations Code, if that corporation, its shareholders, officers, directors, and employees rendering professional services who are dentists, physicians and surgeons, dental assistants, registered dental assistants, registered dental assistants in extended functions, registered dental hygienists, registered dental hygienists in extended functions, or registered dental hygienists in alternative practice are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and other statutes, rules, and regulations applicable to a dental corporation and the conduct of its affairs. Subject to all applicable statutes, rules, and regulations, a dental corporation is entitled to practice dentistry. With respect to a dental corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Dental Board of California."

## **Additional Offices**

A dental corporation is subject to the additional office requirements of Business & Professions Code Sections 1658 – 1658.8. A dental corporation which desires to have more than one place of practice shall, prior to opening any additional office, apply for and receive permission in writing from the board (CCR 16 Section 1057).



## Corporation Name

Business & Profession Code Section 1804 states that: “Notwithstanding subdivision (i) of Section 1680 and subdivision (g) of Section 1701, the name of a dental corporation and any name or names under which it may be rendering professional **services shall contain and be restricted** (emphasis added) to the name or the last name of one or more of the present, prospective, or former shareholders and shall include the words ‘dental corporation’ or wording or abbreviations denoting corporate existence, unless otherwise authorized by a valid permit issued pursuant to Section 1701.5.”

## Estate of Deceased or Incapacitated Dentist

Upon the death or incapacity of a dentist, an executor or administrator of the dentist’s estate, or a legal guardian, conservator or authorized representative of the dentist, or a trustee or successor trustee of a trust that owns a share of the deceased or incapacitated dentist’s dental corporation may employ licensed dentists and dental assistants and charge for their professional services for a period not to exceed 12 months from the date of death or incapacity of the dentist. The employment of licensed dentists and dental assistants shall not be deemed the practice of dentistry within the meaning of Business & Professions Code Section 1625, provided that all of the requirements of Section 1625.4 of the Business & Professions Code are met. If the non-dentist dental corporation owner is employing licensed persons and dental assistants, the shares of the deceased or incapacitated dentist shall be transferred as provided by law no later than 12 months from the date of death or incapacity of the dentist (Corporations Code 13407).

## Liability

When a dental corporation provides security by means of insurance for claims against it by its patients, the security shall consist of a policy or policies of insurance insuring either the corporation or all the employed licensed persons rendering such dental services against liability imposed by law for damages arising out of the rendering of, or failure to render, dental services by the corporation in an amount for each claim of at least \$50,000 multiplied by the number of employed licensed persons rendering such dental services and an aggregate maximum limit of liability per policy year of at least \$150,000 multiplied by the number of such employees, provided that the maximum coverage shall not be required to exceed \$150,000 for each claim and \$450,000 for all claims during the policy year and that the deductible portion of such insurance shall not exceed \$5,000 multiplied by the number of such employees. All shareholders of the corporation shall be jointly and severally liable for all claims established against the corporation by its patients arising out of the rendering of, or failure to render, dental services up to the minimum amounts specified for insurance except during periods of time when either the corporation or all the employed licensed persons rendering dental services provide and maintain insurance for claims by its patients arising out of the rendering of, or failure to render, dental services. Said insurance when provided shall meet the minimum standards established above (CCR 16 Section 1059).

## Ownership

The shares of a dental corporation may be owned only by a dental corporation or by licensed dentists, hereinafter referred to as eligible shareholders, provided, however, that no issuance or transfer of shares may be made which violates the provisions of Business & Professions Code Sections 1658 -1658.7.

Where there are two or more shareholders in a dental corporation and one of the shareholders:

- (1) Dies;
- (2) Ceases to be an eligible shareholder; or
- (3) Becomes a disqualified person as defined in Section 13401(d) of the Corporations Code for a period exceeding 90 days

his or her shares shall be sold and transferred to the corporation, its shareholders or other eligible persons on such terms as are agreed upon. Such sale or transfer shall be not later than six months after any such death and not later than 90 days after the date he or she ceases to be an eligible shareholder or 90 days after the date he becomes a disqualified person. See California Code of Regulations Title 16 Section 1060 for additional requirements.

### **Professional Responsibility**

Nothing in the laws or rules relating to dental corporations alters the dentist's duties and responsibilities to and professional relationships with his or her patients. Nor do such laws or rules in any way impair the disciplinary powers of the board over its licensees or impair any other law or rule pertaining to the standards of professional conduct of dentists (CCR 16 Section 1055).

### **Dental Facilities**

See these sections:

- Address Change
- Conscious Sedation Permit
- Dental Corporations
- Fictitious Name Permit
- General Anesthesia Permit
- Mobile Dental Clinics
- Name Tags
- Oral Conscious Sedation Certificates
- Place of Practice

### **Dental Materials Fact Sheet**

A dentist is required to provide a Dental Board-approved dental materials fact sheet to new patients and at least once to a patient before performing a restorative procedure. The dentist should obtain patient's acknowledgement of receipt of the fact sheet and place the acknowledgement in the patient record.

The current fact sheet is dated 2004. The fact sheet may not be altered but dentists may provide patients with supplemental information (B&P 1648.10-1648.20).

### **Denture Identification**

Every complete upper or lower denture fabricated by a licensed dentist or fabricated pursuant to the dentist's work order shall be marked with the patient's name, unless the patient objects. The initials of the patient may be shown alone if use of the name of the patient is not practical. The markings shall be done during fabrication and shall be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to implant or apply them shall be determined by the dentist or dental laboratory fabricating the denture.

The dentist shall inform the patient that the markings are to be used for identification only and that the patient shall have the option to decide whether or not the dentures shall be marked.

The dentist shall retain the records of those marked dentures and shall not release the records to any person except to enforcement officers in the event of an emergency requiring personal identification by means of dental records or to anyone authorized by the patient (B&P 1706).

## Disciplinary Guidelines

The Dental Board has recommended guidelines for disciplinary orders and conditions of probation for violations of the DPA. The guidelines are intended for use by administrative law judges, attorneys and any licensee involved in settlement of disciplinary actions or statement of issues proceedings. The Dental Board seeks to ensure the totality of facts and circumstances in each case is considered, with public safety being paramount and, to the extent not inconsistent with public protection, disciplinary actions shall be calculated to aid in the rehabilitation of the licensee

The disciplinary guidelines can be found online at [dbc.ca.gov/formspubs/pub\\_dgml.pdf](http://dbc.ca.gov/formspubs/pub_dgml.pdf).

## Disciplinary Proceedings, Statute of Limitations

The Dental Board can initiate a disciplinary proceeding within three years after the board discovers the act or omission alleged as the ground for disciplinary action or within seven years after the act or omission is alleged to have occurred, whichever occurs first. The exceptions to this limitation period are:

- a) An accusation alleging fraud or willful misrepresentation.
- b) An accusation alleging unprofessional conduct based on incompetence, gross negligence or repeated negligent acts of the licensee which includes proof that the licensee intentionally concealed from discovery his or her incompetence, gross negligence or repeated acts of negligence.
- c) An accusation that involves an alleged act of sexual abuse, misconduct, or relations committed on a minor patient (statute of limitations does not apply until the minor reaches the age of majority).
- d) An accusation that involves an alleged act of sexual abuse, misconduct, or relations committed on patient who is not a minor. Dental Board can act within three years after discovering the act or omission or within 10 years after the act or omission is alleged to have occurred, whichever occurs first. This paragraph only applies to complaints received by the Dental Board on or after Jan. 1, 2005.

The limitations period does not apply during the period in which material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the Dental Board due to an ongoing criminal investigation (B&P 1670.2).

## Discounts

### Advertising Discounts

The advertisement of a discount must:

- List the dollar amount of the non-discounted fee for the service.
- List either the dollar amount of the discount fee or the percentage of the discount for the specific service.
- Inform the public of the length of time the discount will be honored.
- List verifiable fees.
- Identify specific groups who qualify for the discount or any other terms, conditions, or restrictions for qualifying for the discount (CCR 16 Section 1051).

## Discounts for Patients Without Insurance Coverage

State law authorizes a health care provider to grant discounts for health care to any patient the provider has reasonable cause to believe is not eligible for or is not entitled to insurance reimbursement, coverage under the Medi-Cal program or coverage by a health care service plan for the health care provided. Any discounted fee granted pursuant to this law shall not be deemed to be the provider's usual, customary or reasonable fee for any other purposes including, but not limited to, any health care service plan contract or insurance contract (B&P 657(c)).

For additional information on providing discounts to patients, refer to the CDA Legal Reference Guide, [Chapter 6 - Collections and Dental Benefit Plans](#).

## Employment of Dentists, Dental Auxiliaries and Others

For information on employing acupuncturists, see the section on *Acupuncture*.

Any of the following entities may employ dentists and dental auxiliaries and charge for their services and shall not be deemed as practicing dentistry:

- A licensed primary care clinic.
- A primary care clinic exempt from licensure pursuant to the Health & Safety Code.
- A clinic owned or operated by a public hospital or health system.
- A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's obligation under the Welfare & Institutions Code.
- A nonprofit corporation under the conditions described in B&P 1625.2.

These entities shall not interfere with or otherwise direct the professional judgment of a dentist or licensed dental auxiliary acting within his or her scope of practice (B&P 1625.1).

It is unprofessional conduct to employ directly or indirectly **any student or suspended or unlicensed dentist** to practice dentistry (B&P 1680(b)).

Employment of use of **solicitors** is unprofessional conduct. (B&P 1680(i)).

**Discharging an employee** primarily based on the employee's attempt to comply with the Dental Practice Act is unprofessional conduct. Also, using **threats or harassment** against a licensee for providing evidence in any possible or actual disciplinary action or other action is unprofessional conduct. (B&P 1680(q)).

A dentist may not utilize any person to perform the functions of **a licensed dental auxiliary** unless the person possesses a current, valid license to perform those functions (B&P 1680(ae)). All dentists utilizing the services of dental auxiliaries shall post in a common area of the office a notice which delineates duties and functions deemed by the board as delegable within stipulated settings and/or circumstances (CCR 16 Section 1068).

A dentist may simultaneously utilize in a practice no more than three registered dental assistants in extended functions or registered dental hygienists in extended functions. (Law changed allowance from two to three as of Jan. 1, 2010.) (B&P 1753.7)

The **names of every person employed in the practice of dentistry** must be posted in a conspicuous place (B&P 1700(c)). The Dental Board includes licensed dental auxiliaries as "practicing dentistry." If demanded by the Dental Board, a list of the individuals practicing dentistry in the facility with names and addresses must be provided within 10 days (B&P 1700(d)). See also *Academic Degree* and *Name Tags*

### **Estate of Deceased or Incapacitated Dentist**

An executor or administrator of a dentist's estate, or a legal guardian, conservator or authorized representative of a dentist who is deceased or incapacitated, or a trustee or successor trustee of a trust that owns a deceased or incapacitated dentist's dental practice may employ one or more licensed dentists and dental auxiliaries and charge for professional services for not longer than 12 months after the dentist's death or incapacity. The non-dentist owner of the practice shall not interfere with, control or otherwise direct the professional judgment of a licensed dental professional or dental assistant acting within respective scopes of practice. The non-dentist owner of the practice shall notify the Dental Board and provide required information or face immediate termination of the dental practice and be subject to a civil penalty. (B&P 1625.3 & 1625.4).

### **Requirements of the Dentist Supervising/Employing a Dental Assistant**

The supervising licensed dentist is responsible for determining the competency of an unlicensed dental assistant to perform basic supportive dental procedures.

Beginning Jan. 1, 2010, the employer is responsible for ensuring that the dental assistant who has been in continuous employment for 120 days or more has already successfully completed, or successfully completes, all of the following within a year of the date of employment:

- A board-approved course in the Dental Practice Act.
- An 8-hour board-approved course in infection control.
- A course in basic life support offered by an instructor approved by the American Red Cross or the American Heart Association or any other course approved by the board as equivalent and that provides the student the opportunity to engage in hands-on simulated clinical scenarios. The employer must ensure the dental assistant maintains certification in basic life support.

The dental assistant need only take the DPA and 8-hour infection control course once in the course of a career as long as the assistant can provide documentation of successfully completing the courses (B&P 1750).

### **Written Orders to Dental Technicians**

A written authorization for the construction, making, verification of shade taking, alteration or repairing of bridges, crowns, dentures or other prosthetic appliances or orthodontic appliances, when the casts or impressions for this work have been made or taken by the licensed dentist, must be provided by a licensed dentist or the work shall be performed in the office of the licensed dentist under his or her supervision (B&P 1626(e)).

Any written authorization issued by a licensed dentist shall include the following:

- (a) The date of its issuance.
- (b) A description of the work authorized by the dentist to be done by the technician.
- (c) The signature of the dentist issuing the written authorization.
- (d) The license number of the dentist issuing the written authorization.

(CCR 16 Section 1063)

### **Fictitious Name Permit**

A dentist may not practice under any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he or she is licensed, except with a permit from the Dental Board (B&P 1701(g)).

Any association or partnership or corporation or group of three or more dentists may practice under a fictitious name if, and only if, the entity holds an outstanding, unexpired, unsuspended and unrevoked permit issued by the Dental Board. Requirements for the permit can be found on the Dental Board website (B&P 1701.5).

Separate from the Dental Practice Act, the state also requires all for-profit businesses that use a fictitious business name to file a fictitious business name statement with the clerk of the county where the business is located. Such statement shall be filed no more than 40 days from the time the business starts transactions. Specific information is required in the statement, and the statement must be published in a general circulation newspaper within 30 days of filing the fictitious business name statement. The statement must be published once a week for four consecutive weeks, or as otherwise allowed in Government Code Section 6064. An affidavit showing publication of statement must be filed with the county clerk within 30 days after the fourth publication of the statement. A fictitious name statement typically expires five years from the date it was filed. Other requirements on filing a fictitious name statement can be found in Business & Professions Code Sections 17900 -17930.

A dentist considering the use of a fictitious name is advised to research the availability of names using the Department of Consumer Affairs license database at [breeze.ca.gov](http://breeze.ca.gov).

## **Fraud Insurance**

It is unprofessional conduct to do any of the following in connection with professional activities:

- Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under an insurance contract.
- Knowingly prepare any writing with intent to present or allow it to be presented in support of any false or fraudulent claim. (B&P 810)

## **Fee**

It is unprofessional conduct to obtain any fee by fraud or misrepresentation. (B&P 1680(a)).

## **License**

It is unprofessional conduct to procure a license through use of fraud. (B&P 1680(w)).

Aiding or abetting any unlicensed person to practice dentistry and aiding or abetting any licensed person to practice dentistry unlawfully is unprofessional conduct (B&P 1680(c), (d)).

The purchase or receipt of a fraudulent, forged or counterfeited license knowing that it is fraudulent, forged or counterfeited can be charged as a misdemeanor. "Fraudulent" means containing any misrepresentation of fact (B&P 119).

Practicing dentistry or offering to practice dentistry without a license or when a license is suspended or revoked is a crime (B&P 1701(f) and 1701.1).

A dentist may not practice under any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he licensed, except with a permit from the Dental Board (B&P 1701(g) and 1701.5).

## Dental Degree

A licensee may not conspire with an unlicensed individual to violate any provision of the Business & Professions Code or intend to aid or assist that person in violating those provisions by either allowing his or her license to be used by the unlicensed individual or by acting as the unlicensed individual's agent or partner (B&P 125).

An individual may not append the letters DDS, DMD or DDS<sub>c</sub> to his or her name or assume the use of a dental degree that has not been conferred upon the individual by a recognized dental school. However, any person who holds a valid dental license may append the letters DDS to his or her name regardless of actual degree conferred upon the individual (B&P 1700(a), 1700.5).

An individual who sells, barter or offers to sell or barter any dental degree, license or dental school transcript may be charged with a misdemeanor or a felony. Purchasers or procurers of these items will have the activity used in evidence of the holder's qualification to practice dentistry (B&P 1701 (a) and (b)).

An individual who makes or attempts to make counterfeits or alters in a material regard with fraudulent intent any diploma, certificate or transcript may be charged with a misdemeanor. An individual who knowingly uses the fraudulent documents may be charged with a misdemeanor (B&P 1701 (c) and (d)).

## General Anesthesia Permit

See also *Conscious Sedation Permit* and *Oral Conscious Sedation Certificates*

A dentist is required to have a general anesthesia permit before ordering or administering general anesthesia on an outpatient basis. The dentist must be physically within the dental office at the time of administration.

A permit is not necessary, however, if the general anesthesia is directly administered by another licensed dentist or physician and surgeon who possesses a general anesthesia permit from the Dental Board (CCR 16 Section 1043.1).

General anesthesia permit requirements include:

- Successful completion of a minimum of one year of advanced training in anesthesiology and related academic subject or equivalent training or experience approved by the Dental Board.
- Documentation that required equipment and drugs are at the dental office.
- Maintenance of medical history, physical evaluation and general anesthesia records.
- Onsite inspection and evaluation at the discretion of the Dental Board. Requirements for the onsite inspection and evaluation are detailed in CCR 16 Sections 1043.3 and 1043.4.

Renewal of a permit requires:

- Completion of 24 hours of approved courses of study related to general anesthesia.
- Onsite inspection and evaluation is mandatory every five years and may be done at each permit renewal at the discretion of the Dental Board.

A dentist is not authorized to order or to administer general anesthesia for reasons other than dental treatment.

A licensed physician or surgeon may administer general anesthesia in the office of any licensed dentist, with or without a general anesthesia permit, if the physician or surgeon holds a valid general anesthesia permit issued by the Dental Board (B&P 1646 – 1646.9).

A violation of the laws regarding general anesthesia is unprofessional conduct (B&P 1646 – 1646.9, 1682).

### **Patient Monitoring**

In offices where general anesthesia is administered, a dentist may not perform dental procedures on more than one patient undergoing general anesthesia on an outpatient basis unless each patient is being continuously monitored on a one-to-one ratio while sedated by either the dentist or another licensed health professional authorized to administer general anesthesia. Patients recovering from general anesthesia must be closely monitored by a licensed health professional experienced in the care and resuscitation of patients recovering from general anesthesia. If one licensed professional is responsible for the recovery care of more than one patient at a time, all of the patients shall be physically in the same room to allow continuous visual contact with all patients and patient-to-recovery-staff ratio should not exceed three to one. Prior to administering general anesthesia, a dentist must obtain written informed consent of a patient or, if patient is a minor, the patient's parent or guardian (B&P 1682).

### **Continuing Education**

A dentist who possesses a **general anesthesia permit** is required to complete at least every two years 24 total units of courses related to general anesthesia. The dentist also is required to take an advanced cardiac life support course approved by the American Heart Association or any other advanced cardiac life support course which is identical in all respects, except for the omission of materials that relate solely to hospital emergencies or neonatology, to the course entitled "Guidelines 2000 for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care" published by the American Heart Association in August 2000 (CCR 16 Section 1017(b)).

### **Impairment, Physical or Mental**

Whenever it appears a licensee may be unable to practice his or her profession safely because ability to practice is impaired due to mental and/or physical illness affecting competency, the Dental Board may order the licensee to be examined by an appropriate professional. Examination procedures are outlined in statute and regulation (B&P 820-828).

The Dental Board has established a **diversion program** with the intent to rehabilitate licensees whose competency may be impaired due to abuse of dangerous drugs or alcohol and return them to the practice of dentistry in a manner that will not endanger the public health and safety. A licensee who is not a subject of a current investigation may self-refer to the Dental Board's diversion program. A licensee under investigation may request entry into the diversion program (B&P 1695, 1695.5).

Engaging in the practice of dentistry while under the influence of alcohol or a controlled substance can be charged as a misdemeanor (B&P 1700(e)).

The parameters of the Dental Board's Impaired Licentiates Program can be found in CCR 16 Section 1020.1 to 1020.8.

### **Infection Control**

Having unsanitary or unsafe office conditions, as determined by the customary practice and standards of the profession, is considered unprofessional conduct (B&P 1680(t)).



Failure to follow the Dental Board infection control regulation is unprofessional conduct (B&P 1680(ad)). The infection control regulation can be found in the California Code of Regulations Title 16 Section 1005. A copy of the regulation must be conspicuously posted in the office.

## Informed Consent

A dentist must obtain written informed consent of a patient or, if patient is a minor, the patient's parent or guardian prior to administering general anesthesia or conscious sedation (B&P 1682(e)).

Additionally, in the case of a minor receiving general anesthesia services, informed consent shall include, but not be limited to, the following statement:

"The administration and monitoring of general anesthesia may vary depending on the type of procedure, the type of practitioner, the age and health of the patient and the setting in which anesthesia is provided. Risks may vary with each specific situation. You are encouraged to explore all the options available for your child's anesthesia for his or her dental treatment and consult with your dentist or pediatrician as needed (B&P 1682)."

## Judgments and Settlements, Reporting

Liability insurance companies are required to report to the Dental Board settlement or arbitration awards greater than \$10,000 for any claim that injury or death was caused by the licensee's negligence, error or omission in practice or by rendering unauthorized professional services. Reporting must be done within 30 days of generating the written settlement or award (B&P 801).

A complete report of any settlement, judgment or arbitration award over \$3,000 of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, shall be reported by the licensee to the Dental Board within a prescribed time period (B&P 802).

Certain judgments, settlements and decisions, including those resulting from CDA's Peer Review and Judicial Council, must be reported to the National Practitioners Data Bank. For information, refer to the online NPDB guidebook at [npdb-hipdb.hrsa.gov/npdbguidebook.html](http://npdb-hipdb.hrsa.gov/npdbguidebook.html).

## Licenses

See also *Continuing Education*

All licensees are required to:

- Notify the Dental Board or, if a dental hygienist, the DHCC within 30 days of an address change.
- Complete 2 units of California law, 2 units of infection control and an American Heart Association, American Red Cross or equivalent basic life support course as part of continuing education requirements (B&P 1640).
- Notify the Dental Board or, if a dental hygienist, the DHCC within 10 days of a name change.
- Notify the Dental Board or, if a dental hygienist, the DHCC upon initial licensure or licensure renewal of employment or practice status.
- Renew license every two years.

All licensed dentists are required to report to the Dental Board upon initial licensure or licensure renewal completion of any **advanced educational program** accredited by the Commission on Dental Accreditation in an ADA-recognized specialty (B&P 1715.5).

The Dental Board and DHCC must collect and disseminate information on licensees' **cultural background and foreign language proficiency**. Licensees are asked for the information as part of the application and renewal processes, but reporting information regarding cultural background and foreign language proficiency is optional (B&P 1715.5).

The Dental Board and DHCC may require a licensee to submit **digital fingerprints** as a part of licensure renewal if the fingerprints are not already on file.

Dental licenses must be prominently displayed at the facility, unless each licensee wears a name tag that discloses his or her name and license in at least 18-point type (B&P 680).

Any person who holds a valid dental license may append the letters DDS to his or her name regardless of actual degree conferred upon the individual (B&P 1700.5).

The use of fraud to obtain a license is unprofessional conduct (B&P 1680(w)).

Suspension or revocation of a license issued or discipline imposed by another state or territory on grounds that would be the basis of discipline in California (B&P 1680(r)).

### **Inactive Licenses and Reactivation**

Individuals with inactive licenses shall not engage in any activity for which an active license or certificate is required (B&P 702). Continuing education units are not required of inactive licensees, but payment of full license renewal fees is required (B&P 703). A disabled dentist may apply for an inactive license and for a reduction in license renewal fee (B&P 1716.1).

To restore a license to active status, a licensee must:

- Pay license renewal fee; fee may be waived if reactivation is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution or corporation that provides services to indigent patients in underserved areas of the state.
- Complete required continuing education units (B&P 704).

### **Retired License**

Dentists who meet the following criteria are eligible for reduced license renewal fee:

- Practiced dentistry in California for 20+ years.
- Reached the age of retirement as defined in the federal Social Security Act.
- Customarily provides dental services free of charge or for a nominal fee, to any person, organization or agency. In no event shall the aggregate of these charges in any single calendar year be in an amount that would render the dentist ineligible for full social security benefits.

If a dentist qualifies for the reduced fee, the dentist can choose to be either (1) retired/active or (2) retired/inactive. Retired/active dentists continue to provide dental services and are required to complete 30 continuing education units for license renewal. Retired/inactive dentists no longer provide dental services and are no longer required to take continuing education units (B&P 1716.1).

Legislation approved in 2016 added Section 464 to the Business & Professions Code. It will revise the rules for retired dentists pending adoption of regulations by the Dental Board (AB 2859 — [leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB2859](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2859)).

### License Renewal

For current renewal fees, refer to the Dental Board or DHCC website. Licenses are to be renewed every two years and are set to expire on the last day of a licensee's birth month if not renewed.

A licensed dentist who has practiced for 20 years or more in California, **has reached retirement age** and customarily provides dental services free of charge or for nominal fees may pay reduced fees for license renewal. Renewal fees from these retired dentists shall not be less than one-half the regular renewal fee (B&P 1716.1 (a)).

A 50 percent waiver of renewal fees may be granted to a **disabled dentist** upon application to the Dental Board. The dentist may not practice dentistry until the licensee establishes the disability no longer exists or no longer affects his or her ability to practice and he or she pays the current renewal fee (B&P 1716.1 (b)).

### Military/National Guard Service

A licensee whose license expired while on active duty with the U.S. Armed Forces or with the California National Guard may renew the license upon meeting all of the following requirements:

- The license was valid at the time licensee entered the California National Guard or the U.S. Armed Forces.
- The reinstatement application is made while serving in the California National Guard or the U.S. Armed Forces or not later than one year from the date of discharge from active service or return to inactive military status. Time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which he or she is prevented from practicing his or her profession is excluded from being counted as part of the one-year period.
- The reinstatement application is accompanied by an affidavit showing the date of entrance into the service and whether still in the service or the date of discharge, and the renewal fee is paid for the current renewal period in which the application is filed.

If the application is filed more than one year after discharge or return to inactive status, the licensing agency may require the licensee to pass an examination. If the licensing agency determines that the licensee has not actively engaged in the practice of his or her profession while on active duty, then the licensing agency may require the applicant to pass an examination.

Any licensee who, either part-time or full-time, practices in this state the profession for which he or she is licensed must maintain his or her license in good standing even though he or she is in military service (B&P 114).

### Expired License

An expired license may be renewed at any time within five years of expiration upon payment of all fees due. If renewed more than 30 days after the expiration date, a delinquency fee may be collected. If more than five years has passed, the holder of the license may apply for and obtain a new license with certain conditions that may include retaking the clinical examination (B&P 1718 and 1718.3).

A licensee who has complied with the license renewal provisions prior to expiration of the license, but who has not received assurance of license renewal because of delays not the fault of the licensee, will not be deemed to be engaged illegally in the practice of his or her profession during the period before proof of renewal is provided (B&P 121)

Practicing dentistry with an expired license is unprofessional conduct (B&P 1680(ac)).

### **Patient Notification of License and Academic Degree**

Every dental licensee must communicate to a patient his or her name, license type and highest level of academic degree by one or both of the following methods:

- (1) In writing at the patient's initial office visit.
- (2) In a prominent display in an area visible to patients in his or her place of practice.

If method #1 is chosen, the required information must be presented in 24-point type in the following format:

#### Health Care Practitioner Information

1. Name and license type
2. Highest level of academic degree
3. Board certification, where applicable

This same information must also be prominently displayed on a website that is directly controlled or administered by the licensee or his or her staff.

This law does not apply to a person working in a facility licensed under Section 1250 of the Health and Safety Code (includes hospitals and skilled nursing facilities)(B&P 680.5).

The names of every person employed in the practice of dentistry must be posted in a conspicuous place in the facility (B&P 1700 (c)).

Comply with the requirement to notify patients of clinical staff names, licenses and academic degrees by following these three actions:

- (1) Clinical staff wear name tag **or** have license or certificate posted.
- (2) Prominently post the name, license type, and highest level of academic degree of each licensed individual, or provide the information in writing in 24-point type to the patient at the initial visit.
- (3) Prominently display the name, license type, and highest level of academic degree of each licensed individual on the practice website.

### **Temporary State License for Health Care Volunteers**

Health care practitioners licensed in other states (including licensed dental professionals) may provide voluntary care, within their scope of practice, for up to 10 days as part of a sponsored nonprofit event through application to an approval by the appropriate regulatory agency (B&P 900-901).

### **Tribal Health Programs**

An individual licensed in another state who is employed by a tribal health program is exempt from California's licensing requirements with respect to acts authorized under the individual's license and performed within the tribal health program (B&P 719).

## Reservists

A reservist who is called to active duty as a member of the U.S. Armed Forces may have renewal fees, continuing education requirements and other renewal requirements waived while on active duty. If renewal requirements are waived, the reservist may not perform the activities requiring a license in private practice. Once discharged from active duty and to return to regular practice, the reservist must, within 60 days of the discharge, notify the Dental Board of the discharge and meet all necessary renewal requirements as determined by the board (B&P 114.3).

## Prohibitions

It is a misdemeanor for any person to:

- (a) Display, cause or permit to be displayed or have in his or her possession either of the following:
  - (1) A canceled, revoked, suspended, or fraudulently altered license.
  - (2) A fake license.
- (b) Lend his or her license to any other person or knowingly permit the use thereof by another.
- (c) Display or represent any license not issued to him or her as being his or her license.
- (d) Fail or refuse to surrender to the issuing authority upon its lawful written demand any license, registration, permit or certificate that has been suspended, revoked or canceled.
- (e) Knowingly permit any unlawful use of a license issued to him or her.
- (f) Photograph, duplicate, manufacture or in any way reproduce any license or copy in a manner that it could be mistaken for a valid license or display or have in his or her possession any such photograph, duplicate, reproduction or copy unless authorized by law.
- (g) Buy or receive a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged or counterfeited (B&P 119).

## Mobile Dental Clinics

See also *Portable Dental Unit*

A mobile unit is defined as a self-contained facility, which may include a trailer or van, in which dentistry is practiced that may be moved, towed or transported from one location to another. A portable dental unit is a self-contained unit housing equipment used for providing dental treatment that is transported to and used on a temporary basis at nondental office locations. A mobile unit or a dental practice that routinely uses portable dental units to provide treatment in nondental office locations must be registered and operated in accordance with regulations. The regulations require the identification of the licensed dentist responsible for the mobile dental unit or portable practice and establish requirements for the availability of follow-up and emergency care, maintenance and availability of provider and patient records and treatment information to be provided to patients and other appropriate parties. Permit requirements can be found on the Dental Board website.

A licensed dentist may operate a mobile dental unit provided by his or her property and casualty insurer as a temporary substitute site for the practice registered by the dentist as long the dentist's registered place of practice has been rendered and remains unusable due to loss or calamity and as long as the dentist's insurer registers the unit with the Dental Board in accordance with its requirements.

A mobile unit operating under the Mobile Health Care Services Act, or a mobile unit operated by an entity exempt from licensure under Health & Safety Code 1206 (b), (c) or (h), is exempt from the requirement to register with the Dental Board. However, the owner or operator of the mobile unit must notify the Dental Board within 60 days of the date on which dental services were first delivered at the mobile unit. A licensee practicing in such a mobile unit is not subject to the regulations established for mobile units required to register with the Dental Board (B&P 1657 and 1658.8, CCR 16 Section 1049).

## Name Change

All licensees must notify the Dental Board or, if a dental hygienist, the DHCC within 10 days of a personal name change (B&P 1654).

## Name Tags

See also *Academic Degree*

A licensee must wear a name tag that discloses his or her name and license type in at least 18-point type, unless the license is prominently displayed at the facility. If a health care practitioner is working in a setting that is not licensed by the state, the employer has the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns (B&P 680).

In addition, a health care practitioner must communicate to a patient his or her name, license type and highest level of academic degree by one or both of the following methods:

- (1) In writing at the patient's initial office visit.
- (2) In a prominent display in an area visible to patients in his or her place of practice.

If method #1 is chosen, the required information must be presented in 24-point type in the following format:

### Health Care Practitioner Information

1. Name and license type
2. Highest level of academic degree
3. Board certification, as applicable

This same information must also be prominently displayed on a website that is directly controlled or administered by the licensee or his or her staff. The academic degree notification requirement does not apply to an individual working in a facility licensed under Section 1250 of the Health & Safety Code (includes hospitals and skilled nursing facilities) (B&P 680.5).

Comply with the requirement to notify patients of clinical staff names, licenses, and academic degrees by following these three actions:

- (1) Clinical staff wear name tag **or** have license or certificate posted.
- (2) Prominently post the name, license type, and highest level of academic degree of each licensed individual **or** provide the information in writing in 24-point type to the patient at the initial visit.
- (3) Prominently display the name, license type, and highest level of academic degree of each licensed individual on the practice website.

## Nitrous Oxide

The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide is unprofessional conduct (B&P 1680(ab)).

The administration of a mixture of nitrous oxide and oxygen does not require a permit or a certificate in the state of California. See sections on Conscious Sedation Permit, General Anesthesia Permit and Oral Conscious Sedation Certificates.

## Nonprofit Organization Practicing Dentistry

A tax-exempt nonprofit corporation supported and maintained in whole or in substantial part by donations, bequests, gifts, grants, government funds or contributions that may be in the form of money, goods or services may legally practice dentistry if all of the following apply:

- The entity obtains the board's approval to offer dental services pursuant to regulations adopted by the board.
- The entity does nothing to interfere with, control or otherwise direct the professional judgment of or provision of dental services by a licensee or dental assistant acting within his or her scope of practice as defined in this chapter.
- The licensees and dental assistants of the entity providing services are in compliance with all applicable provisions of this chapter.
- The entity is otherwise in compliance with this chapter and all other applicable provisions of state and federal law.

The requirements above do not apply to any of the following entities:

- A primary care clinic that is licensed pursuant to subdivision (a) of Section 1204 of the Health & Safety Code.
- A primary care clinic that is exempt from licensure pursuant to subdivision (b), (c) or (h) of Section 1206 of the Health & Safety Code.
- A clinic owned or operated by a public hospital or health system.
- A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare & Institutions Code (B&P 1625.2).

## Notice of Licensure

This regulation requires licensed dentists engaged in the practice of dentistry to provide conspicuous notification to consumers that dentists in California are licensed and regulated by the Dental Board of California. The notice is required to be prominently posted in a conspicuous location accessible to public view on the premises where the dentist provides the licensed services. The notice is required to be in at least 48-point type font and include the following statement and information:

### Notice

Dentists are licensed and regulated  
by the Dental Board of California  
(877) 729-7789  
[www.dbc.ca.gov](http://www.dbc.ca.gov)

Hygienists are required by the Dental Hygiene Committee of California to provide similar notification.

## Oral Conscious Sedation Certificates (Pediatric & Adult)

See also *Conscious Sedation Permit* and *General Anesthesia Permit*  
(B&P 1647.10-1647.17 and 1647.18-1647.26)

“Oral conscious sedation” is defined as “a minimally depressed level of consciousness produced by oral medication that retains the patient’s ability to maintain independently and continuously an airway and respond appropriately to physical stimulation or verbal command.” The drugs and techniques used in oral conscious sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from painful stimuli would not be considered to be in a state of oral conscious sedation. Oral conscious sedation as defined does not include the administration of local anesthesia or a mixture of nitrous oxide and oxygen or to the administration, dispensing or prescription of postoperative medications. The dentist must be physically within the dental office at the time of administration.

A minor patient is under the age of 13 years. An adult patient for the purpose of oral conscious sedation certificates is considered to be 13 years of age or older.

To order or to administer oral conscious sedation to a minor patient on an outpatient basis, a dentist is required to have a pediatric oral conscious sedation certificate, a conscious sedation permit or a general anesthesia permit. A certificate is not necessary, however, if the oral conscious sedation is directly administered by another licensed dentist who possesses a conscious sedation permit or a general anesthesia permit or by a licensed physician and surgeon who possesses a general anesthesia permit from the Dental Board (CCR 16 Section 1044.1).

Pediatric oral conscious sedation certificate requirements include:

- Satisfactory completion of a postgraduate program in oral and maxillofacial surgery or pediatric dentistry approved by either the Commission on Dental Accreditation or a comparable organization approved by the Dental Board, or satisfactory completion of a periodontics or general practice residency or other advanced education in a general dentistry program approved by the Dental Board, or (c) satisfactory completion of a Dental Board-approved course on oral medications and sedation.
- Documentation that required equipment and drugs are at the dental office.
- Maintenance of medical history, physical evaluation and conscious sedation records.

Renewal of a certificate requires completion of at least 7 hours of Dental Board-approved courses of study related to oral conscious sedation of minor patients.

To order or to administer oral conscious sedation to an adult patient on an outpatient basis, a dentist is required to have an adult oral conscious sedation certificate, a pediatric oral conscious sedation permit, a conscious sedation permit or a general anesthesia permit. A certificate is not necessary, however, if the dentist provides oral medication to reduce anxiety in a dose equal to or less than the single maximum recommended dose that can be prescribed for home use. A certificate also is not necessary if the oral conscious sedation is directly administered by another licensed dentist who possesses a conscious sedation permit or a general anesthesia permit or by a licensed physician and surgeon who possesses a general anesthesia permit from the Dental Board (CCR 16 Section 1044.1).

Adult oral conscious sedation certificate requirements include:



- Satisfactory completion of a postgraduate program in oral and maxillofacial surgery approved by either the Commission on Dental Accreditation or a comparable organization approved by the Dental Board, or satisfactory completion of a periodontics or general practice residency or other advanced education in a general dentistry program approved by the Dental Board, or satisfactory completion of a Dental Board-approved course on oral medications and sedation, or submission of documentation to the Dental Board demonstrating the applicant provided oral conscious sedation to 10 adult patients within a three-year period ending no later than Dec. 31, 2005.
- Documentation that required equipment and drugs are at the dental office.
- Maintenance of medical history, physical evaluation and conscious sedation records.

Renewal of a certificate requires completion of at least 7 hours of Dental Board-approved courses of study related to oral conscious sedation of adult patients.

A violation of the laws regarding oral conscious sedation for pediatric patients or adult patients is considered unprofessional conduct.

## Oral Surgery Permits

An oral surgery permit may be issued to an individual who has, or had, a dental license in another state and who has a current medical license in this state. An oral surgery permit also may be issued to a licensed dentist who has furnished satisfactory evidence of current certification or eligibility for certification in oral and maxillofacial surgery by a specialty board (B&P 1638).

Licensed individuals who wish to conduct elective facial cosmetic surgery must first apply for and receive a permit from the Dental Board. Maintenance of the permit requires submission of proof every six years of continued competence (B&P 1638.1).

The laws applicable to a licensed dentist are also applicable to an individual who holds an oral surgery permit (B&P 1638.3).

## Patient Records

### Dental Board Request

Failure to provide records requested by the Dental Board within 15 days of the date of receipt of the request or within the time specified in the request, whichever is later, is unprofessional conduct unless the licensee is unable to provide the documents within this time period for good cause. For the purposes of this section, "good cause" includes physical inability to access the records in the time allowed due to illness or travel (CCR 1018.05).

### Electronic Records

The safety and integrity of all patient records, both hard copies and electronic files, must be ensured. If electronic recordkeeping systems **only** are utilized in the dental office, the office must use an offsite backup storage system, an image mechanism that is able to copy signature documents and a mechanism to ensure that once a record is input, it is unalterable. The electronic health record system also must automatically record and preserve any change or deletion of electronically stored health information and requires the record to include, among other things, the identity of the person who accessed and changed the information and the change that was made to the information. The dentist must

develop and implement policies and procedures to include safeguards for confidentiality and unauthorized access to electronically stored record, authentication by electronic signature keys and systems maintenance. Original hard copies of patient records may be destroyed once the record has been electronically stored. The printout of the computerized version shall be considered the original (H&S 123149 and Civil Code 56.101).

### **Estate of Deceased or Incapacitated Dentist**

The contracting dentist or dentists of an estate of a deceased or incapacitated dentist shall obtain a form signed by the deceased or incapacitated dentist's patient or the patient's legal guardian that releases the patient's dental records to the contracting dentist or dentists prior to use of those records (B&P 1625.4).

### **Patient Access to Records**

Both HIPAA and the state Dental Practice Act set the rules for a patient's right to access his or her records.

Upon presentation of a written request, a patient or patient's representative has the right to inspect the patient's records. The inspection of the records should take place during business hours and within five (5) days of receiving the written request.

A patient or patient's representative also is entitled to a copy of the patient's record once a written request is presented to the office. If the dental office maintains information electronically, the patient is entitled to an electronic copy if requested. All reasonable costs, not exceeding actual costs, incurred by the dental office to provide the copies may be charged to the patient. This includes the cost of copying X-rays. The dental office must provide all copies within 15 days of receiving the written request. HIPAA limits what a covered entity can charge for copies of the patient's record. For an electronic copy, the charge cannot exceed the actual cost of labor and material to produce the copy. For additional information on allowable fees and form and format of copies, refer to Patient Request to Access Records (Records Release) Form and Q-and-As on [cda.org/practicesupport](http://cda.org/practicesupport).

If a patient requires a copy of a portion of his or her record to support an appeal regarding eligibility for a public benefit program, such as Denti-Cal, the copy shall be provided by the dental office at no charge. The patient is entitled to no more than one copy free of charge, but may not be limited in the number of requests for copies. Access to patient records may not be withheld due to an unpaid bill for health care services.

A dentist may prepare a summary of the patient's record for inspection and copying by a patient; however, a HIPAA covered entity must obtain the patient's consent to prepare a summary. The summary must be made available to the patient within 10 working days from the date of the patient's request. More time may be allowed to prepare the summary if the record is large, but the summary must be provided within 30 days of the request. The dentist may charge no more than a reasonable fee based on actual time and cost for the preparation of the summary (H&S 123100-123149.5, Civil Code Section 56.101 and 45 CFR Parts 160, 162, and 164).

### **Record Retention**

Records must be kept for seven years if the patient is inactive or if the dentist ceases operations. Records of unemancipated minors shall be kept at least one year after the minor has reached the age of 18 years, and in any case, not less than seven years. (While there is no definition for discontinued treatment, it can be described as being long enough so that the patient can reasonably account for their dental history. Typically, it is 24 to 32 months after the last appointment.) Liability insurance carriers typically recommend a much longer period for record retention. Ideally, all dental records, active and inactive, should be maintained indefinitely

Persons injured as a result of a dentist's abandonment of patient records may bring action in court against the licensee, or partnership or corporation if applicable (H&S 123145-123149).

## **Treatment Entries**

Every dentist, dental health profession or other licensed health professional who performs a service on a patient in a dental office shall identify himself or herself in the patient record by signing his or her name or an identification number and initials next to the service performed and shall date those treatment entries in the record (B&P 1683)

Altering a patient's record with intent to deceive is unprofessional conduct (B&P 1680(s)). Corrections can be done using single-line strikeouts, and the date the correction was made should be noted. It should be clear that there is no attempt to hide information

## **Patients**

Also see the following sections:

- Dental Materials Fact Sheet
- Denture Identification
- Notice to Consumers
- Patient Records
- Rebates, Refunds and Discounts

## **Communication of Disciplinary Action**

The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee is unprofessional conduct (B&P 1680(v)).

## **Death or Incapacitation of a Dentist**

The executor or administrator of a dentist's estate, or a legal guardian, conservator or authorized representative of a dentist who is deceased or incapacitated, or a trustee or successor trustee of a trust that owns a deceased or incapacitated dentist's dental practice must send written notification within 30 days of the dentist's death or incapacity to the dentist's patients if the non-dentist plans to continue the dental practice. The non-dentist cannot operate the dental practice for no longer than 12 months as allowed by law. The contracting dentist or dentists may also send this notification. The notification must include information on how patient records may be obtained. Other relevant information may be included in the notification (B&P 1625.4).

## **Diagnosis, Prescription and Treatment**

Clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities as determined by the customary practice and standards of the dental profession is unprofessional conduct (B&P 1680(p)). Repeated acts of clearly excessive use of diagnostic procedures or diagnostic facilities is unprofessional conduct (B&P 725). Repeated acts of clearly excessive treatment or clearly excessive use of treatment facilities is unprofessional conduct (B&P 725).

## **Discrimination**

Dental licensees may not refuse to treat or prevent or otherwise restrict dental treatment of an individual because of the individual's race, color, sex, religion, ancestry, disability, marital status or national origin (B&P 125.6).

## Illness or Death of a Patient

A licensee must report the following to the Dental Board, or DHCC if applicable, within seven days of:

- The death of his or her patient during the performance of any dental or dental hygiene procedure.
- The discovery of the death of a patient whose death is related to a dental or dental hygiene procedure performed by the dentist, dental hygienist, dental hygienist in extended functions or dental hygienist in alternative practice.
- Except for scheduled hospitalization, the removal to a hospital or emergency center for medical treatment exceeding 24 hours of any patient to whom oral conscious sedation, conscious sedation or general anesthesia was administered or any patient as a result of dental or dental hygiene treatment. With the exception of patients to whom oral conscious sedation, conscious sedation or general anesthesia was administered, removal to a hospital or emergency center that is the normal or expected treatment for the underlying dental condition is not required to be reported.

A dentist must report to the Dental Board all deaths occurring in his or her practice using a form provided by the board.

A dentist must send a copy of the report to the DHCC if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice or registered dental hygienist in extended functions. The Dental Board may conduct an inspection upon receipt of the report.

The requirement to report adverse events in a dental facility also is applicable to a physician anesthesiologist (B&P 1680(z)).

## Informed Consent

Informed consent is required for general anesthesia and conscious sedation (B&P 1682(e)). Liability carriers recommend informed consent for certain procedures.

Additionally, in the case of a minor receiving general anesthesia services, informed consent shall include, but not be limited to the following statement:

“The administration and monitoring of general anesthesia may vary depending on the type of procedure, the type of practitioner, the age and health of the patient and the setting in which anesthesia is provided. Risks may vary with each specific situation. You are encouraged to explore all the options available for your child’s anesthesia for his or her dental treatment and consult with your dentist or pediatrician as needed (B&P 1682).”

## Patient Abandonment

It is unprofessional conduct to abandon a patient without written notice that treatment is to be discontinued, and before the patient has opportunity to secure the services of another dentist (B&P 1680(u)). It is recommended for the dentist to send the patient a certified letter terminating the relationship, with the reasons for the termination, an explanation that the dentist will remain available to the patient for no more than 30 days on an emergency basis or until the patient has found a new dentist.

## Patient of Record

A dentist may not perform, or allow to be performed, any treatment on a patient who is not a patient of record of that dentist. A dentist may, however, after conducting a preliminary oral examination, require or permit any dental auxiliary to perform procedures necessary for diagnostic purposes provided that the procedures are permitted under the

auxiliary's authorized scope of practice. Additionally, a dentist may require or permit a dental auxiliary to perform all of the following duties prior to any examination of the patient by the dentist provided that the duties are authorized for the particular classification of dental auxiliary:

- (1) Expose emergency radiographs upon direction of the dentist.
- (2) If the dental auxiliary is a registered dental assistant in extended functions, a registered dental hygienist or a registered dental hygienist in alternative practice, determine and perform radiographs for the specific purpose of aiding a dentist in completing a comprehensive diagnosis and treatment plan for a patient using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist pursuant to Sections 1753.55, 1910.5 and 1926.05. A dentist is not required to review patient records or make a diagnosis using telehealth.
- (3) Perform extra-oral duties or functions specified by the dentist.
- (4) Perform mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, malocclusions, existing restorations and missing teeth.

"Patient of record" refers to a patient who has been examined, has had a medical and dental history completed and evaluated, has had oral conditions diagnosed and a written plan developed by the licensed dentist. This requirement does not apply to dentists providing examinations on a temporary basis outside of a dental office in settings including, but not limited to, health fairs and school screenings. It also does not apply to fluoride mouth rinse or supplement programs administered in a school or preschool setting (B&P 1684.5).

### **Sexual Abuse and Misconduct**

Commission of any act of sexual abuse, misconduct or relations with a patient is unprofessional conduct (B&P 726 and 1680(e)).

### **Threats or Harassment**

Use of threats or harassment against any patient for providing evidence in any possible or actual disciplinary action or other legal action is unprofessional conduct (B&P 1680(q)).

### **Place of Practice**

A licensed dentist is required to register his or her place or places of practice, or if he or she has no place of practice. Such registration must be done within 30 days of obtaining his or her license (B&P 1650 and 1655). A dentist must register any new place of practice within 30 days (B&P 1651).

Prior to opening an additional place of practice, a licensee or dental corporation must apply and receive permission from the Dental Board for the additional place of practice. This additional office permit requirement applies to a licensee who has proprietary interest or right to management or control in the practice. This requirement does not apply to licensees who practice dentistry outside of his or her registered place of practice in specified settings, such as licensed health facilities, schools and the homes of nonambulatory patients (B&P 1658, CCR 16 Sections 1045 and 1057).

A licensee who transfers an additional office to another licensee must notify the Dental Board within 30 days of the transfer (CCR 16 Section 1048).

A dentist maintaining more than one office in this state must assume legal responsibility and liability for the dental services rendered in each office, ensure each office complies with supervisory requirements, and posts in an area likely to be seen by all patients, a sign with the dentist's name, mailing address, telephone number and dental license number (B&P 1658.1).

It is unprofessional conduct for a licensee to engage in, aid or abet prostitution or pandering conducted on the premises controlled by the licensee (B&P 731).

## **Portable Dental Units**

See also *Mobile Dental Clinic*

A portable dental unit is a self-contained unit housing equipment used for providing dental treatment that is transported to, and used on a temporary basis at, nondental office locations. A dental practice that routinely uses portable dental units to provide treatment in nondental office locations must register with the Dental Board and operate in accordance with regulations. The regulations require the identification of the licensed dentist responsible for the portable dental unit and establish requirements for the availability of follow-up and emergency care, maintenance and availability of provider and patient records and treatment information to be provided to patients and other appropriate parties. Permit requirements can be found on the Dental Board website (B&P 1657).

## **Prescriptions, Controlled Substances, and Other Drugs**

### **Agent of Prescriber**

A dentist may authorize an agent on his or her behalf to orally or electronically transmit a prescription to the pharmacy. The pharmacy must make a reasonable effort to determine that the person who transmits the prescription is authorized to do so. This authority does not extend to prescriptions for Schedule II controlled substances (B&P 4071).

### **Authority and Scope of Prescription**

A dentist may issue a prescription in the usual course of dental treatment. It is unprofessional conduct to prescribe, administer, dispense or furnish a controlled substance to or for any person or animal that is not under the dentist's care (H&S 11150, 11154).

No person shall prescribe, administer or furnish a controlled substance for himself (H&S 11170).

### **Controlled Substances and CURES**

"Controlled substances" are defined in Health & Safety Code sections 11053-11058. In general, controlled substances include opiates, opium derivatives, hallucinogens, depressants, stimulants, narcotics, steroids and substances that include compounds, mixtures, derivatives and preparations using these chemicals. DEA registration, not state registration, is required to prescribe controlled substances.

As of July 1, 2016, prescribers of controlled substances are required to register to access CURES, the state prescription drug monitoring program database. At a future date to be announced after the Department of Justice (DOJ) certifies the database is ready for statewide use, prescribers will be required to consult the database. Exceptions to this requirement include a dentist who prescribes, orders, administers or furnishes a controlled substance to a patient as part of the patient's treatment for a surgical procedure and the quantity of the controlled substance does not exceed a nonrefillable five-day supply of the controlled substance to be used in accordance with the directions for use. If the controlled substance remains part of the patient's treatment, the dentist must subsequently check the CURES database prior to writing another prescription and every four months while the substance is part of the patient's treatment. The CURES patient activity report must be pulled no earlier than 24 hours prior to prescribing.

Only electronic registration to CURES is available. Go to [oag.ca.gov/cures-pdmp](http://oag.ca.gov/cures-pdmp) for information and to start the registration process. The Department of Justice may conduct audits of CURES and its users. Dissemination or distribution of the patient activity report to anyone other than the registered user or patient who requests a copy of the report is prohibited. HIPAA and all confidentiality and disclosure provisions of state law cover the information contained in the database. Disciplinary, civil or criminal actions will be taken by the Department of Justice and/or the appropriate licensing agency for any misuse or inappropriate access of patient data (H&S 11150-11180).

**Prescription forms** for controlled substances must be obtained from security printers approved by the Department of Justice. Before printing any controlled substance prescription form, a security printer shall verify with the appropriate licensing board that the prescriber possesses a license and current prescribing privileges (H&S 11161.5). The required printed features for controlled substances prescription forms are described in Health & Safety Code section 11162.1.

Prescriptions for controlled substances must be signed and dated by the prescriber in ink, and must contain the prescriber's address and telephone number, the patient's name and address (may be filled in by pharmacist or pharmacy employee), refill information, whether the prescription is a first-time request or a refill, and the name, quantity, strength and directions for use of the controlled substance prescribed (H&S 11164(a)(1) and (2)).

A dentist who prescribes or administers a Schedule II controlled substance shall record the name and address of the patient, the date of prescription or administration, the name, strength and quantity of controlled substance, and the treatment for which the controlled substance is used.

See "Prescriber Dispensing" below for information on dispensing controlled substances. Refer to the article "Controlled Substances Prescribing and Dispensing" on [cda.org/practicesupport](http://cda.org/practicesupport) for additional information on secure prescription forms and CURES.

### **Excessive Prescribing or Administering of Drugs**

Repeated acts of clearly excessive prescribing or administering of drugs or treatment is unprofessional conduct, and the person who engages in such activity is guilty of a misdemeanor (B&P 725). Violation of any provisions of the laws regulating procurement, dispensing or administration of controlled substances is unprofessional conduct (B&P 1680(m)).

### **Fraud**

It is a crime to fraudulently represent oneself as an agent of a prescriber or as a prescriber or to forge or attempt to pass as genuine a prescription for any drug (B&P 4323, 4324, 4325 and H&S 11173).

No person shall issue a prescription that is false or fictitious in any respect (H&S 11157, 11173, 11174).

Counterfeiting or possessing counterfeit controlled substances prescription blanks is a crime (H&S 11162.5 and 11162.6).

### **Impairment/Convictions**

Obtaining or possessing in violation of law or self-administering any controlled substance or dangerous drug, or using such when it is dangerous to self or patients, will result in conviction of a charge under state or federal laws (B&P 1681(b), (c)).

### **Prescriber Dispensing**

A dentist may dispense drugs to his or her patients at his or her place of practice if **all** of the following conditions are met (B&P 4170(a):

- Drugs are dispensed to the dentist's own patient and are not furnished by a nurse or physician attendant.
- Drugs are necessary for the dentist's treatment of the patient.
- Dentist does not keep a pharmacy or other retail operation to furnish drugs.
- Fulfills all labeling, recordkeeping and packaging requirements, including the use of childproof containers.
- Dentist does not use a dispensing device, unless dentist personally owns the device and its contents and personally dispenses the drugs to the patient packaged, labeled and recorded as required.
- Prior to dispensing, the dentist offers to give a written prescription to the patient that the patient may elect to have filled by the prescriber or by any pharmacy.
- Dentist provides patient with written disclosure that the patient has a choice between obtaining the prescription from the dispensing prescriber or obtaining the prescription at a pharmacy of the patient's choice.

Drugs dispensed by a dentist must be properly **labeled** with the prescriber's name, patient's name, drug name, date of issue, dosage, quantity, directions for use, expiration date, physical description of the drug and, if requested by the patient, the condition for which the drug is dispensed. False or misleading information may not be included on a prescription label (B&P 4076, 4077(b), 4078).

Drugs to be dispensed must be **stored** in a secure area, which means a locked storage area within the dentist's office. The keys to the locked storage area shall be available only to staff authorized by the dentist (B&P 4172 and CCR 16 Section 1356.3).

A record or log of drug acquisition and disposition must be maintained by the dentist (B&P 4170(a) and 4105. Records must be preserved for three years (H&S 11191).

A prescription is not necessary in the sale of controlled substances at retail in pharmacies, or wholesale by pharmacies, wholesalers or manufacturers, to dentists and other licensed prescribers (H&S 11250, 11251).

A dentist with a current DEA registration may dispense to a patient under his or her care a **Schedule II controlled substance** in an amount not to exceed a 72-hour supply in accordance with normal use (H&S 11158).

For each Schedule II, Schedule III or Schedule IV controlled substance dispensed by a dentist, the dentist must record: the patient's full name, address, telephone number, gender and date of birth; the prescriber's license category (dentist) and license number, DEA registration number, individual NPI number, the National Drug Code number of the controlled substance dispensed; quantity of controlled substance dispensed; ICD-9 or ICD-10 (diagnosis code) if available; number of refills ordered; whether drug was dispensed as a refill or as a first issue; date of prescription and date of dispensing. This information must be reported to CURES no more than seven days after a controlled substance is dispensed. See "Direct Dispense Reporting Application" information on the DOJ website, [oag.ca.gov/cures](http://oag.ca.gov/cures), for additional information (H&S 11165).

### **Samples**

A dentist may furnish to a patient at no charge a limited quantity of drug samples if furnished in the package provided by the manufacturer. This transaction should be recorded in the patient record (B&P 4171).

### **Prescription (Written Authorization) to a Dental Lab**

The construction, making, verification of shade taking, alteration or repairing of bridges, crowns, dentures or other prosthetic appliances or orthodontic appliances requires a written authorization signed by a licensed dentist, unless such work is performed in the office and under the supervision of a licensed dentist. The written authorization must include the following:



- The date of its issuance.
- A description of the work authorized by the dentist to be done by the technician.
- The signature of the dentist issuing the written authorization.
- The license number of the dentist issuing the written authorization.

The regulations do not distinguish between manual or preprinted signatures. However, labs that accept preprinted paper orders with electronic signatures must ensure the security, authenticity, integrity and confidentiality of the document. Authentication means ensuring that the prescriber is the person he or she purports to be and ensuring that both the document and the signature have not been altered (B&P 1626(e), CCR 16 Section 1063 and personal email June 27, 2013).

## Quality of Care

Aiding or abetting of a licensed dentist or dental auxiliary to practice dentistry in a negligent or incompetent manner is unprofessional conduct (B&P 1680(y)).

It is unprofessional conduct for any licensed individual to require, either directly or through an office policy, or knowingly permit the delivery of dental care that discourages necessary treatment or permits clearly excessive treatment, incompetent treatment, grossly negligent treatment, repeated negligent acts or unnecessary treatment as determined by the standard of practice in the community (B&P 1685).

## Radiation Safety

Every dentist and anyone working in a dental office who operates radiographic equipment must either (1) pass a Dental Board-approved course in radiation safety or (2) passed the board-administered radiation safety examination by Jan. 1, 1985. It should be noted that current dental, dental hygiene and dental assisting educational programs include radiation safety instruction (B&P 1656).

Permitting any person to operate dental radiographic equipment who has not met the above requirements is considered unprofessional conduct (B&P 1680(o)).

## Rebates and Refunds

### Compensation or Inducement for Referrals

A dentist shall not offer, deliver, receive or accept any rebate, refund, commission, preference, patronage dividend, discount or other consideration as compensation or inducement for referring patients, clients or customers to any person, irrespective of any membership, proprietary interest or co-ownership in or with any person to whom these patients, clients or customers are referred. ("Fee-splitting" is a commonly used term to describe some of these practices.) Exceptions to this prohibition include

- The payment or receipt of consideration for services other than the referral of patients that is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.
- Except as provided in the Health & Safety Code (commencing with Section 1400) and in Business & Professions Code Sections 654.1 and 654.2, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health & Safety Code) or health care facility solely because the licensee has a proprietary interest or co-

ownership in the laboratory, pharmacy, clinic or health care facility; provided, however, that the licensee's return on investment for that proprietary interest or co-ownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral (B&P 650, 652 and H&S 1400 et seq).

Business & Professions Code Section 650 prohibits a dentist from giving any gift, no matter how small, to any individual for the referral of any patient to the dentist's practice. Thank-you notes may be sent. There is no prohibition on a dentist giving gifts to patients or other individuals in recognition of holidays, birthdays or other special events not related to patient referrals.

The practice of accepting or receiving any commission or the rebating in any form of fees for professional services, prescriptions or other services supplied to patients is unprofessional conduct (B&P 1680(g)).

### **Refund of Duplicate Payment**

A licensee shall refund any amount that a patient has paid for services rendered that has subsequently been paid to the licensee by a third-party payer and that constitutes a duplicate payment. Failure to do so is considered unprofessional conduct. The refund shall be made as follows:

1. If the patient requests a refund, within 30 days following the request from that patient for a refund if the duplicate payment has been received or within 30 days of receipt of the duplicate payment if the duplicate payment has not been received.
2. If the patient does not request a refund, within 90 days of the date the licensee knows, or should have known, of the receipt of the duplicate payment, the licensee shall notify the patient of the duplicate payment and the duplicate payment shall be refunded within 30 days unless the patient requests that a credit balance be retained (B&P 732).

### **Referrals and Referral Services**

Also see *Rebates and Refunds* for information on Compensation or Inducement for Referrals

Business and Professions Code Section 650 prohibits a dentist from giving any gift, no matter how small, to any individual for the referral of any patient to the dentist's practice. Thank-you notes may be sent. There is no prohibition on a dentist giving gifts to patients or other individuals in recognition of holidays, birthdays or other special events not related to patient referrals.

### **Referral Services**

A dentist may participate in or operate a group advertising and referral service for dentists if all of the following conditions are met:

- (a) The patient referrals by the service result from patient-initiated responses to service advertising.
- (b) The service advertises, if at all, in conformity with B&P Section 651 and subdivisions (i) and (l) of Section 1680.
- (c) The service does not employ a solicitor within the meaning of subdivision (j) of B&P Section 1680.
- (d) The service does not impose a fee on the member dentist dependent upon the number of referrals or amount of professional fees paid by the patient to the dentist.
- (e) Participating dentists charge no more than their usual and customary fees to any patient referred.
- (f) The service registers with the Dental Board providing its name and address.

- (g) The service files with the Dental Board a copy of the standard form contract that regulates its relationship with member dentists, which contract shall be confidential and not open to public inspection.
- (h) If more than 50 percent of its referrals are made to one individual, association, partnership, corporation or group of three or more dentists, the service discloses that fact in all public communications, including, but not limited to, communication by means of television, radio, motion picture, newspaper, book or list or directory of healing arts practitioners.
- (i) When member dentists pay any fee to the service, any advertisement by the service shall clearly and conspicuously disclose that fact by including a statement as follows: "Paid for by participating dentists." In print advertisements, the required statement shall be in at least 9-point type. In radio advertisements, the required statement shall be articulated so as to be clearly audible and understandable by the radio audience. In television advertisements, the required statement shall be either clearly audible and understandable to the television audience or displayed in a written form that remains clearly visible for at least five seconds to the television audience.

Operating a group advertising and referral service for dentists without providing its name and address to the Dental Board can be charged as a misdemeanor (B&P 650.2).

### **Referrals to Other Organizations**

When a licensee refers a patient to an organization that the licensee, or the licensee's immediate family, has a significant beneficial interest, the licensee must disclose this interest in writing to the patient and must advise that the patient may choose any organization for the purpose of obtaining the service ordered or requested by the licensee. Such disclosure and advice also must be provided if the licensee charges, bills or otherwise solicits payment from a patient on behalf of an organization that the licensee, or immediate family, has a significant beneficial interest. Disclosure requirement can be met by posting a conspicuous sign or by providing those patients with a written statement. Upon request by a third-party payer for the patient, a licensee must disclose in writing organizations in which the licensee, or immediate family, has a significant beneficial interest and to which patients are referred. The payer may not request this information more than once a year (B&P 654.2).

### **Scope of Practice**

It is unprofessional conduct for a licensed individual to perform, or hold himself or herself out as able to perform, professional services beyond the scope of his or her license and field or fields of competence as established by his or her education, experience, training or any combination thereof. This includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the profession (B&P 1684).

### **Dentistry**

The State of California defines dentistry in Business & Professions Code Section 1625:

Dentistry is the diagnosis or treatment, by surgery or other method, of diseases and lesions and the correction of malpositions of the human teeth, alveolar process, gums, jaws or associated structures; and such diagnosis or treatment may include all necessary related procedures as well as the use of drugs, anesthetic agents and physical evaluation. Without limiting the foregoing, a person practices dentistry within the meaning of this chapter who does any one or more of the following:

- (a) By card, circular, pamphlet, newspaper or in any other way advertises himself or represents himself to be a dentist.
- (b) Performs, or offers to perform, an operation or diagnosis of any kind, treats diseases or lesions of the human teeth, alveolar process, gums, jaws or associated structures or corrects malposed positions thereof.
- (c) In any way indicates that he will perform by himself or his agents or servants any operation upon the human teeth, alveolar process, gums, jaws or associated structures, or in any way indicates that he will construct, alter, repair or sell any bridge, crown, denture or other prosthetic appliance or orthodontic appliance.
- (d) Makes, or offers to make, an examination of with the intent to perform or cause to be performed any operation on the human teeth, alveolar process, gums, jaws or associated structures.
- (e) Manages or conducts as manager, proprietor, conductor, lessor or otherwise a place where dental operations are performed.

A dentist may not perform, or allow to be performed, any treatment on a patient who is not a **patient of record** of that dentist. A dentist may, however, after conducting a preliminary oral examination require or permit any dental auxiliary to perform procedures necessary for diagnostic purposes if the procedures are permitted under the auxiliary's authorized scope of practice. Additionally, a dentist may require or permit a dental auxiliary to perform all of the following duties prior to any examination of the patient by the dentist if the duties are authorized for the particular classification of dental auxiliary:

- (1) Expose emergency radiographs upon direction of the dentist.
- (2) If the dental auxiliary is a registered dental assistant in extended functions, a registered dental hygienist or a registered dental hygienist in alternative practice, determine and perform radiographs for the specific purpose of aiding a dentist in completing a comprehensive diagnosis and treatment plan for a patient using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist pursuant to Sections 1753.55, 1910.5 and 1926.05. A dentist is not required to review patient records or make a diagnosis using telehealth.
- (3) Perform extra-oral duties or functions specified by the dentist.
- (4) Perform mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, malocclusions, existing restorations and missing teeth.

"Patient of record" refers to a patient who has been examined, has had a medical and dental history completed and evaluated and has had oral conditions diagnosed and a written plan developed by the licensed dentist. This requirement does not apply to dentists providing examinations on a temporary basis outside of a dental office in settings including, but not limited to, health fairs and school screenings. It also does not apply to fluoride mouth rinse or supplement programs administered in a school or preschool setting (B&P 1684.5).

### **Oral and Maxillofacial Surgery**

Oral and maxillofacial surgery is defined as the diagnosis and surgical and adjunctive treatment of diseases, injuries and defects that involve both functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region. See the section Oral Surgery Permits for additional information (B&P 1638).

### **Dental Assisting**

A dental assistant is an individual who, without a license, may perform basic supportive dental procedures, as authorized by law, under the supervision of a licensed dentist. "Basic supportive dental procedures" are those procedures that have technically elementary characteristics, are completely reversible and are unlikely to precipitate potentially hazardous conditions for the patient being treated. These basic supportive dental procedures do not include those procedures authorized only for registered assistants. The supervising licensed dentist is responsible for determining the competency of the dental assistant to perform the basic supportive dental procedures (B&P 1750).

A registered dental assistant (RDA) and a registered dental assistant in extended functions (RDAEF) are licensed individuals who completed additional instruction in order to be able to perform additional procedures. The scope of practice for dental assistants is detailed in B&P 1750.1; for registered dental assistants in B&P 1752.4; and for registered dental assistants in extended functions in B&P 1753.5. In addition, with approved training and under specified conditions, an RDAEF can perform the duties in telehealth connected dental teams as described in (B&P 1753.55)

A registered dental assistant or a registered dental assistant in extended functions may perform the following procedures while employed by or practicing in a primary care clinic or specialty clinic or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under the Welfare & Institutions Code under the direct supervision of a registered dental hygienist or a registered dental hygienist in alternative practice:

- Coronal polishing, after providing evidence to the Dental Board of having completed a board-approved course in that procedure.
- Application of topical fluoride.
- Application of sealants, after providing evidence to the Dental Board of having completed a board-approved course in that procedure (B&P 1777).

Dental assisting specialty permits: Dental assistants, registered dental assistants and registered dental assistants in extended functions who meet specified work experience and course requirements and who pass a written examination may obtain an orthodontic assistant permit or dental sedation assistant permit. The duties allowed for holders of these permits are listed in B&P 1750.3 for the orthodontic assistant permit and in B&P 1750.5 for the dental sedation assistant permit.

The duties of a dental assistant or a dental assistant holding a permit in orthodontic assisting or in dental sedation do not include any of the following procedures unless specifically allowed by law:

1. Diagnosis and comprehensive treatment planning.
2. Placing, finishing or removing permanent restorations.
3. Surgery or cutting on hard and soft tissue including, but not limited to, the removal of teeth and the cutting and suturing of soft tissue.
4. Prescribing medication.
5. Starting or adjusting local or general anesthesia or oral or parenteral conscious sedation, except for the administration of nitrous oxide and oxygen, whether administered alone or in combination with each other and except as otherwise provided by law.

## **Dental Hygiene**

The practice of dental hygiene includes dental hygiene assessment, development, planning and implementation of a dental hygiene care plan. It also includes oral health education, counseling and health screenings. The practice of dental hygiene does not include any of the following procedures:

- Diagnosis and comprehensive treatment planning.
- Placing, condensing, carving or removal of permanent restorations.
- Surgery or cutting on hard and soft tissue including, but not limited to, the removal of teeth and the cutting and suturing of soft tissue.

- Prescribing medication.
- Administering general anesthesia or oral or parenteral conscious sedation, except for the administration of nitrous oxide and oxygen, whether administered alone or in combination with each other, or local anesthesia.

A dental hygienist may provide, without supervision, educational services, oral health training programs, and oral health screenings.

A dental hygienist shall refer any screened patients with possible oral abnormalities to a dentist for a comprehensive examination, diagnosis, and treatment plan.

A dental hygienist may provide, without supervision in any public health program created by federal, state or local law or administered by a federal, state, county or local governmental entity, dental hygiene preventive services in addition to oral screenings including, but not limited to, the application of fluorides and pit and fissure sealants.

A dental hygienist may perform or provide under general supervision any procedure or service for which direct supervision is not specifically required, as long as it does not give rise to a situation in the dentist's office requiring immediate services for alleviation of severe pain or immediate diagnosis and treatment of unforeseeable dental conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

Unless otherwise specified in the Dental Practice Act, a dental hygienist may perform any procedure or provide any service within the scope of his or her practice in any setting as long as the procedure is performed or the service is provided under the required level of supervision.

A dental hygienist may use any material or device approved for use in the performance of a service or procedure within his or her scope of practice under the appropriate level of supervision if the dental hygienist has the appropriate education and training required to use the material or device.

The scope of practice for registered dental hygienists is described in B&P 1907 through 1915. Note: Section 1910.5 describes the specified training and conditions under which an RDH can perform duties in telehealth connected dental teams.

A **registered dental hygienist in alternative practice** may perform the preventive and therapeutic functions detailed in B&P 1907(a), 1908(a), 1910(a) and (b):

- As an employee of a dentist or of another registered dental hygienist in alternative practice.
- As an independent contractor.
- As a sole proprietor of an alternative dental hygiene practice.
- As an employee of a primary care clinic or specialty clinic.
- As an employee of a clinic owned or operated by a public hospital or health system.
- As an employee of a clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under the Welfare & Institutions Code.

In the following settings:

- Residences of the homebound.
- Schools.
- Residential facilities and other institutions.
- Dental health professional shortage areas.

A registered dental hygienist in alternative practice shall not:

- Infer, purport, advertise or imply that he or she is in any way able to provide dental services or make any type of dental health diagnosis beyond those services allowed.
- Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

A registered dental hygienist in alternative practice may:

- Submit or allow to be submitted any insurance or third-party claims for patient services performed.
- Hire other registered dental hygienists in alternative practice to assist in his or her practice.
- Hire and supervise dental assistants performing functions specified in subdivision (b) of Section 1751.
- Provide services to a patient without obtaining written verification that the patient has been examined by a dentist or physician and surgeon licensed to practice in this state. If services are provided to a patient 18 months or more after the first date of service, then the registered dental hygienist in alternative practice must obtain written verification that the patient has been examined by a dentist or physician and surgeon licensed to practice in California. The verification shall include a prescription for dental hygiene services. Failure to comply with this requirement shall be considered unprofessional conduct.
- Perform dental hygiene services for a patient who presents a written prescription for dental hygiene services issued by a dentist or physician and surgeon licensed to practice in California. The prescription shall be valid for a time period based on the dentist's or physician and surgeon's professional judgment, but not to exceed two years from the date that it was issued.

A registered dental hygienist in alternative practice shall provide to the Dental Board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services (B&P 1930).

In addition, with approved training and under specified conditions, an RDHAP can perform the duties in telehealth connected dental teams as described in B&P 1910.5 and 1926.05.

### **Supervision of Dental Auxiliaries and Posting of Dental Auxiliary Duties**

All dentists utilizing the services of dental auxiliaries shall post in a common area of the office a notice that delineates duties and functions deemed by the board as delegable within stipulated settings and/or circumstances (CCR 16 Section 1068).

Dental auxiliaries may perform specified duties under three categories of supervision: general, direct and "dentist determined." Supervision of dental auxiliaries in specified settings, such as schools, community health projects and telehealth arrangements, may differ from supervision in traditional dental practice. Additional information is provided in the Table of Permitted Duties and referenced sections of law.

A licensed dentist may simultaneously utilize in his or her practice no more than three registered dental assistants in extended functions or registered dental hygienists in extended functions (B&P Section 1753.7). In telehealth settings, a dentist shall concurrently supervise no more than a total of five registered dental assistants in extended functions, registered dental hygienists or registered dental hygienists in alternative practice (B&P Section 1684.5).

If a registered dental assistant in extended functions, a registered dental hygienist or a registered dental hygienist in alternative practice treats a patient, pursuant to the diagnosis and treatment plan authorized by a supervising dentist, at a location other than the dentist's practice location, the dentist must provide to the patient or patient's representative written notification that the care was provided at the direction of the authorizing dentist. The notification must include the authorizing dentist's name, practice location address and telephone number.

The provision requiring patient notification of the authorizing dentist is not required for dental hygiene preventive services provided in public health programs as specified and authorized in Section 1911 or for dental hygiene care when provided as specified and authorized in Section 1926 (B&P Section 1684.5).

## Telehealth

A licensed dental professional who provides services via telehealth shall be subject to the requirements and definitions set forth in Business & Professions Code Section 2290.5, to the practice act relating to his or her licensed profession, and to the regulations adopted by a board pursuant to that practice act.

"Telehealth" is the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth includes synchronous interactions and asynchronous store and forward transfers. "Asynchronous store and forward" means the transmission of a patient's information from an originating site to the health care provider at a distant site without the presence of the patient.

Prior to the delivery of health care via telehealth, a health care provider at the originating site shall verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. The verbal consent shall be documented in the patient's medical record. The failure of a health care provider to comply with this section shall constitute unprofessional conduct (B&P 686 and 2290.5).

The Dental Board further requires that if a registered dental assistant in extended functions, a registered dental hygienist or a registered dental hygienist in alternative practice treats a patient, pursuant to the diagnosis and treatment plan authorized by a supervising dentist, at a location other than the dentist's practice location, the dentist must provide to the patient or patient's representative written notification that the care was provided at the direction of the authorizing dentist. The notification must include the authorizing dentist's name, practice location address and telephone number. The provision requiring patient notification of the authorizing dentist is not required for dental hygiene preventive services provided in public health programs as specified and authorized in Section 1911 or for dental hygiene care when provided as specified and authorized in Section 1926 (B&P Section 1684.5).

In telehealth connected dental teams, dental assistants in extended functions, registered dental hygienists and registered dental hygienists in alternative practice are permitted specified duties upon completion of approved training.