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# Chapter 1: California Dental Practice Act

## 2 CE Hours - Mandatory

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By: Elite Staff

### Learning objectives

- ♦ Summarize the California Dental Practice Act.
- ♦ Define dentistry as determined by Dental Code 1625.
- ♦ List the duties of dental assistants.
- ♦ List the duties of dental hygienists according to the Dental Hygiene Committee, sections 1900-1976.
- ♦ Describe the utilization and scope of practice for auxiliaries and dentists.
- ♦ List the acts in violation of the Dental Practice Code.
- ♦ Learn the regulations regarding controlled substances in the Business and Professions Code 4076, 4170 and 4172.
- ♦ Review the process and requirements of renewing a license.
- ♦ Explain the mandatory reporter obligations set forth in the Child Abuse and Neglect Reporting Act and the Elder Abuse and Dependent Civil Protection Act.

### Introduction

The California Dental Practice Act is the section of the Business and Professions Code (1600-1976) that contains the laws regulating the dental profession. California law requires that every dental professional have a thorough understanding of these laws, along with Title 16, California Code of Regulations, Division 10, Dental Board of California

(Chapter 1, General Provisions Applicable to All Licensees) and other related California statutes. This is why it is a mandatory requirement for all dental health care professionals to have a minimum of two continuing education hours on the Dental Practice Act each biennium.

### The governing agencies and their roles (Summary 1601.1 – 1603a)

The Department of Consumer Affairs, a department within the California Business, Consumer Services, and Housing Agency, regulates private business and professions that have an impact on public health, safety and welfare. They set the minimum qualifications and levels of competency for licensed persons to provide effective public services. The department issues licenses in more than 100 business and 200 professional categories. It also licenses, registers or certifies practitioners, investigates complaints and disciplines violators. This department conducts periodic checks of licensees, registrants or otherwise certified persons to make sure they are complying with the Business and Professions Code 101.6. This department, in conjunction with the board and the Joint Committee on Boards, Commissions and Consumer Protection, shall review the scope of practice for dental auxiliaries.

The Dental Board of California was formerly known as the Board of Dental Examiners of California. The Dental Board is the main authority of dentistry in the state of California. The California Dental Board includes eight practicing dentists, five public members, one registered dental hygienist and one registered dental assistant. Of the eight

practicing dentists, one must be a member of a faculty of any California dental college, and one must be a dentist practicing in a nonprofit community clinic.

The governor of California is responsible for appointing three of the public members of the board, the dental assistant member, the dental hygienist member, and the eight licensed dentist members of the board. The Senate Rules Committee and the speaker of the Assembly each appoint a public member. Their initial appointments occupies the first and second public member seats as vacancies occur. All of the members of the board, excluding the public members, must have been active professionals in California for at least five years preceding their date of appointment. The public members cannot be licensees under this division or of any board referred to in Sections 1000 and 3600, and no more than one member of the board can be a member of the faculty of a dental or medical college or have a financial interest in any such college in the state of California.

Any member of the Board of Dental Examiners who has served two full terms is not eligible for reappointment to the board.

### Role of the board (Summary 1601.1 – 1621)

Protection of the public shall be the highest priority for the Dental Board of California in exercising its licensing, regulatory and disciplinary functions.

The board shall carry out the purposes and enforce the provisions of this chapter. It shall examine all applicants for a license to practice dentistry according to the provisions of this chapter and shall issue licenses to practice dentistry in this state to applicants who successfully pass the examination of the board and otherwise comply with the provisions of this chapter. The board shall collect and apply all fees as directed by this chapter.

The board may inspect the books, records and premises of any dentist licensed under this chapter in response to a complaint that a licensee has violated any law or regulation that constitutes grounds for disciplinary action by the board, and may employ inspectors for this purpose. A licensee's failure to allow an inspection or any part thereof shall be

grounds for suspension or revocation of the license in accordance with Section 1670.

The board shall keep a record of the names of all persons to whom licenses have been granted by it to practice dentistry, and such other records as may be necessary to show plainly all of its acts and proceedings.

The board may adopt reasonably necessary rules not inconsistent with the provisions of this chapter concerning:

- The holding of meetings.
- The holding of examinations.
- The manner of issuance and reissuance of licenses.
- The establishment of standards for the approval of dental colleges.
- Prescribing subjects in which applicants are to be examined.
- The administration and enforcement of this chapter.

Such rules shall be adopted, amended or repealed in accordance with the provisions of the Administrative Procedure Act.

### Define dentistry

The California Dental Code **Section 1625** defines dentistry as follows: “**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, or 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,

- 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.

## Section 1067. – Definitions.

As used in this subchapter:

“**Dental auxiliary**” means a person who may perform dental supportive procedures authorized by the provisions of these regulations under the specified supervision of a licensed dentist.

“**Dental assistant**” means an unlicensed person who may perform basic supportive dental procedures specified by these regulations under the supervision of a licensed dentist.

“**Registered dental assistant**” or “**RDA**” means a licensed person who may perform all procedures authorized by the provisions of these regulations and in addition may perform all functions which may be performed by a dental assistant under the designated supervision of a licensed dentist.

“**Registered dental hygienist**” or “**RDH**” means a licensed person who may perform all procedures authorized by the provisions of these regulations and in addition may perform all functions which may be performed by a dental assistant and registered dental assistant, under the designated supervision of a licensed dentist.

“**Registered dental assistant in extended functions**” or “**RDAEF**” means a person licensed as a registered dental assistant who has completed post-licensure clinical and didactic training approved by the board and satisfactorily performed on an examination designated by the board for registered dental assistant in extended function applicants.

“**Registered dental hygienist in extended functions**” or “**RDHEF**” means a person licensed as a registered dental hygienist who has completed post-licensure clinical and didactic training approved by the board and satisfactorily performed on an examination designated by the board for registered dental hygienist in extended functions applicants.

“**Oral prophylaxis**” means the preventive dental procedures including complete removal of explorer-detectable calculus, soft deposits, plaque, stains, and the smoothing of unattached tooth surfaces. The objective of this treatment shall be creation of an environment in which hard and soft tissues can be maintained in good health by the patient.

“**Coronal polishing**” means a procedure limited to the removal of plaque and stain from exposed tooth surfaces, utilizing an appropriate rotary instrument with rubber cup or brush and a polishing agent.

“**Satisfactory educational qualification**” means theory, laboratory and/or clinical experience approved by the board.

“**Basic supportive dental procedures**” means fundamental duties or functions which may be performed by an unlicensed dental assistant under the supervision of a licensed dentist because of their technically elementary characteristics, complete reversibility and inability to precipitate potentially hazardous conditions for the patient being treated.

“**Root planing**” means the process of instrumentation by which the unattached surfaces of the root are made smooth by the removal of calculus and/or cementum.

“**Periodontal soft tissue curettage**” means the closed removal of tissue lining the periodontal pocket, not involving the reflection of a flap.

“**Gingival**” means pertaining to the gingivae, the mucous membrane with the supporting fibrous tissue.

## Ownership/management of a dental practice

**1625.1** – Any of the following entities may employ licensees and dental assistants and charge for the professional services they render, and shall not be deemed to be practicing dentistry within the meaning of Section 1625. The entity must not interfere with, control or otherwise direct the professional judgment of a licensee or dental assistant acting within his or her scope of practice:

- A primary care clinic that is licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code.
- A primary care clinic that is exempt from licensure pursuant to subdivision (b), (c), or (h) of Section 1206 of the Health and 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 and Institutions Code.

**1625.2** – If the entity is owned or managed by a tax-exempt nonprofit organization and 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, of a place where dental operations are performed, shall not be construed to be the unlicensed practice of dentistry, as long as 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.

This section does 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 and Safety Code.
- A primary care clinic that is exempt from licensure pursuant to subdivision (b), (c), or (h) of Section 1206 of the Health and 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 and Institutions Code.

## Death of an owner

**1625.3** – Notwithstanding any other provision of law, upon the incapacity or death of a dentist, if the requirements of Section 1625.4 are met, any of the following persons may employ licensees and dental assistants and charge for the professional services they render for a period not to exceed 12 months from the date of the dentist's death or incapacity without being deemed to be practicing dentistry within the meaning of Section 1625:

- The legal guardian, conservator or authorized representative of an incapacitated dentist.
- The executor or administrator of the estate of a dentist who is deceased.
- The named trustee or successor trustee of a trust or subtrust that owns assets consisting only of the incapacitated or deceased dentist's dental practice and that was established solely for the purpose of disposition of the dental practice upon the dentist's incapacity or death.
- The management shall not interfere with, control or otherwise direct the professional judgment of a licensee or dental assistant acting within his or her scope of practice as defined in this chapter.

**1625.4** – Where the dental practice of an incapacitated or deceased dentist is a sole proprietorship or where an incapacitated or deceased dentist is the sole shareholder of a professional dental corporation, a person identified in subdivision (a) of Section 1625.3 may enter into a contract with one or more dentists licensed in the state to continue the operations of the incapacitated or deceased dentist's dental practice for a period of no more than 12 months from the date of death or incapacity, or until the practice is sold or otherwise disposed of, whichever occurs first, if all of the following conditions are met:

- The person identified in subdivision (a) of Section 1625.3 delivers to the board a notification of death or incapacity that includes all of the following information:
- The name and license number of the deceased or incapacitated dentist.
  - The name and address of the dental practice.
  - If the dentist is deceased, the name, address, and tax identification number of the estate or trust.
  - The name and license number of each dentist who will operate the dental practice.
  - A statement that the information provided is true and correct, and that the person identified in subdivision (a) of Section 1625.3 understands that any interference by the person or by his or her assignee with the contracting dentist's or dentists' practice of dentistry or professional judgment is grounds for immediate termination of the operations of the dental practice without a hearing. The statement shall also provide that if the person required to make this notification willfully states as true any material fact that he or she knows to be false, he or she shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) in an action brought by any public prosecutor. A civil penalty imposed under this subparagraph shall be enforced as a civil judgment.
- The dentist or dentists who will operate the practice shall be licensed by the board and that license shall be current, valid, and shall not be suspended, restricted, or otherwise the subject of discipline.
- Within 30 days after the death or incapacity of a dentist, the person identified in subdivision (a) of Section 1625.3 or the contracting dentist or dentists shall send notification of the death or incapacity by mail to the last known address of each current patient of record with an explanation of how copies of the patient's records may be obtained. This notice may also contain any other relevant information concerning the continuation of the dental practice. The failure to comply with the notification requirement within the 30-day period shall be grounds for terminating the operation of the dental practice under subdivision (b). The contracting dentist or dentists shall obtain a form signed by the patient, or the patient's guardian or legal representative, that releases the patient's

confidential dental records to the contracting dentist or dentists prior to use of those records.

- The board may order the termination of the operations of a dental practice operating pursuant to this section if the board determines that the practice is operating in violation of this section. The board shall provide written notification at the address provided pursuant to subparagraph (B) of paragraph (1) of subdivision (a). If the board does not receive a written appeal of the determination that the practice is operating in violation of this section within 10 days of receipt of the notice, the determination to terminate the operations of the dental practice shall take effect immediately. If an appeal is received in a timely manner by the board, the executive officer of the board, or his or her designee, shall conduct an informal hearing. The decision of the executive officer or his or her designee shall be mailed to the practice no later than 10 days after the informal hearing, is the final decision in the matter, and is not subject to appeal under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).
- Notwithstanding subdivision (b), if the board finds evidence that the person identified in subdivision (a) of Section 1625.3, or his or her assignee, has interfered with the practice or professional judgment of the contracting dentist or dentists or otherwise finds evidence that a violation of this section constitutes an immediate threat to the public health, safety, or welfare, the board may immediately order the termination of the operations of the dental practice without an informal hearing.
- A notice of an order of immediate termination of the dental practice without an informal hearing, as referenced in subdivision (b), shall be served by certified mail on the person identified in subdivision (a) of Section 1625.3 at the address provided pursuant to subparagraph (B) or (C) of paragraph (1) of subdivision (a), as appropriate, and on the contracting dentist or dentists at the address of the dental practice provided pursuant to subparagraph (B) of paragraph (1) of subdivision (a).
- A person receiving notice of an order of immediate termination pursuant to subdivision (d) may petition the board within 30 days of the date of service of the notice for an informal hearing before the executive officer or his or her designee, which shall take place within 30 days of the filing of the petition.
- A notice of the decision of the executive officer or his or her designee following an informal hearing held pursuant to subdivision (b) shall be served by certified mail on the person identified in subdivision (a) of Section 1625.3 at the address provided pursuant to subparagraph (B) or (C) of paragraph (1) of subdivision (a), as appropriate, and on the contracting dentist or dentists at the address of the dental practice provided pursuant to subparagraph (B) of paragraph (1) of subdivision (a).
- The board may require the submission to the board of any additional information necessary for the administration of this section.

**1625.5** – The following written notification shall be included with or as part of all application forms required for a license to practice or to renew a license:

“Effective January 1, 2008, certain nondentists may, upon your death or incapacity, contract with another licensed dentist or dentists to continue your dental practice for a period not exceeding 12 months if certain conditions are met. Sections 1625.3 and 1625.4 of the Business and Professions Code permit the legal guardian or conservator or authorized representative of an incapacitated dentist, the executor or administrator of the estate of a deceased dentist, or the named trustee or successor trustee of a trust or subtrust who meets certain requirements, to contract with a licensed dentist or dentists to continue the incapacitated or deceased dentist's dental practice for a

period not to exceed 12 months from the date of death or incapacity if the practice meets specified criteria and if certain other conditions are met, including providing a specific notification to the Dental Board of California. You and your estate planner should become familiar with these requirements and the notification process. Please contact the Dental Board of California for additional information.”

1626.2. – A dentist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

## Acupuncture

**1626.5.** – 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, and 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 a group or corporation.

## Expiration of license

**1627.** – The license of any dentist, existing at the time of the passage of this chapter, shall continue in force until it expires or is forfeited in the manner provided by this chapter.

## Liability during emergencies

**1627.5.** – No person licensed under this chapter, who in good faith renders emergency care at the scene of an emergency occurring outside the place of that person’s practice, or who, upon the request of another person so licensed, renders emergency care to a person for a complication arising from prior care of another person so licensed, shall be liable for any civil damages as a result of any acts or omissions by that person in rendering the emergency care.

A person licensed under this chapter, who voluntarily and without compensation or expectation of compensation, and consistent with the dental education and emergency training that he or she has received, provides emergency medical care to a person during a state of emergency declared pursuant to a proclamation issued pursuant to Section 8588, 8625, or 8630 of the Government Code or a declaration of health emergency issued pursuant to Section 101080 of the Health and Safety Code shall not be liable in negligence for any personal injury, wrongful death, or property damage caused by the licensee’s good faith but negligent act or omission. This subdivision shall not provide immunity or limit the immunity provided for acts or omissions of gross negligence or willful misconduct.

Notwithstanding any other provision of law, for the duration of a declared state of emergency, pursuant to a proclamation of emergency issued pursuant to Section 8625 of the Government Code, the board may suspend compliance with any provision of this chapter or regulation adopted thereunder that would adversely affect a licensee’s ability to provide emergency services.

**1627.7.** – A dentist shall not be liable for damages for injury or death caused in an emergency situation occurring in the dentist’s office or in a hospital on account of a failure to inform a patient of the possible consequences of a dental procedure where the failure to inform is caused by any of the following:

- The patient was unconscious.
- The dental procedure was undertaken without the consent of the patient because the dentist reasonably believed that a dental

procedure should be undertaken immediately and that there was insufficient time to fully inform the patient.

- A dental procedure was performed on a person legally incapable of giving consent, and the dentist reasonably believed that a dental procedure should be undertaken immediately and that there was insufficient time to obtain the informed consent of a person authorized to give such consent for the patient.

## Definitions Section 1627.7

“**Dentist**” means a person licensed as a dentist pursuant to this chapter.

“**Emergency situation occurring in a hospital**” means a situation occurring in a hospital, whether or not it occurs in an emergency room, 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.

“**Hospital**” means a licensed general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

“**Emergency situation occurring in the dentist’s office**” means a situation occurring in an office, other than a hospital, used by the dentist for the examination or treatment of patients, 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.

This section is applicable only to actions for damages for injuries or death arising because of a dentist’s failure to inform, and not to actions for such damages arising because of a dentist’s negligence in rendering or failing to render treatment.

## Utilization and scope of practice for auxiliaries and dentists

The Dental Board of California encourages the full utilization of dental auxiliaries in order to meet the needs of the state’s citizens. The Legislature further intends that the dental auxiliaries constitute a career ladder as stated in B&P 1740. The role of the dental auxiliary is very important in a dental office, and the legislature has taken action to provide for several different specialties of dental auxiliaries. The law allows the advancement of persons to higher levels of licensure with additional training. The Dental Board of California in its Committee on Dental Auxiliaries governs these classes.

The specialties are:

- Registered dental assistant (RDA).
- Registered dental assistant extended functions (RDAEF).
- Registered dental hygienist (RDH).
- Registered dental hygienist extended functions (RDHEF).

- Registered dental hygienist alternative practice (RDHAP).

Two specialties were added January 1, 2010, for which existing RDAs may apply:

- Orthodontic assistant (OA).
- Dental sedation assistant (DSA).

RDAs will be allowed to continue to perform the overlapping OA duties that they are currently allowed to perform without seeking an OA permit (placing ligature ties and archwires, removing orthodontic bands, and removing excess cement from tooth surfaces with a hand instrument), and RDAs applying for an OA permit will not be required to complete further training in such duties.

An RDA may apply for an OA permit or a DSA permit or both, by completing the applicable board-approved course and passing a written examination.

## Utilization of auxiliaries: Business and Professions Code 1740

### 1740. – Legislative intent.

It is the intention of the Legislature by enactment of this article to permit the full utilization of dental auxiliaries in order to meet the dental care needs of all the state's citizens. The Legislature further intends that the classifications of dental auxiliaries established pursuant to this article constitute a career ladder, permitting the continual advancement of persons to successively higher levels of licensure with additional training, and without repeating training for skills already acquired. The Legislature further intends that the Board of Dental Examiners of the State of California and its Committee on Dental Auxiliaries, in implementing this article, give specific consideration to the recommendations of the Advisory Committee on Utilization and Education of Dental Auxiliaries, established pursuant to Chapter 645 of the Statutes of 1972, and contained in its report to the Legislature dated March 20, 1973.

### California Title 16, Section 1068. Posting of Dental Auxiliary Duties.

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

Such notice shall be readily accessible to all individuals under supervision of the dentist.

1742. – There is hereby created a Dental Assisting Council of the Dental Board of California, which shall consider all matters relating to dental assistants in this state, on its own initiative or upon the request of the board, and make appropriate recommendations to the board and the standing committees of the board, including, but not limited to, the following areas:

- Requirements for dental assistant examination, licensure, permitting, and renewal.
- Standards and criteria for approval of dental assisting educational programs, courses, and continuing education.
- Allowable dental assistant duties, settings, and supervision levels.
- Appropriate standards of conduct and enforcement for dental assistants.
- Requirements regarding infection control.

The members of the council shall be appointed by the board and shall include the registered dental assistant member of the board, another member of the board, and five registered dental assistants, representing as broad a range of dental assisting experience and education as possible, who meet the requirements of paragraph (2).

## Board responsibilities

1743. – The board shall have the following duties and authority related to applications:

- Shall review and evaluate all applications for licensure in all dental assisting categories to ascertain whether a candidate meets the appropriate licensing requirements specified by statute and board regulations.
- Shall maintain application records, cashier application fees and perform any other ministerial tasks as are incidental to the application process.
- May delegate any or all of the functions in this subdivision to its staff.
- Shall issue dental assistant licenses in all cases, except where there is a question as to a licensing requirement.
  - The board shall develop or cause to be developed and administer examinations. The board shall set pass points for all dental assisting licensing examinations.
  - The board shall be responsible for all aspects of the license renewal process, which shall be accomplished in accordance with this chapter and board regulations. The board may delegate any or all of its functions under this subdivision to its staff.

1747. – The procedure on all matters relating to the denial, suspension, or revocation of licenses granted under this article shall be governed by

The board shall consider, in its appointments of the five registered dental assistant members, recommendations submitted by any incorporated, nonprofit professional society, association, or entity whose membership is comprised of registered dental assistants within the state. Two of those members shall be employed as faculty members of a registered dental assisting educational program approved by the board, and shall have been so employed for at least the prior five years. Three of those members, which shall include one registered dental assistant in extended functions, shall be employed clinically in private dental practice or public safety net or dental health care clinics. All five of those members shall have possessed a current and active registered dental assistant or registered dental assistant in extended functions license for at least the prior five years, and shall not be employed by a current member of the board.

No council appointee shall have served previously on the dental assisting forum or have any financial interest in any registered dental assistant school. All final candidate qualifications and applications for board-appointed council members shall be made available in the published board materials with final candidate selection conducted during the normal business of the board during public meetings.

A vacancy occurring during a term shall be filled by appointment by the board for the unexpired term, according to the criteria applicable to the vacancy within 90 days after it occurs.

Each member shall comply with conflict of interest requirements that apply to board members.

The council shall meet in conjunction with other board committees, and at other times as deemed necessary.

Each member shall serve for a term of four years, except that, of the initial appointments of the nonboard members, one of the members shall serve a term of one year, one member shall serve a term of two years, two members shall serve a term of three years, and one member shall serve a term of four years, as determined by the board.

Recommendations by the council pursuant to this section shall be approved, modified, or rejected by the board within 120 days of submission of the recommendation to the board. If the board rejects or significantly modifies the intent or scope of the recommendation, the council may request that the board provide its reasons in writing for rejecting or significantly modifying the recommendation, which shall be provided by the board within 30 days of the request.

The council shall select a chair who shall establish the agendas of the council and shall serve as the council's liaison to the board, including the reporting of the council's recommendations to the board.

the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

1749.1. – In addition to any other examination required by this article, the board may require applicants for licensure under this article to successfully complete an examination in California law and ethics.

1750.1(a) – A dental assistant may perform the following duties under the **general supervision** of a supervising licensed dentist:

1. Extra-oral duties or procedures specified by the supervising licensed dentist, provided that these duties or procedures meet the definition of a basic supportive procedure specified in Section 1750.
2. Operate dental radiography equipment for the purpose of oral radiography if the dental assistant has complied with the requirements of Section 1656.
3. Perform intraoral and extraoral photography.

(b) A dental assistant may perform the following duties under the **direct supervision** of a supervising licensed dentist:

1. Apply nonaerosol and noncaustic topical agents.
2. Apply topical fluoride.
3. Take intraoral impressions for all nonprosthodontic appliances.
4. Take facebow transfers and bite registrations.
5. Place and remove rubber dams or other isolation devices.
6. Place, wedge, and remove matrices for restorative procedures.

7. Remove post-extraction dressings after inspection of the surgical site by the supervising licensed dentist.
8. Perform measurements for the purposes of orthodontic treatment.
9. Cure restorative or orthodontic materials in operative site with a light-curing device.
10. Examine orthodontic appliances.
11. Place and remove orthodontic separators.
12. Remove ligature ties and archwires.
13. After adjustment by the dentist, examine and seat removable orthodontic appliances and deliver care instructions to the patient.
14. Remove periodontal dressings.
15. Remove sutures after inspection of the site by the dentist.
16. Place patient monitoring sensors.
17. Monitor patient sedation, limited to reading and transmitting information from the monitor display during the intraoperative phase of surgery for electrocardiogram waveform, carbon dioxide and end tidal carbon dioxide concentrations, respiratory cycle data, continuous noninvasive blood pressure data, or pulse arterial oxygen saturation measurements, for the purpose of interpretation and evaluation by a supervising licensed dentist who shall be at the patient's chairside during this procedure.
18. Assist in the administration of nitrous oxide when used for analgesia or sedation. A dental assistant shall not start the administration of the gases and shall not adjust the flow of the gases unless instructed to do so by the supervising licensed dentist who shall be present at the patient's chairside during the implementation of these instructions. This paragraph shall not be construed to prevent any person from taking appropriate action in the event of a medical emergency.

(c) When operating in a school-based setting or a public health program created or administered by a federal, state, county or local governmental entity pursuant to Sections 104762 and 104830 of the Health Safety Code, a dental assistant may apply topical fluoride under the general direction of a licensed dentist or physician.

(d) Under the supervision of a registered dental hygienist in alternative practice, a dental assistant may perform intraoral retraction and suctioning.

(e) The board may specify additional allowable duties by regulation.

(f) 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.

(g) The duties of a dental assistant are defined in subdivision (a) of Section 1750 and do not include any duty or procedure that only an orthodontic assistant permit holder, dental sedation assistant permit holder, registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, or registered dental hygienist in alternative practice is allowed to perform.

## Assistants

### 1750.2 – Orthodontic assistants

- a. On and after January 1, 2010, the board may issue an orthodontic assistant permit to a person who files a completed application including a fee and provides evidence, satisfactory to the board, of all of the following eligibility requirements:
  1. Completion of at least 12 months of work experience as a dental assistant.
  2. Successful completion of a board-approved course in the Dental Practice Act and a board-approved course in infection control.
  3. Successful completion of 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.
  4. Successful completion of a board-approved orthodontic assistant course, which may commence after the completion of six months of work experience as a dental assistant.
  5. Passage of a written examination administered by the board after completion of all of the other requirements of this subdivision. The written examination shall encompass the knowledge, skills and abilities necessary to competently perform the duties specified in Section 1750.3.
- b. A person who holds an orthodontic assistant permit pursuant to this section shall be subject to the same continuing education requirements for registered dental assistants as established by the board pursuant to Section 1645 and the renewal requirements of Article 6 (commencing with Section 1715).

**1750.3** – A person holding an orthodontic assistant permit pursuant to Section 1750.2 may perform the following duties under the direct supervision of a licensed dentist:

- a. All duties that a dental assistant is allowed to perform.
- b. Prepare teeth for bonding, and select, preposition, and cure orthodontic brackets after their position has been approved by the supervising licensed dentist.
- c. Remove only orthodontic brackets and attachments with removal of the bonding material by the supervising licensed dentist.
- d. Size, fit, and cement orthodontic bands.

- e. Remove orthodontic bands and remove excess cement from supragingival surfaces of teeth with a hand instrument.
- f. Place and ligate archwires.
- g. Remove excess cement with an ultrasonic scaler from supragingival surfaces of teeth undergoing orthodontic treatment.
- h. Any additional duties that the board may prescribe by regulation.

### 1750.4 – Dental sedation assistants

- a. On and after January 1, 2010, the board may issue a dental sedation assistant permit to a person who files a completed application including a fee and provides evidence, satisfactory to the board, of all of the following eligibility requirements:
  1. Completion of at least 12 months of work experience as a dental assistant.
  2. Successful completion of a board-approved course in the Dental Practice Act and a board-approved, course in infection control.
  3. Successful completion of 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.
  4. Successful completion of a board-approved dental sedation assistant course, which may commence after the completion of six months of work experience as a dental assistant.
  5. Passage of a written examination administered by the board after completion of all of the other requirements of this subdivision. The written examination shall encompass the knowledge, skills and abilities necessary to competently perform the duties specified in Section 1750.5.
- b. A person who holds a permit pursuant to this section shall be subject to the continuing education requirements established by the board pursuant to Section 1645 and the renewal requirements of Article 6 (commencing with Section 1715).

**1750.5** – A person holding a dental sedation assistant permit pursuant to Section 1750.4 may perform the following duties under the direct supervision of a licensed dentist or other licensed health care professional authorized to administer conscious sedation or general anesthesia in the dental office:

- a. All duties that a dental assistant is allowed to perform.

- b. Monitor patients undergoing conscious sedation or general anesthesia utilizing data from noninvasive instrumentation such as pulse oximeters, electrocardiograms, capnography, blood pressure, pulse, and respiration rate monitoring devices. Evaluation of the condition of a sedated patient shall remain the responsibility of the dentist or other licensed health care professional authorized to administer conscious sedation or general anesthesia, who shall be at the patient's chairside while conscious sedation or general anesthesia is being administered.
- c. Drug identification and draw, limited to identification of appropriate medications, ampule and vial preparation, and withdrawing drugs of correct amount as verified by the supervising licensed dentist.
- d. Add drugs, medications, and fluids to intravenous lines using a syringe, provided that a supervising licensed dentist is present at the patient's chairside, limited to determining patency of intravenous line, selection of injection port, syringe insertion into injection port, occlusion of intravenous line and blood aspiration, line release and injection of drugs for appropriate time interval. The exception to this duty is that the initial dose of a drug or medication shall be administered by the supervising licensed dentist.
- e. Removal of intravenous lines.
- f. Any additional duties that the board may prescribe by regulation.
- g. The duties listed in subdivisions (b) to (e), inclusive, may not be performed in any setting other than a dental office or dental clinic.

**1751** – At least once every seven years, the board shall review the allowable duties for dental assistants, registered dental assistants, registered dental assistants in extended functions, dental sedation assistant permit holders, and orthodontic assistant permit holders, the supervision level for these categories, and the settings under which these duties may be performed, and shall update the regulations as necessary to keep them current with the state of the dental practice.

**1752.4** – A registered dental assistant may perform all of the following duties:

- 1. All duties that a dental assistant is allowed to perform.
- 2. Mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, existing restorations, and missing teeth.
- 3. Apply and activate bleaching agents using a nonlaser light-curing device.
- 4. Use of automated caries detection devices and materials to gather information for diagnosis by the dentist.
- 5. Obtain intraoral images for computer-aided design (CAD), milled restorations.
- 6. Pulp vitality testing and recording of findings.
- 7. Place bases, liners, and bonding agents.
- 8. Chemically prepare teeth for bonding.
- 9. Place, adjust, and finish direct provisional restorations.
- 10. Fabricate, adjust, cement, and remove indirect provisional restorations, including stainless steel crowns when used as a provisional restoration.
- 11. Place post-extraction dressings after inspection of the surgical site by the supervising licensed dentist.

- 12. Place periodontal dressings.
- 13. Dry endodontically treated canals using absorbent paper points.
- 14. Adjust dentures extra-orally.
- 15. Remove excess cement from surfaces of teeth with a hand instrument.
- 16. Polish coronal surfaces of the teeth.
- 17. Place ligature ties and archwires.
- 18. Remove orthodontic bands.
- 19. All duties that the board may prescribe by regulation.

A registered dental assistant may only perform the following additional duties if he or she has completed a board-approved registered dental assistant educational program in those duties, or he or she has provided evidence, satisfactory to the board, of having completed a board-approved course in those duties.

- 1. Remove excess cement with an ultrasonic scaler from supragingival surfaces of teeth undergoing orthodontic treatment.
- 2. The allowable duties of an orthodontic assistant permit holder as specified in Section 1750.3. A registered dental assistant shall not be required to complete further instruction in the duties of placing ligature ties and archwires, removing orthodontic bands, and removing excess cement from tooth surfaces with a hand instrument.
- 3. The allowable duties of a dental sedation assistant permit holder as specified in Section 1750.5.
- 4. The application of pit and fissure sealants.

Except as provided in Section 1777, the supervising licensed dentist shall be responsible for determining whether each authorized procedure performed by a registered dental assistant should be performed under general or direct supervision.

**1753.7** – 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 licensed pursuant to Section 1753 or 1918.

**1765.** – No person other than a licensed dental hygienist or a licensed dentist may engage in the practice of dental hygiene or perform dental hygiene procedures on patients, including, but not limited to, supragingival and subgingival scaling, dental hygiene assessment, and treatment planning, except for the following persons:

- a. A student enrolled in a dental or a dental hygiene school who is performing procedures as part of the regular curriculum of that program under the supervision of the faculty of that program.
- b. A dental assistant, registered dental assistant, or registered dental assistant in extended functions acting in accordance with the provisions of this chapter.
- c. A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions licensed in another jurisdiction performing a clinical demonstration for educational purposes.

**1771.** – Any person, other than a person who has been issued a license or permit by the board, who holds himself or herself out as a registered dental assistant, orthodontic assistant permit holder, dental sedation assistant permit holder, or registered dental assistant in extended functions, or uses any other term indicating or implying he or she is licensed or permitted by the board as such, is guilty of a misdemeanor.

## DENTAL CORPORATIONS

A dental corporation is 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. A dental corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

### New regulations – Dental Hygiene Committee (1900 – 1966.6)

**1901-1905:** The Dental Hygiene Committee is appointed by the governor; it consists of nine members. Of the nine members, one shall

be a practicing general or public health dentist who holds a current license in California, and four members shall be registered dental

hygienists, who hold current licenses in California. One of the four shall be licensed either in alternative practice or in extended functions, one shall be a dental hygiene educator, and two shall be registered dental hygienists. No public member shall have been licensed under this chapter within five years of the date of his or her appointment or have any current financial interest in a dental-related business.

Each member shall serve a four-year term, and no member shall serve for more than two consecutive terms.

The committee shall perform the following functions:

1. Evaluate all registered dental hygienist, registered dental hygienist in alternative practice, and registered dental hygienist in extended functions educational programs that apply for approval and grant or deny approval of those applications in accordance with regulations adopted by the committee. Any such educational programs approved by the dental board on or before June 30, 2009, shall be deemed approved by the committee. Any dental hygiene program accredited and in good standing by the Commission on Dental Accreditation shall be approved.
2. Withdraw or revoke its prior approval of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions educational program in accordance with regulations adopted by the committee. The committee may withdraw or revoke a dental hygiene program approval if the Commission on Dental Accreditation has indicated an intent to withdraw approval or has withdrawn approval.
3. Review and evaluate all registered dental hygienist, registered dental hygienist in alternative practice, and registered dental hygienist in

- extended functions applications for licensure to ascertain whether the applicant meets the appropriate licensing requirements specified by statute and regulations, maintain application records, cashier application fees, issue and renew licenses, and perform any other tasks that are incidental to the application and licensure processes.
4. Determine the appropriate type of license examination consistent with the provisions of this article, and develop or cause to be developed and administer examinations in accordance with regulations adopted by the committee.
5. Determine the amount of fees assessed under this article, not to exceed the actual cost.
6. Determine and enforce the continuing education requirements specified in this article, specifically Section 1936.1.
7. Deny, suspend, or revoke a license under this article, or otherwise enforce the provisions of this article. Any such proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all of the powers granted therein.
8. Make recommendations to the dental board regarding dental hygiene scope of practice issues.
9. Adopt, amend, and revoke rules and regulations to implement the provisions of this article, including the amount of required supervision by a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions of a registered dental assistant.

The committee may employ employees and examiners that it deems necessary to carry out its functions and responsibilities under this article.

## Definitions

**1902.** – For purposes of this course, the following definitions apply:

“**Committee**” means the Dental Hygiene Committee of California.

“**Dental board**” means the Dental Board of California.

“**Direct supervision**” means the supervision of dental procedures based on instructions given by a licensed dentist who is required to be physically present in the treatment facility during the performance of those procedures.

“**General supervision**” means the supervision of dental procedures based on instructions given by a licensed dentist who is not required to

be physically present in the treatment facility during the performance of those procedures.

“**Oral prophylaxis**” means preventive and therapeutic dental procedures that include bacterial debridements with complete removal, supra and subgingivally, of calculus, soft deposits, plaque, and stains, and the smoothing of tooth surfaces. The objective of this treatment is to create an environment in which the patient can maintain healthy hard and soft tissues.

## Registered dental hygienist duties

**1907.** – The following functions may be performed by a registered dental hygienist, in addition to those authorized pursuant to Sections 1908 to 1914, inclusive:

- a. All functions that may be performed by a registered dental assistant.
- b. All persons holding a license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions as of December 31, 2005, are authorized to perform the duties of a registered dental assistant specified in this chapter. All persons issued a license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions on or after January 1, 2006, shall qualify for and receive a registered dental assistant license prior to performance of the duties of a registered dental assistant specified in this chapter.

**1908.**

- a. The practice of dental hygiene includes dental hygiene assessment and development, planning, and implementation of a dental hygiene care plan. It also includes oral health education, counseling, and health screenings.
- b. The practice of dental hygiene **does not** include any of the following procedures:
  1. Diagnosis and comprehensive treatment planning.
  2. Placing, condensing, carving, or removal of 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. Administering 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, or local anesthesia pursuant to Section 1909.

**1909.** – A registered dental hygienist is authorized to perform the following procedures under **direct supervision** of a licensed dentist, after submitting to the committee evidence of satisfactory completion of a course of instruction, approved by the committee, in the procedures:

- a. Soft-tissue curettage.
- b. Administration of local anesthesia.
- c. Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.

**1910.** – A registered dental hygienist is authorized to perform the following procedures under **general supervision**:

- a. Preventive and therapeutic interventions, including oral prophylaxis, scaling, and root planing.
- b. Application of topical, therapeutic, and subgingival agents used for the control of caries and periodontal disease.
- c. The taking of impressions for bleaching trays and application and activation of agents with nonlaser, light-curing devices.
- d. The taking of impressions for bleaching trays and placements of in-office, tooth-whitening devices.

## 1911.

- a. A registered dental hygienist may provide, **without supervision**, educational services, oral health training programs, and oral health screenings.
- b. A registered dental hygienist shall refer any screened patients with possible oral abnormalities to a dentist for a comprehensive examination, diagnosis, and treatment plan.
- c. In any public health program created by federal, state, or local law or administered by a federal, state, county, or local governmental entity, a registered dental hygienist may provide, without supervision, dental hygiene preventive services in addition to oral screenings, including, but not limited to, the application of fluorides and pit and fissure sealants. A registered dental hygienist employed as described in this subdivision may submit, or allow to be submitted, any insurance or third-party claims for patient services performed as authorized in this article.

**1912.** – Any procedure performed or service provided by a registered dental hygienist that does not specifically require direct supervision shall require general supervision, so 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 that, if not immediately diagnosed and treated, would lead to serious disability or death.

**1913.** – Unless otherwise specified in this chapter, a registered dental hygienist may perform any procedure or provide any service within the scope of his or her practice in any setting, so long as the procedure is performed or the service is provided under the appropriate level of supervision required by this article.

**1914.** – A registered 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 he or she has the appropriate education and training required to use the material or device.

**1915.** – No person other than a registered dental hygienist, registered dental hygienist in alternative functions, or registered dental hygienist in extended functions or a licensed dentist may engage in the practice of dental hygiene or perform dental hygiene procedures on patients, including, but not limited to, supragingival and subgingival scaling, dental hygiene assessment, and treatment planning, except for the following persons:

- a. A student enrolled in a dental or a dental hygiene school who is performing procedures as part of the regular curriculum of that program under the supervision of the faculty of that program.
- b. A dental assistant acting in accordance with the rules of the dental board in performing the following procedures:
  1. Applying nonaerosol and noncaustic topical agents.
  2. Applying topical fluoride.
  3. Taking impressions for bleaching trays.
- c. A registered dental assistant acting in accordance with the rules of the dental board in performing the following procedures:
  1. Polishing the coronal surfaces of teeth.
  2. Applying bleaching agents.
  3. Activating bleaching agents with a nonlaser light-curing device.
  4. Applying pit and fissure sealant.
- d. A registered dental assistant in extended functions acting in accordance with the rules of the dental board in applying pit and fissure sealants.
- e. A registered dental hygienist, registered dental hygienist in alternative practice or registered dental hygienist in extended functions licensed in another jurisdiction, performing a clinical demonstration for educational purposes.

## Registered dental hygienist in extended functions duties

**1921.** – In addition to any other duties or functions authorized by law, a registered dental hygienist in extended functions or a registered dental hygienist in alternative practice may perform any of the duties or functions authorized to be performed by a registered dental hygienist.

**1925.** – A registered dental hygienist in alternative practice may practice, pursuant to subdivision (a) of Section 1907, subdivision (a) of Section 1908, and subdivisions (a) and (b) of Section 1910, 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 that is licensed pursuant to Section 1204 of the Health and Safety Code, as an employee of a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, as an employee of a clinic owned or operated by a public hospital or health system, or 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 Section 17000 of the Welfare and Institutions Code, or as an employee of a professional corporation under the Moscone-Knox Professional Corporation Act (commencing with Section 13400) of Part 4 of Division 3 of Title 1 of the Corporations Code.

## Registered dental hygienist in alternative practice duties

**1926.** – A registered dental hygienist in alternative practice may perform the duties authorized pursuant to subdivision (a) of Section 1907, subdivision (a) of Section 1908, and subdivisions (a) and (b) of Section 1910 in the following settings:

- a. Residences of the homebound.
- b. Schools.
- c. Residential facilities and other institutions.
- d. Dental health professional shortage areas, as certified by the Office of Statewide Health Planning and Development in accordance with existing office guidelines.

**1927.** – A registered dental hygienist in alternative practice shall not do any of the following:

- a. 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 evaluating a patient’s dental hygiene status, providing a dental hygiene treatment plan, and providing the associated dental hygiene services.
- b. Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

**1928.** – A registered dental hygienist in alternative practice may submit or allow to be submitted any insurance or third-party claims for patient services performed as authorized pursuant to this article.

## 1929.

- a. A registered dental hygienist in alternative practice may hire other registered dental hygienists in alternative practice to assist in his or her practice.
- b. A registered dental hygienist in alternative practice may hire and supervise dental assistants performing intraoral retraction and suctioning.

**1930.** – A registered dental hygienist in alternative practice shall provide to the committee documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services.

**1931.** – A dental hygienist in alternative practice may 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 the dental hygienist in alternative practice provides services to a patient 18 months or more after the first date that he or she provides services to a patient, he or she shall obtain written verification that the patient has been examined by a dentist or physician and surgeon licensed to practice in this state. The verification shall include a prescription for dental hygiene services as described in subdivision (b).

A registered dental hygienist in alternative practice may provide dental hygiene services for a patient who presents to the registered

dental hygienist in alternative practice a written prescription for dental hygiene services issued by a dentist or physician and surgeon licensed to practice in this state. 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 it was issued.

The committee may seek to obtain an injunction against any registered dental hygienist in alternative practice who provides services pursuant to this section, if the committee has reasonable cause to believe that the services are being provided to a patient who has not received a prescription for those services from a dentist or physician and surgeon licensed to practice in this state. Performing services pursuant to this section without obtaining a prescription in accordance with subdivision (b) shall constitute unprofessional conduct on the part of the registered dental hygienist in alternative practice, and reason for the committee to revoke or suspend the license of the registered dental hygienist in alternative practice, pursuant to Section 1947.

**1933.** – A licensee shall be issued a substitute license upon request and payment of the required fee. The request shall be accompanied by an affidavit or declaration containing satisfactory evidence of the loss or destruction of the license certificate.

**1934.** – A licensee who changes his or her address of record shall notify the committee within 30 days of the change. A licensee who changes his or her legal name shall provide the committee with documentation of the change within 10 days.

**1935.** – If not renewed, a license issued under the provisions of this article, unless specifically excepted, expires at 12 midnight on the last day of the month of the legal birth date of the licensee during the second year of a two-year term. To renew an unexpired license, the licensee shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the committee and pay the renewal fee prescribed by this article.

**1936.** – Except as otherwise provided in this article, an expired license may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the committee and payment of all accrued renewal and delinquency fees. If the license is renewed after its expiration, the licensee, as a condition precedent of renewal, shall also pay the delinquency fee prescribed by this article. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect until the expiration date provided in Section 1935 that next occurs after the effective date of the renewal.

**1936.1.** – If the committee determines that the public health and safety would be served by requiring all holders of licenses under this article to continue their education after receiving a license, the committee may require, as a condition of license renewal, that licensees submit assurances satisfactory to the committee that they will, during the succeeding two-year period, inform themselves of the developments in the practice of dental hygiene occurring since the original issuance of their licenses by pursuing one or more courses of study satisfactory to the committee, or by other means deemed equivalent by the committee. The committee shall adopt, amend and revoke regulations providing for the suspension of the licenses at the end of the two-year period until compliance with the assurances provided for in this section is accomplished.

The committee may also, as a condition of license renewal, require licensees to successfully complete a portion of the required continuing education hours in specific areas adopted in regulations by the committee. The committee may prescribe this mandatory coursework within the general areas of patient care, health and safety, and law and ethics. The mandatory coursework prescribed by the committee shall not exceed seven and one-half hours per renewal period. Any mandatory coursework required by the committee shall be credited toward the continuing education requirements established by the committee pursuant to subdivision (a).

The providers of courses referred to in this section shall be approved by the committee. Providers approved by the dental board shall be deemed approved by the committee.

**1937.** – A suspended license is subject to expiration and shall be renewed as provided in this article. The renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

**1938.** – A revoked license is subject to expiration as provided in this article. A revoked license may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated and the delinquency fee, if any, accrued at the time of its revocation.

**1939.** – A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated or reissued. The holder of the license may apply for and obtain a new license upon meeting all of the requirements of a new applicant prescribed in this article.

**1940.**

- a. A licensee who desires an inactive license shall submit an application to the committee on a form provided by the committee.
- b. In order to restore an inactive license to active status, the licensee shall submit an application to the committee on a form provided by the committee, accompanied by evidence that the licensee has completed the required number of hours of approved continuing education in compliance with this article within the last two years preceding the date of the application.
- c. The holder of an inactive license shall continue to pay to the committee the required biennial renewal fee.
- d. Within 30 days of receiving a request either to restore an inactive license or to inactivate a license, the committee shall inform the applicant in writing whether the application is complete and accepted for filing or is deficient and, if so, the specific information required to complete the application.

**1941.**

- a. The committee shall grant or renew approval of only those educational programs for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions that continuously maintain a high quality standard of instruction and, where appropriate, meet the minimum standards set by the Commission on Dental Accreditation of the American Dental Association or an equivalent body, as determined by the committee.
- b. A new educational program for registered dental hygienists shall submit a feasibility study demonstrating a need for a new educational program and shall apply for approval from the committee prior to seeking approval for initial accreditation from the Commission on Dental Accreditation of the American Dental Association or an equivalent body, as determined by the committee. The committee may approve, provisionally approve, or deny approval of any such new educational program.
- c. For purposes of this section, a new educational program for registered dental hygienists means a program provided by a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education and that has as its primary purpose providing college level courses leading to an associate or higher degree, that is either affiliated with or conducted by a dental school approved by the dental board, or that is accredited to offer college level or college parallel programs by the Commission on Dental Accreditation of the American Dental Association or an equivalent body, as determined by the committee.

**1944.**

- a. The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists

in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee.

The fees are subject to the following limitations:

1. The application fee for an original license and the fee for issuance of an original license shall not exceed two hundred fifty dollars (\$250).
2. The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.
3. The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.
4. The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.
5. The biennial renewal fee shall not exceed one hundred sixty dollars (\$160).
6. The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.
7. The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater.
8. The fee for certification of licensure shall not exceed one-half of the renewal fee.
9. The fee for each curriculum review and site evaluation for educational programs for dental hygienists who are not accredited by a committee-approved agency shall not exceed two thousand one hundred dollars (\$2,100).
10. The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars (\$750).
11. The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars (\$500).
12. The amount of fees payable in connection with permits issued under Section 1962 is as follows:
  - A. The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on the last regular renewal date before the date on which the permit is issued.
  - B. If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

## Cause for suspension or revoked licenses for hygienists

**1947.** – A license issued under this article and a license issued under this chapter to a registered dental hygienist, to a registered dental hygienist in alternative practice, or to a registered dental hygienist in extended functions may be revoked or suspended by the committee for any reason specified in this article for the suspension or revocation of a license to practice dental hygiene.

**1949.** – A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee for unprofessional conduct, incompetence, gross negligence, repeated acts of negligence in his or her profession, receiving a license by mistake, or for any other cause applicable to the licensee provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all the powers granted therein.

- 1950.**
- a. A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee, for conviction of a crime substantially related to the licensee's qualifications, functions, or duties. The record of conviction or a

copy certified by the clerk of the court or by the judge in whose court the conviction occurred shall be conclusive evidence of conviction.

- b. The committee shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the licensee's qualifications, functions, or duties is deemed to be a conviction within the meaning of this section.
- c. The committee may order a license suspended or revoked, or may decline to issue a license, when any of the following occur:
  1. The time for appeal has elapsed.
  2. The judgment of conviction has been affirmed on appeal.
  3. An order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

## Section 1950.5: Unprofessional conduct by dentists and dental hygienists

California laws that define unprofessional conduct by dentists and dental hygienists are generally identical, although some rules of conduct are specific to each. Here are the general statutory definitions of unprofessional conduct for all dental professionals.

Unprofessional conduct by a person licensed under California code is defined as, but is not limited to, any one of the following:

- The obtaining of any fee by fraud or misrepresentation.

- The aiding or abetting of any unlicensed person to practice dentistry or dental hygiene.
- The aiding or abetting of a licensed person to practice dentistry or dental hygiene unlawfully.
- The committing of any act or acts of sexual abuse, misconduct or relations with a patient that are substantially related to the practice of dental hygiene.
- The use of 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 to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1962.
- The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions, or other services or articles supplied to patients.
- The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.
- The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.
- The employing or the making use of solicitors.
- Advertising in violation of Section 651.
- Advertising to guarantee any dental hygiene service, or to perform any dental hygiene procedure painlessly. This subdivision shall not prohibit advertising permitted by Section 651.
- The violation of any of the provisions of this division.
- The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.
- The clearly excessive administering of drugs or treatment, or the clearly excessive use of treatment procedures, or the clearly excessive use of treatment facilities, as determined by the customary practice and standards of the dental hygiene profession. Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$600, or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.
- The use of threats or harassment against any patient or licensee for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.
- 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 this state.
- The alteration of a patient's record with intent to deceive.
- Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental hygiene profession.
- The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions and provided the health of the patient is not jeopardized.
- The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.
- Use of fraud in the procurement of any license issued pursuant to this article.
- Any action or conduct that would have warranted the denial of the license.
- The aiding or abetting of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to practice dental hygiene in a negligent or incompetent manner.
- The failure to report to the committee in writing within seven days any of the following:
  - The death of his or her patient during the performance of any dental hygiene procedure.
  - The discovery of the death of a patient whose death is related to a dental hygiene procedure performed by him or her.
  - Except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment for a period exceeding 24 hours of any patient as a result of dental or dental hygiene treatment. Upon receipt of a report pursuant to this subdivision, the committee may conduct an inspection of the dental hygiene practice office if the committee finds that it is necessary.
  - A registered dental hygienist, registered dental hygienist in alternative practice or registered dental hygienist in extended functions shall report to the committee all deaths occurring in his or her practice with a copy sent to the dental board if the death occurred while working as an employee in a dental office. A dentist shall report to the dental board all deaths occurring in his or her practice with a copy sent to the committee 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.

## Other acts deemed unprofessional for dentists

- Participating in or operating any group advertising and referral services that are in violation of Section 650.2.
- The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall, by regulation, define what constitutes a fail-safe machine.
- Engaging in the practice of dentistry with an expired license.
- Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board.
- The utilization by a licensed dentist of any person to perform the functions of any registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permit holder, orthodontic assistant permit holder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions who, at the time of initial employment, does not possess a current, valid license or permit to perform those functions.
- The prescribing, dispensing or furnishing of dangerous drugs or devices, as defined in Section 4022, in violation of Section 2242.1.
- Having more than one patient undergoing conscious sedation or general anesthesia on an outpatient basis at any given time 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 by law to administer conscious sedation or general anesthesia.
- Failing to have patients recovering from conscious sedation or general anesthesia closely monitored by licensed health professionals experienced in the care and resuscitation of patients recovering from conscious sedation or 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 the patient to recovery staff ratio should not exceed three to one.
- Failing to have patients who are undergoing conscious sedation continuously monitored during the dental procedure with a pulse oximeter or similar or superior monitoring equipment required by the board.

- Having dental office personnel who are not certified in basic cardiac life support (CPR) and recertified biennially directly involved with the care of patients undergoing conscious sedation.
- Failing to obtain the written informed consent of a patient prior to administering general anesthesia or conscious sedation. In the case of a minor, the consent shall be obtained from the child's parent or guardian.

## Controlled substances and dental professionals

It is unprofessional conduct for a person licensed under the code to do any of the following:

- Obtain or possess in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022.
- Use a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or a dangerous drug as defined in Section 4022, or alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or injurious to himself or herself, to any person, or the public to the extent that the use impairs the licensee's ability to conduct with safety to the public the practice authorized by his or her license.
- Be convicted of a charge of violating any federal statute or rules, or any statute or rule of this state, regulating controlled substances, as defined by California codes, or be convicted of more than one

misdemeanor, or any felony, involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice authorized by his or her license. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section; the committee may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

## Dental records

Dentists and registered hygienists who perform a service on a patient in a dental office shall identify themselves in the patient record by signing their name or identification number and initials next to the service performed, and shall date those treatment entries in the record. A repeated violation of this section constitutes unprofessional conduct. Any person licensed under these laws who owns, operates or manages a dental office shall ensure compliance with this requirement.

A licensee who fails or refuses to comply with a request for a patient's dental hygiene records that is accompanied by that patient's written authorization for release of the records to the committee, within 15 days of receiving the request and authorization, shall pay to the committee a civil penalty of \$250 per day for each day that the documents have not been produced after the 15th day, up to a maximum of \$5,000 unless the licensee is unable to provide the documents within this time period for good cause.

A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board shall pay to the board a civil penalty of \$1,000 per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

Any licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed \$5,000. The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of

patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to \$1,000 per day for each day that the documents have not been produced, up to \$10,000, after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

- Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed \$5,000. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed \$5,000 or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed \$5,000 and shall be reported to the State Department of Health Services and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

A failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

For the purposes of this section, a "health care facility" means a clinic or health care facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

## Section 1954: Scope of practice for dental hygienists

- It is unprofessional conduct for a person licensed under this article to perform, or hold himself or herself out as able to perform, professional services beyond the scope of his or her license and field of competence, as established by his or her education, experience, and training. This includes, but is not limited to, using an instrument or device in a manner that is not in accordance with the customary standards and practices of the dental hygiene profession.
- This section shall not apply to research conducted by accredited dental schools or dental hygiene schools, or to research conducted pursuant to an investigational device exemption issued by the United States Food and Drug Administration.

## Section 1956: Unnecessary treatment

It is unprofessional conduct for a person licensed under California code to require, either directly or through an office policy, or knowingly permit the delivery of dental hygiene care that discourages necessary

treatment, or permits clearly excessive, incompetent, unnecessary, or grossly negligent treatment, or repeated negligent acts, as determined by the standard of practice in the community.

## Section 1951: Disciplinary actions for dental hygienists

The committee may discipline a licensee by placing him or her on probation under various terms and conditions that may include, but are not limited to, the following:

- Requiring the licensee to obtain additional training or pass an examination upon completion of training, or both. The examination may be a written or oral examination, or both, and may be a practical or clinical examination, or both, at the option of the committee.
- Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the committee, if warranted by the physical or mental condition of the licensee. If the committee requires the licensee to submit to an examination, the committee shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.
- Restricting or limiting the extent, scope or type of practice of the licensee.
- Requiring restitution of fees to the licensee's patients or payers of services, unless restitution has already been made.
- Providing the option of alternative community service in lieu of all or part of a period of suspension in cases other than violations relating to quality of care.

### 1957. – Suspension of license for hygienists:

- a. A person whose license has been revoked or suspended, who has been placed on probation, or whose license was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the committee for reinstatement or modification of the penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:
  1. At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.
  2. At least two years for early termination, or modification of a condition, of a probation of three years or more.

3. At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination, or modification of a condition, of a probation of less than three years.
- b. The petition shall state any fact required by the committee.
- c. The petition may be heard by the committee, or the committee may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.
- d. In considering reinstatement or modification or penalty, the committee or the administrative law judge hearing the petition may consider the following:
  1. All activities of the petitioner since the disciplinary action was taken.
  2. The offense for which the petitioner was disciplined.
  3. The petitioner's activities during the time the license, certificate or permit was in good standing.
  4. The petitioner's rehabilitative efforts, general reputation for truth, and professional ability.
- e. The hearing may be continued from time to time as the committee or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.
- f. The committee or the administrative law judge may impose necessary terms and conditions on the licentiate in reinstating a license, certificate or permit or modifying a penalty.
- g. A petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole.
- h. A petition shall not be considered while there is an accusation or petition to revoke probation pending against the person.
- i. The committee may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section. Nothing in this section shall be deemed to alter Sections 822 and 823.

## Section 1958: Violations and penalties for hygienists

A person, company or association is guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment in a county jail not less than 10 days nor more than one year, or by a fine of not less than \$100 nor more than \$1,500, or by both that fine and imprisonment, who does any of the following:

- a. Assumes the title of "registered dental hygienist," "registered dental hygienist in alternative practice," or "registered dental hygienist in extended functions" or appends the letters "R.D.H.," "R.D.H.A.P.," or "R.D.H.E.F." to his or her name without having had the right to assume the title conferred upon him or her through licensure.
- b. Assumes any title, or appends any letters to his or her name, with the intent to represent falsely that he or she has received a dental hygiene degree or a license under this article.
- c. Engages in the practice of dental hygiene without causing to be displayed in a conspicuous place in his or her office his or her license under this article to practice dental hygiene.

- d. Within 10 days after demand is made by the executive officer of the committee, fails to furnish to the committee the name and address of all persons practicing or assisting in the practice of dental hygiene in the office of the person, company, or association, at any time within 60 days prior to the demand, together with a sworn statement showing under and by what license or authority this person, company, or association and any employees are or have been practicing or assisting in the practice of dental hygiene. This sworn statement shall not be used in any prosecution under this section.
- e. Is under the influence of alcohol or a controlled substance while engaged in the practice of dental hygiene in actual attendance on patients to an extent that impairs his or her ability to conduct the practice of dental hygiene with safety to patients and the public.

## Section 1960: Other misdemeanors

For the first offense, a person is guilty of a misdemeanor and shall be punishable by a fine of not less than \$200 nor more than \$3,000, or by imprisonment in a county jail for not to exceed six months, or by both that fine and imprisonment, and for the second or a subsequent offense is guilty of a felony and upon conviction thereof shall be punished by a fine of not less than \$2,000 nor more than \$6,000, or by imprisonment

in the state prison, or by both that fine and imprisonment, who does any of the following:

- Sells or barter or offers to sell or barter a dental hygiene degree or transcript or a license issued under, or purporting to be issued under, laws regulating licensure of registered dental hygienists, registered

dental hygienists in alternative practice, or registered dental hygienists in extended functions.

- Sells or offers to sell or barter any dental degree or license or transcript made or purporting to be made pursuant to the laws regulating the license and registration of dentists.
- Purchases or procures by barter a diploma, license, or transcript with intent that it shall be used as evidence of the holder's qualification to practice dentistry or dental hygiene, or in fraud of the laws regulating the practice of dentistry and dental hygiene.
- With fraudulent intent, makes, attempts to make, counterfeits, or materially alters any such diploma, certificate or transcript.
- Uses, or attempts or causes to be used, any diploma, certificate, or transcript that has been purchased, fraudulently issued, counterfeited, or materially altered or in order to procure licensure as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions; or as a license to practice dentistry or to procure registration as a dentist.

- In an affidavit required of an applicant for an examination or license under this article, willfully makes a false statement in a material regard.
- Practices dentistry or dental hygiene or offers to practice dentistry or dental hygiene, as defined in the code, either without a license, or when his or her license has been revoked or suspended.
- 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, practices, advertises, or in any other manner indicates that he or she practices or will practice dentistry or dental hygiene, except a name specified in a valid permit issued pursuant to Section 1962.

A person who willfully, under circumstances that cause risk of bodily harm, serious physical or mental illness, or death, practices, attempts to practice, advertises, or holds himself or herself out as practicing dental hygiene without having at the time of so doing a valid, unrevoked, and unsuspended license as provided in this chapter, is guilty of a crime, punishable by imprisonment in a county jail for up to one year. The remedy provided in this section shall not preclude any other remedy provided by law.

## Alternative and group practices by hygienists

An association, partnership, corporation or group of three or more registered dental hygienists in alternative practice engaging in practice under a name that would otherwise be in violation of the laws may practice under that name if the association, partnership, corporation or group holds an unexpired, unsuspended and unrevoked permit issued by the committee. An individual registered dental hygienist in alternative practice or a pair of registered dental hygienists in alternative practice who practice dental hygiene under a name that would otherwise violate Section 1960 may practice under that name if the licensees hold a valid permit issued by the committee under this section.

The committee shall issue a written permit authorizing the holder to use a name specified in the permit in connection with the holder's practice if the committee finds all of the following:

1. The applicant or applicants are duly licensed registered dental hygienists in alternative practice.
2. The place where the applicant or applicants practice is owned or leased by the applicant or applicants, and the practice conducted at the place is wholly owned and entirely controlled by the applicant or applicants and is an approved area or practice setting pursuant to Section 1926.
3. The name under which the applicant or applicants propose to operate contains at least one of the following designations: "dental hygiene group," "dental hygiene practice," or "dental hygiene office," contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or members of the group, and is in conformity with Section 651 and not in violation of subdivisions (i) and (l) of Section 1950.5.
4. All licensed persons practicing at the location designated in the application hold valid licenses and no charges of unprofessional conduct are pending against any person practicing at that location.

A permit issued under this section shall expire and become invalid unless renewed in the manner provided for in this article for the renewal of certificates issued under this article. A permit issued under this section may be revoked or suspended if the committee finds that any requirement for original issuance of a permit is no longer being fulfilled by the permit holder. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

If charges of unprofessional conduct are filed against the holder of a permit issued under this section, or a member of an association, partnership, group, or corporation to whom a permit has been issued under this section, proceedings shall not be commenced for revocation or suspension of the permit until a final determination of the charges of unprofessional conduct, unless the charges have resulted in revocation or suspension of a license.

The committee may prefer a complaint for violation of any part of this article before any court of competent jurisdiction and may, by its officers, counsel and agents, assist in presenting the law or facts at the trial. The district attorney of each county in this state shall prosecute all violations of this article in their respective counties in which the violations occur.

In addition to the other proceedings provided for in this article, on application of the committee, the superior court of any county shall issue an injunction to restrain an unlicensed person from conducting the practice of dental hygiene, as defined in this article.

If a person has engaged in or is about to engage in an act that constitutes an offense against this chapter, the superior court of any county, on application of 10 or more persons holding licenses to practice dental hygiene issued under this article, may issue an injunction or other appropriate order restraining that conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

## Section 1966: Rehabilitation and diversion program

- a. It is the intent of the Legislature that the committee seek ways and means to identify and rehabilitate licensees whose competency may be impaired due to abuse of dangerous drugs or alcohol, so that licensees so afflicted may be treated and returned to the practice of dental hygiene in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the committee establish a diversion program as a voluntary alternative approach to traditional disciplinary actions.
- b. One or more diversion evaluation committees shall be established by the committee. The committee shall establish criteria for the selection of each diversion evaluation committee. Each member of a diversion evaluation committee shall receive per diem and expenses as provided in Section 103.

### 1966.1.

- a. The committee shall establish criteria for the acceptance, denial, or termination of licensees in a diversion program. Unless ordered by the committee as a condition of a licensee's disciplinary probation, only those licensees who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a diversion program.
- b. A licensee who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).
- c. A licensee under current investigation by the committee may also request entry into a diversion program by contacting the committee. The committee may refer the licensee requesting participation in

the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licensee to enter into the diversion program, the committee may require the licensee, while under current investigation for any violations of this article or other violations, to execute a statement of understanding that states that the licensee understands that his or her violations of this article or other statutes, that would otherwise be the basis for discipline, may still be investigated and the subject of disciplinary action.

- d. If the reasons for a current investigation of a licensee are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 1951, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the committee shall close the investigation without further action if the licensee is accepted into the committee's diversion program and successfully completes the requirements of the program. If the licensee withdraws or is terminated from the program by a diversion evaluation committee, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the committee.
- e. Neither acceptance nor participation in the diversion program shall preclude the committee from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any licensee for any unprofessional conduct committed before, during or after participation in the diversion program.
- f. All licensees shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when a diversion evaluation committee determines the licensee presents a threat to the public's health and safety shall result in the utilization by the committee of diversion treatment records in disciplinary or criminal proceedings.
- g. Any licensee terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the committee for acts committed before, during, and after participation in the diversion program. A licensee who has been under investigation by the committee and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the committee.

**1966.2.** – Each diversion evaluation committee shall have the following duties and responsibilities:

- a. To evaluate those licensees who request to participate in the diversion program according to the guidelines prescribed by the committee and to consider the recommendations of any licensees designated by the committee to serve as consultants on the admission of the licensee to the diversion program.
- b. To review and designate those treatment facilities to which licensees in a diversion program may be referred.
- c. To receive and review information concerning a licensee participating in the program.
- d. To consider in the case of each licensee participating in a program whether he or she may safely continue or resume the practice of dental hygiene.
- e. To perform other related duties as the committee may by regulation require.

**1966.3.** – Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a diversion evaluation committee may convene in closed session to consider reports pertaining to any licensee requesting or participating in a diversion program. A diversion evaluation committee shall only convene in closed session to the extent that it is necessary to protect the privacy of a licensee.

**1966.4.** – Each licensee who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a diversion evaluation committee and to bear all costs related to the program, unless the cost is waived by the committee. Any failure to comply with the provisions of a treatment program may result in termination of the licensee's participation in a program.

**1966.5.**

- a. After a diversion evaluation committee, in its discretion, has determined that a licensee has been rehabilitated and the diversion program is completed, the diversion evaluation committee shall purge and destroy all records pertaining to the licensee's participation in the diversion program.
- b. Except as authorized by subdivision (f) of Section 1966.1, all committee and diversion evaluation committee records and records of proceedings pertaining to the treatment of a licensee in a program shall be kept confidential and are not subject to discovery or subpoena.

**1966.6.** – The committee shall provide for the representation of any person making reports to a diversion evaluation committee or the committee under this article in any action for defamation for reports or information given to the diversion evaluation committee or the committee regarding a licensee's participation in the diversion program.

## Acts in violation of the Dental Practice Code

The California Business and Professions Code Section 108, and 125.9, gives each of the respective department boards the authority to issue citations and fines after conducting investigation of violations of laws under their jurisdiction as follows:

- Each of the boards comprising the department exists as a separate unit, and has the functions of setting standards, holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following those hearings, insofar as these powers are given by statute to each respective board.
- Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

The system may contain the following provisions:

- A citation may be issued without the assessment of an administrative fine.

- Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.
- Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.
- Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau or commission.

**1611.5.** – The board may inspect the books, records and premises of any dentist licensed under this chapter in response to a complaint that a licensee has violated any law or regulation that constitutes grounds for disciplinary action by the board, and may employ inspectors for this purpose. A licensee's failure to allow an inspection or any part thereof shall be grounds for suspension or revocation of the license in accordance with Section 1670.

### Legal, valid, unexpired license

**1626.** – It is unlawful for any person to engage in the practice of dentistry in the state, either privately or as an employee of a governmental agency or political subdivision, unless the person has a valid, unexpired license or special permit from the board.

## Scope of practice

In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for a person licensed under this chapter 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 dental profession.

This section shall not apply to research conducted by accredited dental schools or colleges, or to research conducted pursuant to an investigational device exemption issued by the United States Food and Drug Administration.

## More on unprofessional conduct

**1684.5.** – In addition to other acts constituting unprofessional conduct listed above, it is unprofessional conduct for any dentist to 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 pursuant to Article 7 (commencing with Section 1740):

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.

For purposes of this section, "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.

For purposes of this section, if dental treatment is provided to a patient by a registered dental assistant in extended functions, a registered dental hygienist, or a registered dental hygienist in alternative practice pursuant to the diagnosis and treatment plan authorized by a supervising dentist, at a location other than the dentist's practice location, it is the responsibility of the authorizing dentist that the patient or the patient's representative receive written notification that the care was provided at the direction of the authorizing dentist and that the notification include the authorizing dentist's name, practice location address, and telephone number. This provision shall not require patient notification 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.

A dentist shall not concurrently supervise more than a total of five registered dental assistants in extended functions, registered dental hygienists, or registered dental hygienists in alternative practice providing services pursuant to Sections 1753.55, 1910.5, and 1926.05.

This section shall 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 shall not apply to fluoride mouth rinse or supplement programs administered in a school or preschool setting.

## Revoked or suspended licenses

**1686.** – A person whose license, certificate, or permit has been revoked or suspended, who has been placed on probation, or whose license, certificate, or permit was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

- a. At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.
- b. At least two years for early termination, or modification of a condition, of a probation of three years or more.
- c. At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination, or modification of a condition, of a probation of less than three years. The petition shall state any fact required by the board. The petition

may be heard by the board, or the board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. In considering reinstatement or modification or penalty, the board or the administrative law judge hearing the petition may consider:

1. All activities of the petitioner since the disciplinary action was taken.
2. The offense for which the petitioner was disciplined.
3. The petitioner's activities during the time the license, certificate or permit was in good standing.
4. The petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board or the administrative law judge as designated in Section 11371 of the Government Code finds necessary. The board or the administrative law judge may impose necessary terms and conditions on the licensee in reinstating a license, certificate or permit or modifying a penalty.

## Criminal offenses

No petition under this section shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The board may deny

without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section. Nothing in this section shall be deemed to alter Sections 822 and 823.

## Registered sex offenders

**1687.** –

- a. Notwithstanding any other provision of law, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or

territory, under military law, or under federal law, the board shall be subject to the following requirements:

1. The board shall deny an application by the individual for licensure pursuant to this chapter.

2. If the individual is licensed under this chapter, the board shall revoke the license of the individual.
  3. The board shall not stay the revocation and place the license on probation.
  4. The board shall not reinstate or reissue the individual's licensure under this chapter. The board shall not issue a stay of license denial and place the license on probation.
- b. This section shall not apply to any of the following:
1. An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.
  2. An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of

a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under other provisions of state law based upon the licensee's conviction under Section 314 of the Penal Code.

3. Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

## Practicing without a valid license, expired or suspended licenses

**1700.** – Any person, company, or association is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not less than 10 days nor more than one year, or by a fine of not less than one hundred dollars (\$100) nor more than one thousand five hundred dollars (\$1,500), or by both fine and imprisonment, who:

- a. Assumes the degree of "doctor of dental surgery," "doctor of dental science," or "doctor of dental medicine" or appends the letters "D.D.S.," or "D.D.Sc." or "D.M.D." to his or her name without having had the right to assume the title conferred upon him or her by diploma from a recognized dental college or school legally empowered to confer the same.
- b. Assumes any title, or appends any letters to his or her name, with the intent to represent falsely that he or she has received a dental degree or license.
- c. Engages in the practice of dentistry without causing to be displayed in a conspicuous place in his or her office the name of each and every person employed there in the practice of dentistry.
- d. Within 10 days after demand is made by the executive officer of the board, fails to furnish to the board the name and address of all persons practicing or assisting in the practice of dentistry in the office of the person, company, or association, at any time within 60 days prior to the demand, together with a sworn statement showing under and by what license or authority this person, company, or association and any employees are or have been practicing dentistry. This sworn statement shall not be used in any prosecution under this section.
- e. Is under the influence of alcohol or a controlled substance while engaged in the practice of dentistry in actual attendance on patients to an extent that impairs his or her ability to conduct the practice of dentistry with safety to patients and the public.

**1701.5.** – Any association or partnership or corporation or group of three or more dentists, engaging in practice under any name that would otherwise be in violation of Section 1701 may practice under this name if, and only if, the association, partnership, corporation or group holds an outstanding, unexpired, unsuspended and unrevoked permit issued by the board under this section. On and after July 1, 1995, any individual dentist or pair of dentists engaging in the practice of dentistry

under any name that would otherwise be in violation of Section 1701 may practice under that name if and only if the dentist or pair of dentists hold an outstanding, unexpired, unsuspended, and unrevoked permit issued by the board under this section. The board shall issue written permits authorizing the holder to use a name specified in the permit in connection with the holder's practice if, and only if, the board finds to its satisfaction that:

- a. The applicant or applicants are duly licensed dentists.
- b. The place or establishment, or the portion thereof, where the applicant or applicants practice, is owned or leased by the applicant or applicants, and the practice conducted at the place or establishment, or portion thereof, is wholly owned and entirely controlled by the applicant or applicants.
- c. The name that the applicant or applicants propose to operate contains at least one of the following designations: "dental group," "dental practice," or "dental office" and contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or members of the group, and is in conformity with Section 651 and subdivisions (i) and (l) of Section 1680.
- d. All licensed persons practicing at the location designated in the application hold valid and outstanding licenses and that no charges of unprofessional conduct are pending against any persons practicing at that location.

Permits issued under this section by the board shall expire and become invalid unless renewed at the times and in the manner provided for the renewal of certificates issued under this chapter. Any permits issued under this section may be revoked or suspended at any time that the board finds that any one of the requirements for original issuance of a permit is no longer being fulfilled by the holder to whom the permit was issued. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act. In the event charges of unprofessional conduct are filed against the holder of a permit issued under this section, or a member of an association or partnership or a member of a group or corporation to whom a permit has been issued under this section, proceedings shall not be commenced for revocation or suspension of the permit until final determination of the charges of unprofessional conduct and unless the charges have resulted in revocation or suspension of license.

## Dispensing controlled substances

Prescribers (which under California law includes people with licenses to practice dentistry) who dispense controlled substances must comply with the requirements of Business and Profession Code Sections 4076, 4170, 4172:

### 4170.

- a. No prescriber shall dispense drugs or dangerous devices to patients in his or her office or place of practice unless all of the following conditions are met:

1. The dangerous drugs or dangerous devices are dispensed to the prescriber's own patient, and the drugs or dangerous devices are not furnished by a nurse or physician attendant.
2. The dangerous drugs or dangerous devices are necessary in the treatment of the condition for which the prescriber is attending the patient.
3. The prescriber does not keep a pharmacy, open shop, or drugstore, advertised or otherwise, for the retailing of dangerous drugs, dangerous devices or poisons.

4. The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.
5. The prescriber does not use a dispensing device unless he or she personally owns the device and the contents of the device, and personally dispenses the dangerous drugs or dangerous devices to the patient packaged, labeled, and recorded in accordance with paragraph (4).
6. The prescriber, prior to dispensing, offers to give a written prescription to the patient that the patient may elect to have filled by the prescriber or by any pharmacy.
7. The prescriber provides the 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.

<b>Dispensing controlled substances</b>
<p>Always store controlled substances in a locked cabinet or drawer.</p> <ol style="list-style-type: none"> <li>1. Maintain a log.</li> <li>2. Prior to dispensing, offer to give a written prescription to the patient that the patient may elect to have filled by you, the dentist, or by any pharmacy. You must provide the patient with a written disclosure that the patient has a choice between obtaining the prescription from you, the dentist, or obtaining the prescription at a pharmacy of the patient's choice.</li> <li>3. When dispensing controlled substances to a patient, you must:               <ul style="list-style-type: none"> <li>○ Label the container with the prescriber's name, patient's name, drug name, strength, date of issue, dosage, quantity, directions for use, and expiration date.</li> <li>○ Inform the patient orally or in writing of possible side effects of the drug.</li> </ul> </li> </ol> <p>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.</p>

## Renewal of license

**1715.** – Licenses issued under the provisions of this chapter, unless specifically excepted, expire at 12 midnight on the legal birth date of a licentiate of the board during the second year of a two-year term if not renewed.

The board shall establish procedures for the administration of the birth date renewal program, including, but not limited to, the establishment of a pro rata formula for the payment of fees by licentiates affected by the implementation of such program and the establishment of a system of staggered license expiration dates such that a relatively equal number of licenses expire annually.

**1715.1.** – The provisions of Sections 1715, 1716, 1717, 1718, 1718.1, 1718.2, and 1718.3 shall also apply to and govern the expiration, renewal, restoration, reinstatement, and reissuance of permission to conduct an additional place of practice.

### **1715.5. – Dental specialties**

- a. A licensee shall, upon his or her initial licensure and any subsequent application for renewal, report the completion of any advanced educational program accredited by the Committee on Dental Accreditation in a dental specialty recognized by the American Dental Association.
- b. The licensee shall also report, upon his or her initial licensure and any subsequent application for renewal, the practice or employment status of the licensee, designated as one of the following:
  1. Full-time practice or employment in a dental practice of 32 hours per week or more in California. This reporting requirement shall also apply to a dental auxiliary licensee.

2. Full-time practice or employment in a dental practice outside of California.
  3. Part-time practice or employment in a dental practice for less than 32 hours per week in California.
  4. Dental administrative employment that does not include direct patient care, as may further be defined by the board.
  5. Retired.
  6. Other practice or employment status, as may be further defined by the board.
- c. Information collected pursuant to subdivision (b) shall be posted on the Internet website of the board or the Committee on Dental Auxiliaries (COMDA), as appropriate.
  - d. (1) A licensee may report, in his or her application for renewal, and the board shall collect, information regarding the licensee's cultural background and foreign language proficiency. (2) Information collected pursuant to this subdivision shall be aggregated on an annual basis, based on categories utilized by the board in the collection of the data, into both statewide totals and ZIP Code of primary practice or employment location totals. (3) Aggregated information under this subdivision shall be compiled annually, and reported on the Internet Web site of the board on or before July 1 of each year.

**1716.** – Nothing contained in this chapter shall exempt from the payment of the renewal fee any person authorized to practice dentistry in the state of California, and every person practicing dentistry in this state shall pay the renewal fee irrespective of the time when he was licensed or first had the right to lawfully practice dentistry in this state or elsewhere.

## Retired or disabled dentists

### **1716.1.**

- a. Notwithstanding Section 1716, the board may, by regulation, reduce the renewal fee for a licensee who has practiced dentistry for 20 years or more in this state, has reached the age of retirement under the federal Social Security Act (42 U.S.C. Sec. 301 et seq.), and customarily provides his or her services free of charge to any person, organization, or agency. In the event that charges are made, these charges shall be nominal. In no event shall the aggregate of these charges in any single calendar year be in an amount that would render the licensee ineligible for full Social Security benefits. The board shall not reduce the renewal fee under this section to an amount less than one-half of the regular renewal fee.

- b. Notwithstanding Section 1716, any licensee who demonstrates to the satisfaction of the board that he or she is unable to practice dentistry due to a disability, may request a waiver of 50 percent of the renewal fee. The granting of a waiver shall be at the discretion of the board, and the board may terminate the waiver at any time. A licensee to whom the board has granted a waiver pursuant to this subdivision shall not engage in the practice of dentistry unless and until the licensee pays the current renewal fee in full and establishes to the satisfaction of the board, on a form prescribed by the board and signed under penalty of perjury, that the licensee's disability either no longer exists or no longer affects his or her ability to safely practice dentistry.

## Dental license renewal

**1717.** – To renew an unexpired license, the licensee shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter. The receipt of the executive officer shall be indispensable evidence that payment has been made.

**1718.** – Except as otherwise provided in this chapter, an expired license may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of all accrued renewal and delinquency fees. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 1715 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

**1718.1.** – A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

**1718.2.** – A revoked license is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

**1718.3.** – After five years a license which is not renewed within five years, after its expiration may not be renewed, restored, reinstated or reissued, but the holder of the license may apply for and obtain a new license if certain requirements are satisfied.

**1017.** – Continuing education units required for renewal of license.

- a. As a condition of renewal, all licensees are required to complete continuing education as follows:
  1. Two units of continuing education in infection control specific to California regulations as defined in section 1016(b)(1)(A).
  2. Two units of continuing education in the California Dental Practice Act and its related regulations as defined in section 1016(b)(1)(B).
  3. A maximum of four units of a course in basic life support as specified in section 1016(b)(1)(C).
- b. Mandatory continuing education units count toward the total units required to renew a license or permit; however, failure to complete the mandatory courses will result in non-renewal of a license or permit. Any continuing education units accumulated before April 8, 2010, that meet the requirements in effect on the date the units were accumulated will be accepted by the board for license or permit renewals taking place on or after April 8, 2010.
- c. All licensees shall accumulate the continuing education units equal to the number of units indicated below during the biennial license or permit renewal period assigned by the board on each license or permit. All licensees shall verify to the board that he or she who has been issued a license or permit to practice for a period less than two years shall begin accumulating continuing education A in his or her application for renewal, and the board or COMDA, As appropriate shall collect information licensee may report credits within the next biennial renewal period occurring after the issuance of a new license or permit to practice.
  1. Dentists: 50 units.
  2. Registered dental hygienists: 25 units.
  3. Registered dental assistants: 25 units.
  4. Dental sedation assistant permit holders: 25 units.
  5. Orthodontic assistant permit holders: 25 units.
  6. Registered dental hygienists in extended functions: 25 units.
  7. Registered dental assistants in extended functions: 25 units.
  8. Registered dental hygienists in alternative practice: 35 units.
- d. Each dentist licensee who holds a general anesthesia permit shall complete, as a condition of permit renewal, continuing education requirements pursuant to Section 1646.5 of the Business and Professions Code at least once every two years, and either (1) an advanced cardiac life support course which is approved by the American Heart Association 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 American Heart Association December 13, 2005, which is incorporated herein by reference.
- e. Each dentist licensee who holds a conscious sedation permit shall complete at least once every two years a minimum of 15 total units of coursework related to the administration of conscious sedation and to medical emergencies, as a condition of permit renewal, in continuing education requirements pursuant to Section 1647.5 of the of the Business and Professions Code. Refusal to execute the required assurance shall result in non-renewal of the permit.
- f. Each dentist licensee who holds an oral conscious sedation permit for minors, as a condition of permit renewal, shall complete at least once every two years a minimum of 7 total units of coursework related to the subject area in continuing education requirements pursuant to Section 1647.13 of the Business and Professions Code.
- g. Each dentist licensee who holds an oral conscious sedation permit for adults, as a condition of permit renewal, shall complete at least once every two years a minimum of 7 total units of coursework related to the subject area in continuing education requirements pursuant to Section 1647.21 of the of the Business and Professions Code.
- h. Notwithstanding any other provisions of this code, tape-recorded courses, home-study materials, video courses and computer courses are considered correspondence courses, and will be accepted for credit up to, but not exceeding, 50 percent of the licensee’s total required units.
- i. In the event that a portion of a licensee’s units have been obtained through non-live instruction, as described in Section (h) above, all remaining units shall be obtained through live interactive course study with the option to obtain 100 percent of the total required units by way of interactive instruction courses. Such courses are defined as live lecture, live telephone conferencing, live video conferencing, live workshop demonstration, or live classroom study.
- j. Licensees who participate in the following activities shall be issued continuing education credit for up to 20 percent of their total continuing education unit requirements for license renewal:
  1. 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.
  2. Participation in any site visit or evaluation relating to issuance and maintenance of a general anesthesia, conscious sedation or oral conscious sedation permit.
  3. Participation in any calibration training and site evaluation training session relating to general anesthesia, conscious sedation or oral conscious sedation permits.
  4. Participation in any site visit or evaluation of an approved dental auxiliary program or dental auxiliary course.
- k. The board shall issue to participants in the activities listed in subdivision (j) 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 herein required for the purposes of records retention and auditing.

- l. The license or permit of any person who fails to accumulate the continuing education units set forth in this section or to assure the board that he or she will accumulate such units, shall not be renewed until such time as the licensee complies with those requirements.
- m. A licensee who has not practiced in California for more than one year because the licensee is disabled need not comply with the continuing education requirements of this article during the renewal period within which such disability falls. Such licensee shall certify in writing that he or she is eligible for waiver of the continuing education requirements. A licensee who ceases to be eligible for such waiver shall notify the board of such and shall comply with the continuing education requirements for subsequent renewal periods.
- n. A licensee shall retain, for a period of three renewal periods, the certificates of course completion issued to him or her at the time he or she attended a continuing education course and shall forward such certifications to the board only upon request by the board for audit purposes. A licensee who fails to retain a certification shall contact the provider and obtain a duplicate certification.
- o. Any licensee who furnishes false or misleading information to the board regarding his or her continuing education units may be subject to disciplinary action. The board may audit a licensee continuing education records as it deems necessary to ensure that the continuing education requirements are met.
- p. A licensee who also holds a special permit for general anesthesia, conscious sedation, oral conscious sedation of a minor or of an adult, may apply the continuing education units required in the specific subject areas to their dental license renewal requirements.
- q. A registered dental assistant or registered dental assistant in extended functions who holds a permit as an orthodontic assistant or a dental sedation assistant shall not be required to complete additional continuing education requirements beyond that which is required for licensure renewal in order to renew either permit.
- r. Pertaining to licensees holding more than one license or permit, the license or permit that requires the largest number of continuing education units for renewal shall equal the licensee's full renewal requirement. Dual licensure, or licensure with permit, shall not require duplication of continuing education requirements.
- s. Current and active licensees enrolled in a full-time educational program in the field of dentistry, 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 board or the ADA Commission on Dental Accreditation shall be granted continuing education credits for completed curriculum during that renewal period. In the event of audit, licensees shall be required to present school transcripts to the board as evidence of enrollment and course completion.
- t. 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 board or the ADA Commission on Dental Accreditation shall be granted continuing education credits for completed curriculum during that renewal period. In the event of audit, assisting permit holders shall be required to present school transcripts to the committee or board as evidence of enrollment and course completion.

**Note:** Authority cited: Sections 1614 and 1645, Business and Professions Code. Reference: Sections 1645, 1646.5 and 1647.5, Business and Professions Code.

## Mandatory reporting obligations

### Child Abuse and Neglect Reporting Act, California Penal Code Section 11164-11174.4, and the Elder Abuse and Dependent Adult Civil Protection Act.

In the state of California, Penal Code Section 11164-11174.4 is known as the Child Abuse and Neglect Reporting Act. In this act, "child" means a person under the age of 18 years. The intent and purpose of the act is to protect children from abuse and neglect. In any investigation of suspected child abuse or neglect, all persons participating in the investigation of the case shall consider the needs of the child victim and shall do whatever is necessary to prevent psychological harm to the child victim.

California law requires certain statutorily defined categories of persons ("mandated reporters"), including dental care professionals, to report to appropriate authorities the known or reasonably suspected abuse or neglect of a child, elder, or dependent adult. California law provides immunity from liability for a mandated reporter who complies with his or her reporting obligations, and also provides a more limited immunity for non-mandated reporters who notify authorities of suspected child, elder or dependent adult abuse or neglect. A mandated reporter who fails to report a known or reasonably suspected incident of child, elder, or dependent adult abuse or neglect may be subject to criminal fines and penalties.

Except as otherwise provided by law, a mandated reporter must report to appropriate authorities when told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, that constitutes abuse or neglect, including physical abuse, abandonment, isolation, or financial abuse. A mandated reporter also must report an injury that indicates possible abuse of an elder, dependent adult or child or if they have personally treated a patient with injuries from an apparent assault.

All health care providers, including dentists, hygienists and assistants, should familiarize themselves with the statutory definitions of the

terms "abuse" and "neglect," and the procedures for reporting incidents to appropriate authorities. A summary of several of the key statutory definitions is provided below.

Reports of suspected child abuse or neglect or abuse to an elder should be made by mandated reporters to any police department or sheriff's department – not including a school district police or security department – county probation department if designated by the county to receive mandated reports, or the county welfare department. Any of those agencies shall accept a report of suspect child abuse or neglect or abuse to an elder for any jurisdiction. The agency can immediately refer the case by telephone, fax or electronic transmission to an agency with proper jurisdiction.

Reports of suspected abuse should contain the name, business address and telephone number of the mandated reporter, and the capacity that makes the person a mandated reporter; the child or elder person's name and address, present location and where applicable, school, grade and class; the names, address and telephone numbers of the child's parents or guardians or caregivers; the information that gave rise to the reasonable suspicion of abuse or neglect and the source or sources of that information; and any information about the person or persons who might have abused or neglected the child/elder. The mandated reporter shall make a report even if some of this information is not known or is uncertain to him or her.

The identity of all persons who report an incident under this act is kept confidential and disclosed only among agencies receiving or investigating the situation.

Failure of a health professional to file a required report is a misdemeanor, punishable by a fine of up to \$1,000, or confinement in the county jail for up to six months, or both.

## Definitions

**Abuse:** Intentionally or recklessly causing or attempting to cause bodily injury or causing reasonable apprehension of imminent serious bodily injury to himself, herself or another.

**Abuse of an elder or a dependent adult means:** Physical abuse, neglect, financial abuse, abandonment, isolation or other treatment with

resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

**Child abuse or neglect:** includes sexual abuse, sexual exploitation, other physical or emotional abuse, severe or general neglect of the

child's needs (food, clothing, shelter, medical care, and willful cruelty or unjustifiable punishment of a child).

**Dependent adult:** Any person between the ages of 18 and 64 years residing in California, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. It includes all such persons admitted to a 24-hour health facility.

**Elder:** Any person residing in California who is 65 years of age or older.

**Neglect of an elder or dependent adult:** The negligent failure of any person having the care or custody of an elder or a dependent adult to

exercise that degree of care that a reasonable person in a like position would exercise. Neglect includes, but is not limited to:

- Failure to assist in personal hygiene, or in the provision of food, clothing or shelter.
- Failure to provide medical care for physical and mental health needs.
- Failure to protect from health and safety hazards.
- Failure to prevent malnutrition.

**Reasonable suspicion:** An objectively reasonable suspicion that a person would entertain, based upon facts that could cause a reasonable person in a like position, drawing when appropriate upon his or her training and experience, to suspect abuse or neglect.

## Summary

This is only a few of the laws that the dental professionals in California must adhere to in order to maintain their licenses and to continue to offer their services every day. Remember, these laws change regularly and will continue to do so - just as your profession does. Continuing

education will help you to stay on top of the new regulations, the modern equipment, and the health and safety hazards that you need to be aware of to protect you and your patients.

## CALIFORNIA DENTAL PRACTICE ACT

### Final Examination Questions

Select the best answer for each question and mark your answers on the Final Examination Answer Sheet found on page 76 or for faster service complete your test online at [Dental.EliteCME.com](http://Dental.EliteCME.com)

1. The Dental Board is the main authority of dentistry in the state of California.
  - a. True.
  - b. False.
2. At least once every three years, the board shall review the allowable duties of dental assistants and registered dental assistants.
  - a. True.
  - b. False.
3. A professional corporation in the state of California falls under the Moscone-Knox Professional Corporation Act and is regulated by the Dental Hygiene Committee.
  - a. True.
  - b. False.
4. The practice of dental hygiene does not include diagnosis and comprehensive treatment planning.
  - a. True.
  - b. False.
5. A registered dental hygienist in alternative practice may perform duties of a registered dental hygienist in residences of the homebound.
  - a. True.
  - b. False.
6. It is unprofessional conduct for any dentist performing dental procedures to have more than one patient undergoing conscious sedation or general anesthesia on an outpatient basis at any given time 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 by law to administer conscious sedation or general anesthesia.
  - a. True.
  - b. False.
7. A licensee must comply with a request for the dental records of a patient if the request is accompanied by written authorization from the patient, and failure to do so within 15 days can result in a fine of up to \$250 dollars per day.
  - a. True.
  - b. False.
8. Any licensed dentist may dispense to a patient under his or her care a Schedule II controlled substance in an amount up to a 96-hour supply in accordance with normal use.
  - a. True.
  - b. False.
9. Under California law, each dentist licensee who holds a conscious sedation permit shall complete a minimum of 10 total units of coursework related to the administration of conscious sedation and to medical emergencies every two years.
  - a. True.
  - b. False.
10. Failure of a health professional to file a required report of suspected abuse is a misdemeanor, punishable by a fine of up to \$1,000, or confinement in the county jail for up to six months, or both.
  - a. True.
  - b. False.