

California Dental Law – California Dental Practice Act October 14, 2014

- **Mandatory Requirements**
- **As a condition of renewal, licensees will be required to complete continuing education units in each of the following subjects:**

Infection Control

California Dental Practice Act

- Began in 1998 -1999 - as a method of educating licentiates to reduce the number of Practice Act violations, reinstated in 2004 as mandatory requirements

■ **Infection Control**

- **Consistent with the Board's regulations on infection control**
- **OSHA Training - this is an annual requirement for all clinical staff. This mandatory education is not part of the Board's requirement for licensure renewal**
- **New Dental Board of California regulatory action - Minimum Standards for Infections Control - has been approved by the Office of Administrative Law California Code of Regulations Section 1005**

■ **California Dental Practice Act**

- Overview and update of the California Dental Practice Act including related statutes and regulations:

Regulating agencies and committees

Dentist and Auxiliary categories and scope of practice

Continuing education requirements

License renewal and status

Rx and dispensing of drugs

Abuse reporting – child, elderly or dependent and intimate partner

Unprofessional conduct

License citations, fines, revocation, suspension

Diversion Committee for licentiates with chemical dependency issue

■ **Intent of DPA**

- The California Dental Practice Act was enacted to protect and promote the health and safety of California consumers by licensing dental health care professionals who demonstrate competency, to maintain the appropriate standard of dental care, and to enhance the education of dental licensees and consumers

■ **DPA may be accessed from several sites**

- <http://www.dhcc.ca.gov/lawsregs/index.shtml>
- <http://www.dbc.ca.gov/lawsregs/index.shtml>

- **Intent of the Course**

- Informational review of the Dental Practice Act; information, reminder, discussion

- Risk management;

A program of action designed to reduce unplanned loss due to legal action

Consult an attorney for specific legal advice

- **Dental Practice Act**

- Is not intended to replace professional oaths and codes of ethics

- Does define actions and omissions that may lead to legal action and revocation of license to practice

- Currents version of the Act is effective until January 1, 2016

- **Most common areas of legal vulnerability**

- Patient records, dental records

Forms and recordkeeping techniques

Breach of confidentiality - HIPAA

- Communication; assuring understanding and agreement toward a common goal

- Utilizing staff with inappropriate credentials

- Negligence

- Malpractice

- Fraud – insurance

- **Standard of Care**

The level of care that a reasonably prudent practitioner would exercise under the same of similar circumstances

- **“Respondent Superior”**

Dentist is held responsible if the illegal acts of his/her employee are committed within the scope of his/her employment

- **Responsibilities include:**

- Liability for all services provided to their patients, including tasks delegated to auxiliaries

- Safeguarding patient medical records and health record confidentiality

- Effectively maintaining their personal practice competency

- **Vicarious Liability**

- If any auxiliary commits a negligent act, the injured party may file suit against both the dentist and the auxiliary. The dentist is held liable for the negligent act of their employees. Under vicarious liability, the dentist may then file suit against the employee for compensation of the financial loss that results from of the negligent act.

- **Department of Consumer Affairs**

- Educating & informing the consumer
- Protecting the consumer from the sale of goods & services through the use of deceptive methods....
- Fostering Competition
- Promoting effective representation of consumer's interests in all branches & levels of government

- Dental Board of California and Dental Hygiene Committee of CA are included in the 39 Boards under the DCA
- Consists of
- 8 Dentists, 1 RDH, 1 RDA, 5 public members – President Fran Burton (public member)
- 1-4 year terms appointed by the Governor
- Regulates a total of 85,400 licensees consisting of 42,000 DDS and 42,000 RDAs and 1,400 RDAEFs

- **Mission: protect and promote the health and safety of consumers**

- License qualified dental health care professionals
- Take action to enforce compliance of the DPA and Statutes
- Strive to enhance the education of consumers and licensees

- **RDA and RDAEF**

- Registered Dental Assistants and Registered Dental Assistants in Extended Functions are represented by and fall under the jurisdiction of the Dental Board of California.

- **Dental Assisting Council**

- SB 540 creates the Dental Assisting Council to the Dental Board

Has a specifically defined membership structure and role

Acts at the primary advisory body to the board and issues affecting the dental assisting community

- **Dental Assisting Council**

- 7 member council

- 5 RDA 1 RDAEF 1 DDS

- Judy Forsythe, RDA - Chair

Dental Hygiene Committee of California - DHCC

- The creation of the "Dental Hygiene Committee of California" (DHCC) represents the (August 12, 2014)

RDH – 18,983 active 3,655 inactive

RDHAP - 468 active 17 inactive

RDHEF – 31 active 6 inactive

- The committee falls under the Department of Consumer Affairs

- **DHCC - Dental Hygiene Committee California**

- The Registered Dental Hygiene Committee of California consists of 9 members appointed by the Governor; Formed July 1, 2009
 - 4 public members,
 - 1 practicing dentist,
 - 4 registered dental hygienists.
 - Of the registered dental hygienists;
 - 1 - educator, 1 - licensed in either alternative practice or extended functions.
- **DHCC Responsibilities**
- Regulatory language found in DPA 1900 – 1966.6
- Issue, review and revoke licenses (5/2014 30,297 licenses)
- Develop and administer examinations adopt regulations, determine fees and CE requirements, enforce requirements
- Scope of Practice Recommendations to DBC
- Establish a Drug Diversion Program for chemically impaired dental hygiene licentiates
- **More information**
- Dental hygienists will have a greater voice in the regulation of clinical dental hygiene practice in California
- This does not change the scope of practice, levels of supervision or the places where dental hygienists can legally practice
- DHCC continues to pursue its own dental practice act – Dental Hygiene Practice Act
- 2014 – Sunset Review by the State
- **DHCC may issue citation and fine**
- Effective December 2012 allows the DHCC to issue a citation and fine up to \$5000
- Violation of dental hygiene laws including
 - Unlicensed practice
 - Unprofessional conduct
 - Failure to identify yourself in the patient’s record
 - Refusal to release a patient’s records
 California Regulatory Agencies
- **Statutes and Regulations**
- **Statues - laws passed by the Legislature signed by the Governor**
- **Regulations - interpret & define statutes or make them more specific**
- **4 parts addressing areas of the DPA that relate to the dentist and the auxiliaries**
- Business and Professionals Code (B&P) sections: 1, 4140, 4947 and 17500 - Scope of Practice, license renewal
- 1900 - 1996.6 - Dental Hygiene
- California Code of Regulation (CCR) section 1000 - use of auxiliaries, including duties and settings

- Penal Code - abuse reporting law
- Health and Safety Code sections: 1795 and 11150 - prescription writing

- **Current laws and regulations online**
- www.dbc.ca.gov
- www.dhcc.ca.gov
- Neither the DBC or DHCC have an obligation to inform us if or when there are changes

- **Change of Address and email**
- Any dentist who changes his/her place of practice shall register each change within 1 month after making said change
- This includes a notification if he/she has no place of practice
- Reregister with the DBC or DHCC
- May be done online

- **Change of Name**
- Any licensed person who shall change his/her name according to the law shall, within 10 days after that change, reregister with the DBC or DHCC
- May be done online

- **License Renewal B&P 1715**
- License expires at 12 midnight of the legal birth date of the licentiate during the 2nd year of a two-year term
- Biennial fee
- Submit assurances of satisfactory completion of required continuing education including required CPR
- Meet minimal amount of CE
- Via mail or online
- Online renewal currently only available for those renewing through the DBC
- DHCC does not have renewal online

- **30 day grace period before expired license becomes delinquent**
- Does not extend expiration date
- You are **not** licensed after your expiration date
- You are responsible for keeping track of your renewal date
- It is illegal to practice with an expired license
- A license that has been expired for more than five years is automatically cancelled, and cannot be renewed, reinstated restored or reissued.
- Delinquent licenses
- DDS - 3600
- RDA - 9200
- RDH – 2145

■ **After license has expired**

- Before license is expired for 5 years

may require re-testing, additional education & other conditions

- After license is expired for 5 years

may not be renewed, restored or reinstated

Must apply for new license upon meeting all the requirements of a new applicant

License is considered canceled

■ **Very Important**

- It is a criminal offense to perform any licensed duties with an expired, cancelled or inactive license

■ **Data From All Licensees**

- January 1, 2009, all initial licensure applicants and license renewal applicants will be required to report the following information with the purpose of identifying underserved areas in California.

Completion of any advanced educational programs accredited by CODA in dental specialty

Practice or employment status

Active DDS licenses by county 8/2014

- Sonoma – 418
- Marin – 347
- Mendocino – 62
- Napa – 113
- Lake – 26
- San Francisco – 1231
- Los Angeles – 8491

■ **Inactive License (B&P 1614)**

- Application for inactive status - DBC or DHCC
- Continue to pay biennial fees
- Cannot practice while inactive
- Board and DHCC require 30 days to determine qualifications after submission of complete application for reactivation
- Submit proof of continuing education for the last 2 years preceding the application
- DBC estimates that there are 3800 inactive DDS

■ **Reduced Fee / Retired Status**

- May be eligible for reduce fee program if:

Have practiced dentistry in California for

20+ years

- Have reached the age of retirement under the federal Social Security Act

- Customarily provide your service free of charge to any person, organization or agency
- DBC estimates that there are 1700 retired DDS

■ **Disabled Status**

- Any licensed person not practicing for more than 1 year due to a disability
- Continue to pay biennial fees – 50% of fee
- No continuing education requirement during disability
- DBC estimates 140 DDS have this license status

■ **Pocket License**

- Every licensed dental professional must carry a pocket license.
- The “Good Samaritan” law requires professionals to carry their pocket license at all times to administer emergency aide.
 - Not held liable if renders care in good faith

■ **Lost License**

- Contact DBC or DHCC for reissued license
- May be issued a different license number
- Fees vary from \$25 - \$50

■ **Foreign License**

- A foreign license is not considered valid in the state of California
- Also, foreign licensed DDS cannot work as an RDA or RDH

■ **Dental School Portfolio Examination**

- Assembly Bill 1524 – will offer students attending Board-approved California dental schools an additional pathway to licensure and an alternative to the WREB exam
- Will not be available to students until the regulation outlining the portfolio examination process are developed and adopted by the Board
- An important element needed for implementation is the development of standardization and calibration courses for each of the six competency examinations that are a part of the Portfolio Licensure process.
- A report on the status of this proposal is on the DBC webpage

■ **License by Credential - B & P 1766**

- As of January 2003 DDS and RDH
- License by Credential DDS - total since available: 2,618
 - Currently licensed in good standing in another state
 - Proof that the applicant has either been in active clinical practice or has been a full-time faculty member in an accredited dental education program and in active clinical practice for a total of at least 5,000 hours in

five of the seven consecutive years immediately preceding the date of his or her application.

- The applicant may not have failed the California licensure exam or the Western Regional exam within five years

RDH - License by Credential

- Graduated from a CODA accredited Dental Hygiene Program
- Proof of current and active license as a RDA in another state that is not revoked, suspended or otherwise restricted
- Clinical practice as a RDH for a minimum of 750 hours per year for at least 5 years
- Has not failed the California clinical examination within the last 5 years
- License by Credential RDH – total since available; 270
- Submit documentation of completion of a minimum of 25 units of CE units the 2 years preceding application including Basic Life Support and 2 hours of California Dental Law and 2 hours of Infection Control
- Certificates of Completion in CA Board Approved course in:
 - Periodontal soft tissue curettage
 - Administration of local anesthetic agents and Nitrous Oxide/oxygen

■ How I can I determine if someone has a current license?

- You can check on line to determine current license status of all licensed personnel - auxiliaries and DDS
- Use the DBA site for DDS and RDA, RDAEF
- Use the DHCC site for RDH, RDHAP and RDHEF

■ Disclosure of Practitioner's name and license status

- There is no requirement in law that requires actual licenses be posted - however B&P Section 1700 - must display in a conspicuous place in his/her office the name of each and every person employed there in the practice of dentistry.
- B&P Code 680- Display full name and license status on name tag - 18 point type
- Employer has option to make an exception for nametags if there are individual safety concerns

■ CCR 1065. Notice to Consumers of Licensure by the Dental Board

- A licensed dentist engaged in the practice of dentistry shall provide notice to each patient of the fact that the dentist is licensed and regulated by the Board. The notice shall include the following statement and information:
- NOTICE TO CONSUMERS Dentists are licensed and regulated by the Dental Board of California (877) 729-7789 www.dbc.ca.gov
- **The notice required by this section shall be provided by**

- Prominently posting the notice in a conspicuous location accessible to public view on the premises where the dentist provides the licensed services, in which case the notice shall be in at least 48- point type font.
- Effective 11/28/12
- **Requirement for RDH**
- Business and Professionals Code 138 requires that all DHCC licensees provide notification to their patients that they are licensed by the DHCC
- NOTIFICATION TO CONSUMERS DENTAL HYGIENISTS ARE LICENSED AND REGULATED BY THE DENTAL HYGIENE COMMITTEE OF CALIFORNIA (916) 263-1978 W W W .DHCC.CA.GOV
- **Acceptable posting of notification for RDH license**
- Prominently posted in an area that is conspicuous to patients
- Written statement dated and signed and kept in the patient's file
- Placed in 14 point font immediately above the signature line of a document signed by the patient of the patient's representative

- **POTENTIAL LICENSE DENIAL OR SUSPENSION FOR FAILURE TO PAY TAXES**
- Effective July 1, 2012, the DBC and DHCC are required to deny an application for licensure or suspend a license/certificate/registration if a licensee or applicant has outstanding tax obligations due to the Franchise Tax Board (FTB) or the State Board of Equalization (BOE) and appears on either the FTB or BOE certified lists of top 500 tax delinquencies over \$100,000. (*AB 1424, Perea, Chapter 455, Statutes of 2011*)
- The FTB and BOE are currently expanding the certified lists from 250 to 500, but you can check if you are currently on the FTB certified list at: www.ftb.ca.gov/individuals/txdlnqnt.shtml or the BOE certified list at: www.boe.ca.gov/cgi-bin/deliq.cgi. If you believe you are on either list in error, please call the FTB at (866) 418-3702 or the BOE at 916-445-5167.

- **Continuing Education Requirements**
- 50 units - Dentist
- 25 units - RDA, RDAEF, RDH, RDHEF
- 35 units - RDHAP
- 50% may be by correspondence, includes online and home study courses
- 2 year renewal on birth date
- Includes mandatory requirements
- Must save proof of attendance for 3 renewal cycles (6 years)

- **Mandatory Units**
- Auxiliary & Dentist
- 2 units; Infection Control
- 2 units; California Dental Practice Act
- Basic Life Support – maximum of 4 units
- Counted toward total units

■ **Increase in renewal and delinquency fees - DHCC**

- RDH Biennial License Renewal Fee – increase to \$160 (from \$80);
- RDHAP Biennial Renewal Fee – increase to \$160 (from \$80);
- RDH Delinquency Fee – increase to \$80 (from \$40);
- RDHAP Delinquency Fee – increase to \$80 (from \$40);

■ **Increase in renewal and delinquency fees - DBC**

- Biennial renewal fee increases from \$365 to \$450 beginning on July 1, 2014
- Will be \$527 by January 1, 2015 (active and inactive)
- Will be \$274.50 (retired and disabled status)
- Anticipated to increase to \$700 in increments over the next years
- DBC anticipates 1000 new licenses and 36,000 biennial renewal active licenses

■ **CPR**

- Must be approved by:
American Heart Association, or the American Red Cross
- May be Adult and Child CPR or CPR for Health Care Providers

■ **Continuing Education Courses**

- Registered Provider

Beginning January 1, 2006, the Board requires all verification slips for course attendance to include the entire 11 digit registration number this number is found on each verification slip.

Look for this number, this is your proof that the course is approved for CE units

- The Board does not sponsor continuing education courses offered by providers. Courses can not be advertised as such.
- Up to 50% may be through correspondence courses
- Other Courses
- Out of state courses and courses offered by other authorized providers

ADA continuing Education Recognition Program (CERP) or Academy of General Dentistry' Program for Continuing Education (PACE)

May petition Board if you feel that a course offered by a non-approved provider meets the requirement

■ **Course of Study**

■ **Sections 1016 and 1017 of Title 16 CCR**

Preventative services, diagnostic protocols and procedures, comprehensive treatment planning and informed consent protocols and recordkeeping

Esthetic, corrective and restorative oral health diagnosis and treatment

Cultural competencies, public health dentistry, management of special-needs patients, dependency issues, medical emergencies and cross-cultural communication

■ **Courses limited to 20% of total required course unit credits**

Teaching methodology and curriculum development

Computerized dental office management or new technology designed primarily for improved patient care

Leadership development and team development
Human resource management and employee benefits

- **Scope of Practice**

- **Practice of Dentistry**

- Dentistry is the diagnosis or treatment, by surgery or other methods, of diseases & lesions & corrections of malpositions of the human teeth, alveolar process, gums, jaws or associated structures
... may include all necessary related procedures as well as the use of drugs, anesthetic agents & physical evaluation

- A dentist may, therefore, use any legally prescribed drugs to treat patients as long as the treatment is within the aforementioned scope of practice.

- **Dentistry is NOT**

- Anesthetic for cosmetic tattooing, eyeliner, lip liner, etc

- BOTOX for cosmetic purposes

- B&P1638.1 - allows certain specially qualified oral and maxillofacial surgeons to perform specified elective cosmetic procedures (83 permits 8/2014)

- **Cleaning or extracting animal teeth**

- **Conscious Sedation**

- B & P code 1647.1 and 1647.5

- Requires 60 hours of instruction

Must complete 15 hours related to conscious sedation for renewal of permit – approximately 500 current permits

- “Conscious sedation” does not include conditions resulting from administration of oral medications or nitrous oxide...

- **Use of DDS - B&P 1700**

- Any licensed dentist, regardless of his/her specific degree, may use the letters “DDS”

- **7 Categories of Dental Auxiliaries Licensed & Regulated**

- Dental Sedation Assistant Permit Holder - DSA

- Orthodontic Assistant Permit Holder - OA

- Registered Dental Assistant RDA

- RDA in Extended Functions RDAEF

- RDAEF II

- Registered Dental Hygienist RDH

- RDH in Extended Functions RDHEF

- RDH in Alternative Practice RDHAP

- Allowable Duties

- DDS and Auxiliary must keep current

- Use websites for most current information - DBC, Licensees, RDA, allowable duties

- It is the intent of the legislature..... to permit the full utilization of dental auxiliaries in order to meet the dental care needs of all the state's citizens.
- **General Supervision B & P 1741d**
- ...supervision of dental procedures based on instructions given by a licensed dentist, but not requiring the physical presence of the supervising dentist during performance
- **Direct Supervision B & P 1741c**
- ...supervision based on instructions given by a licensed dentist who must be physically present in the treatment facility during performance ... when done so pursuant to the order, control and full professional responsibility of the supervising dentist. Such procedures shall be checked and approved by the supervising dentist prior to dismissal of the patient from the office of said dentist

- **Posting of Auxiliary Duties**

- **CCR 1068**

Posted notice which delineates delegable functions, settings, and circumstances. Such notice shall be readily accessible to all individuals under the supervision of the dentist

Chart of current allowable functions should be copied from the DBC website

- **Changed Regulations**

- Changes in Regulations for DA, RDA and RDAEF
- There are no changes planned in RDH category

- **Dental Assistant - B&P 1750**

- A person who may perform basic supportive dental procedures under the supervision of a licensed dentist and who may perform basic supportive procedures as authorized under supervision of a registered dental hygienist in alternative practice

- **Basic Supportive Dental Procedures - B&P 1750**

- Fundamental duties or functions which may be performed by an unlicensed dental assistant under the supervision of a licensed dentist

Technically elementary characteristics

Complete reversibility

Inability to precipitate potentially hazardous conditions for the patient

- Extraoral duties
- Operation of dental radiographic equipment if they have complied with B&P1656

- **Unlicensed DA - Responsibilities of the Supervising DDS - AB1750**

- Dentist is required to have DA hired after January 1, 2010, who has been continuously employed for 120 days, take: within a year of initial employment

Basic Life Support, equivalent to American Heart Association standards

Infection Control course - Board Approved

- College of Marin - Indian Valley Campus

- Santa Rosa Junior College through Community Education
lpaquette@santarosa.edu

Dental Practice Act course - Board Approved

■ **Unlicensed DA - Responsibilities of the Supervising DDS - AB1750**

- Determines the competency of the DA to perform basic supporting procedures
- Check and approve all direct supervision procedures prior to the patient's dismissal from the office
- Ensure that the DA maintain current BLS certification

■ **Permit Holder DA - OA and DSA**

- Orthodontic Assistant Permit - OAP - B&P 1750.2
 - This course is being offered by J. Productions Dental Seminars, Inc. www.rdakits.com
- Dental Sedation Assistant Permit - DSAP - B&P 1750.4
- Each applicant for a permit license must complete a Dental Board-approved course(s)

May begin after 6 month work experience as DA

Pass a written examination

- Each permit holder licensee shall be subject to the existing continuing education and renewal requirements of the RDA

■ **Ortho Assistant - B&P 1750.2**

- Currently 140 licensed in the state
- Brackets - sizing, fitting, adjusting, pre-positioning, curing a bracket if the position has been approved by the DDS
- Size, fit and cement ortho bands
- Removal of ortho bands and brackets
- Place and ligate archwires
- Removal of excess cement - supragingivally and with hand scaler or ultrasonic scaler

■ **Dental Sedation Assistant – B&P 1750.4**

- Currently 24 licensed in the state
- Monitoring of patients during the preoperative, intra-operative, and post operative phases, using noninvasive instrumentation such as pulse oximeters, electrocardiograms, blood pressure, pulse and respiration rate monitoring devices.
- Placement and removal of surgical dressings and removal of sutures
- Adding medications to intravenous lines using a syringe, in the presence of a licensed DDS
- Removal of intravenous lines

■ **Registered Dental Assistant - B&P 1752.1**

- Submission of written evidence of either of the following

Graduation from a DBC approved educational program

Satisfactory work experience of more than 15 months

- Satisfactory performance on a written and practical examination required by the DBC
- Pass CA Law/Ethics Exam
- Successful completion of a Board-approved course in radiation safety and coronal polishing and pit and fissure sealants
- **RDA Duties and Settings**
- Direct and General Supervision Categories - B&P 1752.4.c

The dentist will determine the level of required supervision for their RDA (general or direct supervision)

- **Pit and Fissure Sealants - B&P 1752.6**

- As of July 1, 2009 - all Board-approved RDA programs will be required to teach pit and fissure sealants to the course enrollees
- As of January 1, 2010 anyone newly licensed as an RDA will be subject to the new statutory requirements that include pit and fissure sealant certification prior to first expiration of his/her license
- Anyone licensed as an RDA before December 31, 2009 does not need to become licensed for pit and fissure sealants unless they wish to place sealants
- **Coronal Polish and X-ray License**
- B&P 1752.1d - RDA licensed after July 1, 2002
RDA licensees must provide proof that they have completed both an approved radiation safety course and an approved coronal polishing course
 - Except those who have inactive status
 - Radiology Safety Course is offered at Santa Rosa Junior College through Community Education – lpaquette@santarosa.edu
- RDA with coronal polish certificate may perform coronal polishing and apply topical fluoride under the supervision of an RDH in a public health or primary health-care setting

- **RDAEF II Duties - B&P 1753.5**

January 1, 2010

- Size and fit endodontic master points and accessory points
- Cement endodontic master points and accessory points
- Take final impressions for tooth-borne removable prosthesis
- Polish and contour existing amalgam restorations
- Place, contour, finish and adjust all direct restorations
- Adjust and cement permanent indirect restorations
- Conduct preliminary evaluation of patient's oral health
 - Individuals new to the EF license must complete Board approved pit and fissure course
- **RDAEF licensed before 1/1/10**

- RDAEF licensed previously to 1/1/10 must complete new curriculum and examination for added duties - B&P 1758
- RDAEF 2 - This course is being offered by J. Productions Dental Seminars, Inc. www.rdakits.com
- **Utilization of RDAEF or RDHEF**
- B & P 1763
 - A licensed dentist may utilize in his/her practice a maximum of 3 auxiliaries in extended functions.

- **RDH Scope of Practice B&P 1908**
- 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 screening
- **Registered Dental Hygienist Duties and Settings**
- B&P Codes 1910
- General Supervision
 - Preventive and therapeutic interventions
 - Application of topical, therapeutic and subgingival agents used for caries and periodontal disease
 - Impressions for bleaching trays and application and activation of agents with non-laser light curing devices
 - Direct Supervision Categories
 - California allowable duties - administration of local anesthetics, soft tissue curettage, administration of nitrous oxide
- All RDH licensed after January 1, 2006, shall qualify for and receive a RDA license prior to performance of the duties of a RDA (B&P 1907)
- RDH without supervision - B&P 1911
 - Educational services, oral health training programs and oral health screenings
 - Shall refer any screened patients with possible oral abnormalities to a DDS
 - Public health settings - preventive services in addition to oral screenings, including but not limited to the application of fluorides and pit and fissure sealants - may submit 3rd party claims

- **New Technologies - B&P 1913-1914**
- A dental hygienist may use any material or device approved for use in the performance of a service or procedure within his/her scope of practice under the appropriate education and training required to use the material or device
- Examples:
 - Lasers for soft tissue curettage - yes with appropriate education - direct supervision because curettage is under direct supervision
 - Oral CDx - yes, general supervision - oral exam

- **Registered Dental Hygienist In Alternative Practice - RDHAP - B&P 1921-1931**
 - Licensed California RDH and meet the following;
 - Working in clinical practice as a RDH for 2,000 hours or 2000 hours of full time instruction in accredited Dental Hygiene Program
 - Successful completion of Bachelor's degree or it's equivalent
 - Complete an RDHAP program
 - West Los Angeles and University of Pacific, Stockton
 - May perform duties in:
 - Residences of the homebound, schools, residential facilities and other institutions
 - Dental health professional shortage areas, as certified by the Office of Statewide Health Planning and Development
 - Must provide documentation of an existing relationship with at least 1 DDS for referral, consultation and emergency services
 - Patient must have written prescription for services issued by a dentist or physician within 18 months of first treatment date

 - **Required and Prohibited Conduct**
 - **Patient of Record - B & P 1685.5**
 - Dentist must conduct a preliminary oral examination before delegating duties to auxiliary
 - May allow exposure of emergency radiographs, mouth mirror inspection for charting
 - Does not apply to health fairs and school screenings
 - **Patient of Record Defined**
 - ...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
 - Exception for emergencies. Upon DDS direction, x-rays and mouth mirror inspection

 - **Treatment Entries in Patient Record**
 - B & P code 1683
 - ... any licensed health professional who performs a service on a patient...shall identify themselves by signing of his/her name or identification number and initials
 - ... shall date those treatment entries in the record
 - ... ensured compliance by licensed person who owns, operates or manages the dental office
 - **Treatment Entries in Patient Record**
 - B & P 1680s Unprofessional Conduct
 - ...any alterations of a patient's record with intent to deceive
- Recommendation: Do not skip lines between entries, use ink not pencil, do not write in margins or at the bottom of the page

- **B&P 1684.1**

- Records property of the dentist
- Patient entitled to reasonable access to records + x-rays
- Request in writing
- 5 working days for visual inspection
- Within 15 days for copies
- Reasonable clerical costs
- Protect originals
- Maintain 7 years, TDIC recommends 10 years
- Always properly dispose of records
- **Citing and fining licensees who fail or refuse to comply with request for dental records**

- Effective February 1, 2010, the Dental Board of California will be uniformly citing and fining licensees who fail or refuse to comply with the Boards request for dental records.

- **DHCC will enforce this for RDH, RDHAP and RDAEF**

- **Fines for refusal to release records**

Business and Professions Code Section 1684.1. (a) (1) states: A licensee who fails or refuses to comply with a request for the dental records of a patient, that is accompanied by that patient's written authorization for release of record to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 15th day, up to a maximum of five thousand dollars (\$5,000) unless the licensee is unable to provide the documents within this time period for good cause.

- **Access to Patient Records**

- Confidentiality Requirements

California Confidentiality of Medical Information Act

Health Insurance Portability and Accountability Act (HIPAA)

- **Who Can Have Access to Patient Records?**

- Written authorization given by the patient
- Another health care provider for the purposes of diagnosis or treatment of the patient
- Insurer or other entity responsible for payment
- Peer review bodies
- Pursuant to court order
- **Parent Access to Records**
- Parent needs to provide written demand for records for minors or elderly
- Records are given only to custodian or guardian parent or parent that is financially responsible for the minor or elderly
- Records can be given to both parents if both are financially responsible.

■ **Terminating Patients B&P 1680u**

- Cannot terminate mid-care or for not paying their bill
- Cannot withhold records until they finish paying their bill
- Must provide a letter informing them of the conditions of their oral health
- Must give patient ample opportunity to secure the services of another DDS

■ **Terminating Patients**

- Patients who refuse to follow treatment
- Disruptive to other patients
- Disruptive to staff
- DDS is responsible to protect staff from harassment
- You must document and send a letter stating all

■ **Dental Materials Fact Sheet**

- B & P 1648.10

DBC has been charged with developing and distributing a fact sheet comparing risks and efficacy of various types of dental materials used to repair a patient's oral conditions or defect

■ **New Dental X-ray Quality Assurance Requirements – October 2012**

- Title 17 CCR 30305.1- 30311.1

- Each user subject to this article, as specified in section 30305(a)(1), who performs radiography shall assure that:

(1) Radiographic films are stored, handled, and processed in accordance with manufacturers' recommendations. Expired film may not be used for clinical purposes.

(2) Intensifying screens, grids, viewers, film processing equipment, chemicals, and solutions are stored, used, and maintained in accordance with manufacturers' recommendations.

- (3) For each X-ray machine, a technique chart is provided which establishes for each view commonly performed:

- (A) Patient size versus selectable exposure factors;
- (B) Source-to-Image distance (if not fixed);
- (C) Grid data;
- (D) Film/Screen combination; and
- (E) Patient shielding (if appropriate)

■ **Abuse Reporting Law**

- California Penal Code 11164 - 11174.3

Child, Elderly, Dependent Adult Disabled and Intimate Partner Violence

Those who cannot speak for themselves

Mandatory Reporting

All licensed dental individuals

Have knowledge of, observe, or reasonably suspect within his/her scope of employment –

- over 65% of abuse occurs in the head and neck region

- 40% of individuals 65 years of age or older suffer from some form of neglect

As soon as practically possible, within 36 hours

Immunity from criminal or civil liability

■ **To whom do you report?**

- Children - Child Protective Services
- Domestic Partners - local law enforcement
- Elders - Adult Protective Services

■ **Vital Signs -**

National Standard of Care

- The National Standard of Care states that you must take blood pressure and a pulse rate on anyone 18 year of older before performing general or local anesthesia with the exception of nitrous oxide

■ **H & S - 11190**

- **Every practitioner who dispenses or administers a controlled substance shall make a record....**

■ **Labeling requirements if dispensing in a coin envelope/container**

- Patient's name
- DDS name
- Date dispensed
- Name of drug
- Dosage
- Quantity
- Expiration date
- Directions for use

■ **Excessive Prescription or Administration of Drugs... B & P 725**

- As determined by the standard of the community of licensees
- Acts of clearly excessive prescribing or administering of drugs or treatment...
- ... only patient of record and directly related to dental condition being treated
- ... no person shall prescribe, administer or furnish controlled substances for himself/herself
- No person shall postdate or antedate a Rx

■ **Diversion Program - B&P 1695**

- Purpose is to protect the public and rehabilitate the licentiate whose ability to practice may be impaired due to alcohol and/or drug abuse
- Voluntary or as a condition of a licensee's disciplinary probation
- Diversion Evaluation Committee accepts, denies or terminates licensee's in the program

2013 Total of 200 taken into program

- **Unprofessional Conduct**

- B & P 1680 and 1951**

- **Related to the Practice of Dentistry**

- Includes a number of areas and topics**

- Employment of any unlicensed person
- Allowing an employee to practice outside of his/her scope
- Any advertising that is misleading or guarantees dental service that is painless - B&P 1680, CCR 1050
- Any advertising of professional superiority or “pain free” or other misleading statements
- Any violation related to the dispensing or administration of drugs
- Sedation dentistry without permit
- Threats or harassment against any patient or employee
- Any act of sexual abuse, misconduct or relations
- Unsanitary or unsafe work environment
- Patient abandonment – increased from 37 in 2009 to 98 in 2013
- Failure to follow infection control guidelines
- Alteration of patient records with the intent to deceive
- Repeated violation of poor record keeping
- Delivery of dental care that discourages necessary treatment or excessive treatment, incompetent treatment, grossly negligent treatment

- Unprofessional Conduct - Controlled Substances/Alcohol**

- B & P 1681
- Obtain or possess in violation of law any controlled substance...
- Use any controlled substance or alcoholic beverage...to the extent that it impairs his/her ability...
- Conviction of a crime involving a controlled substance or alcoholic beverage...

- **Unprofessional Conduct - Fraud**

- B & P 810 - False or fraudulent insurance claims
- B & P 650 - Rebates for patient referrals
- B & P 580 - 585 - License secured by fraud

- **Unprofessional Conduct**

- B & P 1680c**

- Aiding or abetting of any unlicensed person to practice dentistry

- B & P 1684**

- Unprofessional conduct for a person licensed under this chapter to perform, or hold himself/herself out as able to perform, professional services beyond the scope of his/her license

- **Misrepresentation of Licensed Status - B & P 1764**

- Any person other than one who has been issued a license by the board who holds himself/herself out as a RDA, RDH, RDAEF, RDHEF, RDHAP or uses any term to imply they are licensed in these categories is guilty of a misdemeanor

- **New Regulations for Unprofessional Conduct - CCR 1018.05**

- Failure to provide records requested by the Board within 15 days
- Failure of a licensee to report an indictment within 30 days
- Failure of a licensee to report a felony charge within 30 days
- Failure of a licensee to report a conviction within 30 days
- Failure of licensee to report disciplinary action taken by another professional licensing entity or other specified agency within 30 days
- Effective 3/9/12

- **CCR 1020 Application Review and Criteria for Evaluating Rehabilitation**

- Provides the Board or its designee authority to require an examination of an applicant by physician and surgeon, or psychologist if it appears the applicant may be unable to safely practice due to a mental illness or a physical illness that affects competency. Effective 3/9/12

- **Don't Do The Crime If You Can't Pay the Fine**

- Can you tell me if a Dentist or RDA has had any complaints against their license?
<http://www.dbc.ca.gov/consumers/hotsheets.shtml>

- **Complaints**

- Found under Dental Board of California Web site

Consumers tab

- How to file a complaint and information on those who have had complaints filed
- 2008 - 2013
- RDA, DDS

- **DBC Complaint and Compliance Unit**

- 2012 – 2013 total 2868 filed

Average of 241 per month in 2013-2014

Pending cases from first half of 2013 = 1448

Cases Closed: The total number of complaint files closed averages 245 per month, an increase of over 59% from last year. The average number of days a complaint took to close within the last 12 months was **115** days (comparable to last years average of 72 days)

- 760 open investigations

- **Case Category (thru Dec 2013)**

- Negligence/Incompetence 50%
- Criminal Conviction 18%
- Unlicensed Practice 6%
- Unprofessional Conduct 7%

- Fraud 5%
- Drug Prescribing Violations 3% but majority of hours spent by investigators

- **Common Complaints Filed**

- Use of controlled substance
- Conviction of a crime
- Improper advertising
- Illegal use or duplication of license
- False or fictitious name
- Gross and/or repeated negligence
- Fee sharing
- Fraud
- Sexual misconduct

- **Referred to Attorney General – first half 2013-2014**

- Probation 28
- Petition to revoke 8
- Surrender of license 5
- Public reprimand 6
- No discipline 1

- **DHCC complaint and compliance – thru Sept 2013**

- Total received 42
- Total convictions 33
- 14 revoked
- 1 denied
- 4 voluntary surrendered
- 44 licenses on hold due to CE requirements

- **Complaints**

- In writing, unless immediate threat
- Generally triggered by a patient complaint, a civil suit outcome or criminal conviction.

- Consumer Service Analyst - CSA

Obtain records and other evidence

Interview dentist and any subsequent treating dentist and person who filed the complaint

- Investigation - confidential, discussed with the dentist and/or licensee involved
- Disciplinary Action - public information
- **Most likely to be assigned for formal field investigation**
- Cases that have been pre-screened and determined by the consultant that there is evidence of gross negligence, incompetence or fraud
- Sexual misconduct or abuse

- Mental illness
- Drug violations and/or self-use of drugs or alcohol
- Unlicensed practice of dentistry
- Cases that pose a threat to public safety

■ **What is the Standard of Proof**

- ‘clear and convincing evidence to a reasonable certainty’ a higher standard than for civil litigation case which is “a preponderance of evidence”

What happens to the complaint?

- If the investigation reveals that there is insufficient evidence to prove a violation, the case will be closed.
- If the investigation uncovers evidence sufficient to prove a violation, the case will be reviewed by a Supervising Investigator and the Chief of Enforcement, who will decide whether or not to forward the case to the office of the Attorney General for possible criminal or administrative prosecution or issue a citation and fine.
- The compliant process can be complicated and lengthy.

■ **Disciplinary Action within the Jurisdiction of the DBC and DHCC**

- Revocation
- Probation
- Suspension
- Remedial Education
- Examination
- Supervised Environment
- Restricted Practice
- Restitution
- Community Service
- Psychiatric/Physical Evaluation
- Diversion

■ **Suspension & Revocation of Licenses**

- B & P 490

...if the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the profession

- B & P Failure to comply with child support order
Pursuant to 11350.6 of the Welfare and Institutions Code

DBC and DHCC

Dental Board of California

(916) 263-2300 www.dbc.ca.gov

- Enforcement
- Dentists, RDA, RDAEF

Dental Hygiene Committee of California (DHCC)

(916) 263-1978 www.dhcc.ca.gov

■ RDH

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