

# 2023

## Dental Hygiene Board of California

### Laws and Regulations





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This volume is a compilation of selected statutes and regulations that affect the dental hygiene industry in California. To access a complete copy of the California Code of Regulations, visit [www.oal.ca.gov](http://www.oal.ca.gov).

# DENTAL HYGIENE STATUTES AND REGULATIONS

*Related to the practice of Registered Dental Hygienists (RDH),  
Registered Dental Hygienists in Alternative Practice (RDHAP), and Registered  
Dental Hygienists in Extended Functions (RDHEF) in the state of California.*

## **California Business and Professions Code (BPC)**

### **Excerpts from the General Provisions**

(BPC Sections 1–499, Division 2, Chapter 4, Article 9)

### **Dental Hygienists**

(BPC Sections 1900–1967.4)

## **Excerpts from the California Penal Code**

(Sections 11164–11174.4)

## **Excerpts from the California Welfare and Institutions Code**

(Sections 15610–15610.65 and 15630–15632)

## **Excerpts from the California Code of Regulations**

(Title 16, Divisions 10 and 11, Sections 1005–1082.3, 1100–1101, 1103,  
1104–1104.2, 1105–1105.4, 1106–1153)

## **Excerpts from the California Corporations Code**

(Sections 13401 and 13401.5)



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# EXCERPTS FROM THE BUSINESS AND PROFESSIONS CODE

## GENERAL PROVISIONS

### Sections 1–499

#### 1. Title

This act shall be known as the Business and Professions Code.

*(Enacted by Stats. 1937, Ch. 399.)*

#### 7.5. “Conviction”; When Action by Board Following Establishment of Conviction May be Taken; Prohibition Against Denial of Licensure; Application of Section

- (a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may be taken 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 the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.
- (b) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.  
(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:
  - (A) The State Athletic Commission.
  - (B) The Bureau for Private Postsecondary Education.
  - (C) The California Horse Racing Board.
- (c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.
- (d) This section shall become operative on July 1, 2020.  
*(Repealed and added by Stats. 2018, Ch. 995, Sec. 2. (AB 2138) Effective January 1, 2019. Section operative July 1, 2020, by its own provisions.)*

#### 12. Applicability of Statutory References to Amendments

Whenever any reference is made to any portion of this code or of any other law of this State, such reference shall apply to all amendments and additions thereto now or hereafter made.

*(Enacted by Stats. 1937, Ch. 399.)*

## **12.5. Violation of Regulation Adopted Pursuant to Code Provision; Issuance of Citation**

Whenever in any provision of this code authority is granted to issue a citation for a violation of any provision of this code, that authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to any provision of this code.

*(Added by Stats. 1986, Ch. 1379, Sec. 1.)*

### **14.1. Legislative Intent**

The Legislature hereby declares its intent that the terms “man” or “men” where appropriate shall be deemed “person” or “persons” and any references to the terms “man” or “men” in sections of this code be changed to “person” or “persons” when such code sections are being amended for any purpose. This act is declaratory and not amendatory of existing law.

*(Added by Stats. 1976, Ch. 1171.)*

### **15. “Section”; “Subdivision”**

“Section” means a section of this code unless some other statute is specifically mentioned. “Subdivision” means a subdivision of the section in which that term occurs, unless some other section is expressly mentioned.

*(Enacted by Stats. 1937, Ch. 399.)*

### **17. “County”**

“County” includes city and county.

*(Enacted by Stats. 1937, Ch. 399.)*

### **18. “City”**

“City” includes city and county.

*(Enacted by Stats. 1937, Ch. 399.)*

### **19. Mandatory and Permissive Terms**

“Shall” is mandatory and “may” is permissive.

*(Enacted by Stats. 1937, Ch. 399.)*

### **20. “Oath”**

“Oath” includes affirmation.

*(Enacted by Stats. 1937, Ch. 399.)*

### **21. “State”**

“State” means the State of California, unless applied to the different parts of the United States. In the latter case, it includes the District of Columbia and the territories.

*(Enacted by Stats. 1937, Ch. 399.)*



## **22. “Board”**

“Board,” as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.”

*(Amended by Stats. 2010, Ch. 670, Sec. 1. (AB 2130) Effective January 1, 2011.)*

## **23. “Department”**

“Department,” unless otherwise defined, refers to the Department of Consumer Affairs.

Wherever the laws of this state refer to the Department of Professional and Vocational Standards, the reference shall be construed to be to the Department of Consumer Affairs.

*(Amended by Stats. 1971, Ch. 716.)*

### **23.5. “Director”**

“Director,” unless otherwise defined, refers to the Director of Consumer Affairs.

Wherever the laws of this state refer to the Director of Professional and Vocational Standards, the reference shall be construed to be to the Director of Consumer Affairs.

*(Amended by Stats. 1971, Ch. 716.)*

### **23.6. “Appointing Power”**

“Appointing power,” unless otherwise defined, refers to the Director of Consumer Affairs.

*(Amended by Stats. 1971, Ch. 716.)*

### **23.7. “License”**

Unless otherwise expressly provided, “license” means license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

*(Added by Stats. 1994, Ch. 26, Sec. 1. Effective March 30, 1994.)*

### **23.8. “Licensee”**

“Licensee” means any person authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Sections 1000 and 3600.

Any reference to licentiate in this code shall be deemed to refer to licensee.

*(Amended by Stats. 2019, Ch. 351, Sec. 1. (AB 496) Effective January 1, 2020.)*

## **32. Legislative Findings; Aids Training for Healthcare Professionals**

- (a) The Legislature finds that there is a need to ensure that professionals of the healing arts who have or intend to have significant contact with patients who have, or are at risk to be exposed to, acquired immune deficiency syndrome (AIDS) are provided with training in the form of continuing education regarding the characteristics and methods of assessment and treatment of the condition.

- (b) A board vested with the responsibility of regulating the following licensees shall consider including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS) in any continuing education or training requirements for those licensees: chiropractors, medical laboratory technicians, dentists, dental hygienists, dental assistants, physicians and surgeons, podiatrists, registered nurses, licensed vocational nurses, psychologists, physician assistants, respiratory therapists, acupuncturists, marriage and family therapists, licensed educational psychologists, clinical social workers, and professional clinical counselors.  
*(Amended by Stats. 2011, Ch. 381, Sec. 4. (SB 146) Effective January 1, 2012.)*

### **35. Provision in Rules and Regulations for Evaluation Experience Obtained in Armed Services**

It is the policy of this state that, consistent with the provision of high-quality services, persons with skills, knowledge, and experience obtained in the armed services of the United States should be permitted to apply this learning and contribute to the employment needs of the state at the maximum level of responsibility and skill for which they are qualified. To this end, rules and regulations of boards provided for in this code shall provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the business, occupation, or profession regulated. These rules and regulations shall also specify how this education, training, and experience may be used to meet the licensure requirements for the particular business, occupation, or profession regulated. Each board shall consult with the Department of Veterans Affairs and the Military Department before adopting these rules and regulations. Each board shall perform the duties required by this section within existing budgetary resources of the agency within which the board operates.

*(Amended by Stats. 2010, Ch. 214, Sec. 1. (AB 2783) Effective January 1, 2011.)*

### **40. Expert Consultant Agreement**

- (a) Subject to the standards described in Section 19130 of the Government Code, any board, as defined in Section 22, the State Board of Chiropractic Examiners, or the Osteopathic Medical Board of California may enter into an agreement with an expert consultant to do any of the following:
- (1) Provide an expert opinion on enforcement-related matters, including providing testimony at an administrative hearing.
  - (2) Assist the board as a subject matter expert in examination development, examination validation, or occupational analyses.
  - (3) Evaluate the mental or physical health of a licensee or an applicant for a license as may be necessary to protect the public health and safety.
- (b) An executed contract between a board and an expert consultant shall be exempt from the provisions of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.
- (c) Each board shall establish policies and procedures for the selection and use of expert consultants.

- (d) Nothing in this section shall be construed to expand the scope of practice of an expert consultant providing services pursuant to this section.  
*(Added by Stats. 2011, Ch. 339, Sec. 1. (SB 541) Effective September 26, 2011.)*

## **100. Establishment**

There is in the state government, in the Business, Consumer Services, and Housing Agency, a Department of Consumer Affairs.

*(Amended by Stats. 2012, Ch. 147, Sec. 1. (SB 1039) Effective January 1, 2013. Operative July 1, 2013, by Sec. 23 of Ch. 147.)*

## **101. Composition of Department**

The department is comprised of the following:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The California State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The State Board of Barbering and Cosmetology.
- (i) The Board for Professional Engineers, Land Surveyors, and Geologists.
- (j) The Contractors State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Household Goods and Services.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The Bureau of Security and Investigative Services.
- (r) The Court Reporters Board of California.
- (s) The Board of Vocational Nursing and Psychiatric Technicians.
- (t) The Landscape Architects Technical Committee.
- (u) The Division of Investigation.
- (v) The Bureau of Automotive Repair.
- (w) The Respiratory Care Board of California.
- (x) The Acupuncture Board.
- (y) The Board of Psychology.
- (z) The Podiatric Medical Board of California.
- (aa) The Physical Therapy Board of California.
- (ab) The Arbitration Review Program.
- (ac) The Physician Assistant Board.
- (ad) The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (ae) The California Board of Occupational Therapy.
- (af) The Osteopathic Medical Board of California.

- (ag) The Naturopathic Medicine Committee.
- (ah) The Dental Hygiene Board of California.
- (ai) The Professional Fiduciaries Bureau.
- (aj) The State Board of Chiropractic Examiners.
- (ak) The Bureau of Real Estate Appraisers.
- (al) The Structural Pest Control Board.
- (am) Any other boards, offices, or officers subject to its jurisdiction by law.  
*(Amended by Stats. 2021, Ch. 630, Sec. 2. (AB 1534) Effective January 1, 2022.)*

### **101.6. Purpose**

The boards, bureaus, and commissions in the department are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California.

To this end, they establish minimum qualifications and levels of competency and license persons desiring to engage in the occupations they regulate upon determining that such persons possess the requisite skills and qualifications necessary to provide safe and effective services to the public, or register or otherwise certify persons in order to identify practitioners and ensure performance according to set and accepted professional standards. They provide a means for redress of grievances by investigating allegations of unprofessional conduct, incompetence, fraudulent action, or unlawful activity brought to their attention by members of the public and institute disciplinary action against persons licensed or registered under the provisions of this code when such action is warranted. In addition, they conduct periodic checks of licensees, registrants, or otherwise certified persons in order to ensure compliance with the relevant sections of this code.

*(Added by Stats. 1980, Ch. 375, Sec. 1.)*

### **102. Assumption of Duties of Board Created by Initiative**

Upon the request of any board regulating, licensing, or controlling any professional or vocational occupation created by an initiative act, the Director of Consumer Affairs may take over the duties of the board under the same conditions and in the same manner as provided in this code for other boards of like character. Such boards shall pay a proportionate cost of the administration of the department on the same basis as is charged other boards included within the department. Upon request from any such board which has adopted the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code as rules of procedure in proceedings before it, the director shall assign hearing officers for such proceedings in accordance with Section 110.5.

*(Amended by Stats. 1971, Ch. 716.)*

#### **104. Display of Licenses or Registrations**

All boards or other regulatory entities within the department's jurisdiction that the department determines to be health-related may adopt regulations to require licensees to display their licenses or registrations in the locality in which they are treating patients, and to inform patients as to the identity of the regulatory agency they may contact if they have any questions or complaints regarding the licensee. In complying with this requirement, those boards may take into consideration the particular settings in which licensees practice, or other circumstances which may make the displaying or providing of information to the consumer extremely difficult for the licensee in their particular type of practice.

*(Added by Stats. 1998, Ch. 991, Sec. 1. Effective January 1, 1999.)*

#### **105. Oath of Office**

Members of boards in the department shall take an oath of office as provided in the Constitution and the Government Code.

*(Added by Stats. 1949, Ch. 829.)*

#### **105.5. Tenure of Members of Boards, etc., Within Department**

Notwithstanding any other provision of this code, each member of a board, commission, examining committee, or other similarly constituted agency within the department shall hold office until the appointment and qualification of that member's successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs.

*(Amended by Stats. 2019, Ch. 351, Sec. 12. (AB 496) Effective January 1, 2020.)*

#### **106. Removal of Board Members**

The appointing authority has power to remove from office at any time any member of any board appointed by the appointing authority for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. Nothing in this section shall be construed as a limitation or restriction on the power of the appointing authority conferred on the appointing authority by any other provision of law to remove any member of any board.

*(Amended by Stats. 2019, Ch. 351, Sec. 13. (AB 496) Effective January 1, 2020.)*

#### **106.5. Removal of Member of Licensing Board for Disclosure of Examination Information**

Notwithstanding any other provision of law, the Governor may remove from office a member of a board or other licensing entity in the department if it is shown that such member has knowledge of the specific questions to be asked on the licensing entity's next examination and directly or indirectly discloses any such question or questions in advance of or during the examination to any applicant for that examination.

The proceedings for removal shall be conducted in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the Governor shall have all the powers granted therein.

*(Added by Stats. 1977, Ch. 482.)*

## **107. Executive Officers**

Pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution, each board may appoint a person exempt from civil service, who shall be designated as an executive officer unless the licensing act of the particular board designates the person as a registrar, and may fix that person's salary, with the approval of the Department of Human Resources pursuant to Section 19825 of the Government Code.

*(Amended by Stats. 2020, Ch. 370, Sec. 1. (SB 1371) Effective January 1, 2021.)*

### **107.5. Official Seals**

If any board in the department uses an official seal pursuant to any provision of this code, the seal shall contain the words "State of California" and "Department of Consumer Affairs" in addition to the title of the board, and shall be in a form approved by the director.

*(Amended by Stats. 1971, Ch. 716.)*

## **108. Status and Powers of Boards**

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.

*(Amended by Stats. 2008, Ch. 179, Sec. 1. Effective January 1, 2009.)*

### **108.5. Witness Remuneration**

In any investigation, proceeding, or hearing that any board, commission, or officer in the department is empowered to institute, conduct, or hold, any witness appearing at the investigation, proceeding, or hearing whether upon a subpoena or voluntarily, may be paid the sum of twelve dollars (\$12) per day for every day in actual attendance at the investigation, proceeding, or hearing and for the witness's actual, necessary, and reasonable expenses and those sums shall be a legal charge against the funds of the respective board, commission, or officer; provided further, that no witness appearing other than at the instance of the board, commission, or officer may be compensated out of the fund.

The board, commission, or officer shall determine the sums due to any witness and enter the amount on its minutes.

*(Amended by Stats. 2019, Ch. 351, Sec. 15. (AB 496) Effective January 1, 2020.)*

## **109. Review of Decisions; Investigations**

(a) The decisions of any of the boards comprising the department with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are not subject to review by the director, but are final within the limits provided by this code which are applicable to the particular board, except as provided in this section.

- (b) The director may initiate an investigation of any allegations of misconduct in the preparation, administration, or scoring of an examination which is administered by a board, or in the review of qualifications which are a part of the licensing process of any board. A request for investigation shall be made by the director to the Division of Investigation through the chief of the division or to any law enforcement agency in the jurisdiction where the alleged misconduct occurred.
- (c) The director may intervene in any matter of any board where an investigation by the Division of Investigation discloses probable cause to believe that the conduct or activity of a board, or its members or employees constitutes a violation of criminal law.

The term “intervene,” as used in paragraph (c) of this section may include, but is not limited to, an application for a restraining order or injunctive relief as specified in Section 123.5, or a referral or request for criminal prosecution. For purposes of this section, the director shall be deemed to have standing under Section 123.5 and shall seek representation of the Attorney General, or other appropriate counsel in the event of a conflict in pursuing that action.

*(Amended by Stats. 1991, Ch. 1013, Sec. 1.)*

## **110. Records and Property**

The department shall have possession and control of all records, books, papers, offices, equipment, supplies, funds, appropriations, land and other property—real or personal—now or hereafter held for the benefit or use of all of the bodies, offices or officers comprising the department. The title to all property held by any of these bodies, offices or officers for the use and benefit of the state, is vested in the State of California to be held in the possession of the department. Except as authorized by a board, the department shall not have the possession and control of examination questions prior to submission to applicants at scheduled examinations.

*(Amended by Stats. 1996, Ch. 829, Sec. 1. Effective January 1, 1997.)*

## **114. Reinstatement of Expired License of Licensee Serving in Military**

- (a) Notwithstanding any other provision of this code, any licensee or registrant of any board, commission, or bureau within the department whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces, may, upon application, reinstate their license or registration without examination or penalty, provided that all of the following requirements are satisfied:
  - (1) The licensee or registrant’s license or registration was valid at the time they entered the California National Guard or the United States Armed Forces.
  - (2) The application for reinstatement is made while serving in the California National Guard or the United States Armed Forces, or not later than one year from the date of discharge from active service or return to inactive military status.
  - (3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service, or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.

- (b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing agency, may be required to pass an examination.
- (c) If application for reinstatement is filed and the licensing agency determines that the applicant has not actively engaged in the practice of the applicant's profession while on active duty, then the licensing agency may require the applicant to pass an examination.
- (d) Unless otherwise specifically provided in this code, any licensee or registrant who, either part time or full time, practices in this state the profession or vocation for which the licensee or registrant is licensed or registered shall be required to maintain their license in good standing even though the licensee or registrant is in military service.

For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which the licensee is prevented from practicing the licensee's profession or vocation shall be excluded from said period of one year.

*(Amended by Stats. 2019, Ch. 351, Sec. 17. (AB 496) Effective January 1, 2020.)*

### **114.3. Waiver of Fees and Requirements for Active Duty Members of Armed Forces and National Guard**

- (a) Notwithstanding any other law, every board, as defined in Section 22, within the department shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, for any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard if all of the following requirements are met:
  - (1) The licensee or registrant possessed a current and valid license with the board at the time the licensee or registrant was called to active duty.
  - (2) The renewal requirements are waived only for the period during which the licensee or registrant is on active duty service.
  - (3) Written documentation that substantiates the licensee or registrant's active duty service is provided to the board.
- (b)
  - (1) Except as specified in paragraph (2), the licensee or registrant shall not engage in any activities requiring a license during the period that the waivers provided by this section are in effect.
  - (2) If the licensee or registrant will provide services for which the licensee or registrant is licensed while on active duty, the board shall convert the license status to military active and no private practice of any type shall be permitted.
- (c) In order to engage in any activities for which the licensee or registrant is licensed once discharged from active duty, the licensee or registrant shall meet all necessary renewal requirements as determined by the board within six months from the licensee's or registrant's date of discharge from active duty service.



- (d) After a licensee or registrant receives notice of the licensee or registrant's discharge date, the licensee or registrant shall notify the board of their discharge from active duty within 60 days of receiving their notice of discharge.
- (e) A board may adopt regulations to carry out the provisions of this section.
- (f) This section shall not apply to any board that has a similar license renewal waiver process statutorily authorized for that board.  
*(Amended by Stats. 2019, Ch. 351, Sec. 18. (AB 496) Effective January 1, 2020.)*

**114.5. Military Service; Posting of Information on Web Site About Application of Military Experience and Training Toward Licensure**

- (a) Each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.
- (b) If a board's governing law authorizes veterans to apply military experience and training towards licensure requirements, that board shall post information on the board's Internet Web site about the ability of veteran applicants to apply military experience and training towards licensure requirements.  
*(Amended by Stats. 2016, Ch. 174, Sec. 1. (SB 1348) Effective January 1, 2017.)*

**115.4. Licensure Process Expedited for Honorably Discharged Veterans of Armed Forces**

- (a) Notwithstanding any other law, on and after July 1, 2016, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.
- (b) A board may adopt regulations necessary to administer this section.  
*(Added by Stats. 2014, Ch. 657, Sec. 1. (SB 1226) Effective January 1, 2015.)*

**115.5. Board Required to Expedite Licensure Process for Certain Applications; Adoption of Regulations**

- (a) A board within the department shall expedite the licensure process and waive the licensure application fee and the initial or original license fee charged by the board for an applicant who meets both of the following requirements:
  - (1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.
  - (2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the board.
- (b) A board may adopt regulations necessary to administer this section.
- (c) This section shall become operative on July 1, 2022.  
*(Repealed (in Sec. 1) and added by Stats. 2021, Ch. 367, Sec. 2. (SB 607) Effective January 1, 2022. Operative July 1, 2022, by its own provisions.)*

## 116. Director Audits and Reviews

- (a) The director may audit and review, upon the director's own initiative, or upon the request of a consumer or licensee, inquiries and complaints regarding licensees, dismissals of disciplinary cases, the opening, conduct, or closure of investigations, informal conferences, and discipline short of formal accusation by the Medical Board of California, the allied health professional boards, and the Podiatric Medical Board of California. The director may make recommendations for changes to the disciplinary system to the appropriate board, the Legislature, or both.
- (b) The director shall report to the Chairpersons of the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee annually, commencing March 1, 1995, regarding the director's findings from any audit, review, or monitoring and evaluation conducted pursuant to this section.
- (Amended by Stats. 2019, Ch. 351, Sec. 21. (AB 496) Effective January 1, 2020.)*

## 119. Misdemeanors Pertaining to Use of Licenses

Any person who does any of the following is guilty of a misdemeanor:

- (a) Displays or causes or permits to be displayed or has in the person's possession either of the following:
- (1) A canceled, revoked, suspended, or fraudulently altered license.
  - (2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.
- (b) Lends the person's license to any other person or knowingly permits the use thereof by another.
- (c) Displays or represents any license not issued to the person as being the person's license.
- (d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.
- (e) Knowingly permits any unlawful use of a license issued to the person.
- (f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in the person's possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.
- (g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, "fraudulent" means containing any misrepresentation of fact.
- As used in this section, "license" includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.
- (Amended by Stats. 2019, Ch. 351, Sec. 22. (AB 496) Effective January 1, 2020.)*

## **121. Practice During Period Between Renewal and Receipt of Evidence of Renewal**

No licensee who has complied with the provisions of this code relating to the renewal of the licensee's license prior to expiration of such license shall be deemed to be engaged illegally in the practice of the licensee's business or profession during any period between such renewal and receipt of evidence of such renewal which may occur due to delay not the fault of the applicant.

As used in this section, "license" includes "certificate," "permit," "authorization," and "registration," or any other indicia giving authorization, by any agency, board, bureau, commission, committee, or entity within the Department of Consumer Affairs, to engage in a business or profession regulated by this code or by the board referred to in the Chiropractic Act or the Osteopathic Act.

*(Amended by Stats. 2019, Ch. 351, Sec. 24. (AB 496) Effective January 1, 2020.)*

### **121.5. Application Fees to Licensees or Registrations Lawfully Inactivated**

Except as otherwise provided in this code, the application of delinquency fees or accrued and unpaid renewal fees for the renewal of expired licenses or registrations shall not apply to licenses or registrations that have lawfully been designated as inactive or retired.

*(Added by Stats. 2001, Ch. 435, Sec. 1. Effective January 1, 2002.)*

### **122. Fee for Issuance of Duplicate Certificate**

Except as otherwise provided by law, the department and each of the boards, bureaus, committees, and commissions within the department may charge a fee for the processing and issuance of a duplicate copy of any certificate of licensure or other form evidencing licensure or renewal of licensure. The fee shall be in an amount sufficient to cover all costs incident to the issuance of the duplicate certificate or other form but shall not exceed twenty-five dollars (\$25).

*(Added by Stats. 1986, Ch. 951, Sec. 1.)*

### **123. Conduct Constituting Subversion of Licensing Examination; Penalties and Damages**

It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to:

- (a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination; or using or purporting to use any examination questions or

materials which were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

- (b) Communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf.

Nothing in this section shall preclude prosecution under the authority provided for in any other provision of law.

In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency administering the examination not to exceed ten thousand dollars (\$10,000) and the costs of litigation.

- (c) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

*(Amended by Stats. 1991, Ch. 647, Sec. 1.)*

### **123.5. Enjoining Violations**

Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of Section 123, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of a board, the Attorney General or the district attorney of the county. The 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.

The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other provision of law.

*(Added by renumbering Section 497 by Stats. 1989, Ch. 1022, Sec. 4.)*

### **125.9. System for Issuance of Citations to Licensees; Contents; Fines**

- (a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), any board, bureau, or commission within the department, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

- (b) The system shall contain the following provisions:
- (1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.
  - (2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.
  - (3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.
  - (4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
  - (5) Failure of a licensee to pay a fine or comply with an order of abatement, or both, within 30 days of the date of assessment or order, 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.
- (c) The system may contain the following provisions:
- (1) A citation may be issued without the assessment of an administrative fine.
  - (2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.
- (d) 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 and compliance with the order of abatement, if applicable, shall be represented as satisfactory resolution of the matter for purposes of public disclosure.
- (e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.
- (Amended by Stats. 2020, Ch. 312, Sec. 3. (SB 1474) Effective January 1, 2021.)*

## 129. Complaints; Notification

- (a) As used in this section, “board” means every board, bureau, commission, committee, and similarly constituted agency in the department that issues licenses.
- (b) Each board shall, upon receipt of any complaint respecting an individual licensed by the board, notify the complainant of the initial administrative action taken on the complainant’s complaint within 10 days of receipt. Each board shall notify the complainant of the final action taken on the complainant’s complaint. There shall be a notification made in every case in which the complainant is known. If the complaint is not within the jurisdiction of the board or if the board is unable to dispose satisfactorily of the complaint, the board shall transmit the complaint together with any evidence or information it has concerning the complaint to the agency, public or private, whose authority in the opinion of the board will provide the most effective means to secure the relief sought. The board shall notify the complainant of this action and of any other means that may be available to the complainant to secure relief.
- (c) The board shall, when the board deems it appropriate, notify the person against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the licensee in order to mediate the complaint. Nothing in this subdivision shall be construed as authorizing or requiring any board to set or to modify any fee charged by a licensee.
- (d) It shall be the continuing duty of the board to ascertain patterns of complaints and to report on all actions taken with respect to those patterns of complaints to the director and to the Legislature at least once per year. The board shall evaluate those complaints dismissed for lack of jurisdiction or no violation and recommend to the director and to the Legislature at least once per year the statutory changes it deems necessary to implement the board’s functions and responsibilities under this section.
- (e) It shall be the continuing duty of the board to take whatever action it deems necessary, with the approval of the director, to inform the public of its functions under this section.
- (f) Notwithstanding any other law, upon receipt of a child custody evaluation report submitted to a court pursuant to Chapter 6 (commencing with Section 3110) of Part 2 of Division 8 of the Family Code, the board shall notify the noncomplaining party in the underlying custody dispute, who is a subject of that report, of the pending investigation.

*(Amended by Stats. 2019, Ch. 351, Sec. 31. (AB 496) Effective January 1, 2020.)*

## 131. Maximum Number of Terms

Notwithstanding any other provision of law, no member of an agency designated in subdivision (b) of Section 130 or member of a board, commission, committee, or similarly constituted agency in the department shall serve more than two consecutive full terms.

*(Amended by Stats. 1987, Ch. 850, Sec. 5.)*

#### **135.4. Licensure; Refugees, Asylees, or Special Immigrant Status**

- (a) Notwithstanding any other law, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they have been admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code, have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to Section 1158 of Title 8 of the United States Code, or they have a special immigrant visa (SIV) that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8.
- (b) Nothing in this section shall be construed as changing existing licensure requirements. A person applying for expedited licensure under subdivision (a) shall meet all applicable statutory and regulatory licensure requirements.
- (c) A board may adopt regulations necessary to administer this section.  
*(Added by Stats. 2020, Ch. 186, Sec. 1. (AB 2113) Effective January 1, 2021.)*

#### **136. Notification of Change of Address; Punishment for Failure to Comply**

- (a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in the person's mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.
- (b) Except as otherwise provided by law, failure of a licensee to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines.  
*(Amended by Stats. 2019, Ch. 351, Sec. 34. (AB 496) Effective January 1, 2020.)*

#### **137. Regulations Requiring Inclusion of License Numbers in Advertising, etc.**

Any agency within the department may promulgate regulations requiring licensees to include their license numbers in any advertising, soliciting, or other presentments to the public.

However, nothing in this section shall be construed to authorize regulation of any person not a licensee who engages in advertising, solicitation, or who makes any other presentment to the public on behalf of a licensee. Such a person shall incur no liability pursuant to this section for communicating in any advertising, soliciting, or other presentment to the public a licensee's license number exactly as provided by the licensee or for failure to communicate such number if none is provided by the licensee.

*(Amended by Stats. 2019, Ch. 351, Sec. 35. (AB 496) Effective January 1, 2020.)*

### **138. Notice That Practitioner is Licensed; Evaluation of Licensing Examination**

Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its licensees, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

*(Amended by Stats. 2019, Ch. 351, Sec. 36. (AB 496) Effective January 1, 2020.)*

### **139.5. Board Postings**

Beginning July 1, 2021, each board, as defined in Section 22, within the department that issues a license shall do both of the following on at least a quarterly basis:

- (a) Prominently display on its internet website one of the following:
  - (1) The current average timeframes for processing initial and renewal license applications.
  - (2) The combined current average timeframe for processing both initial and renewal license applications.
- (b) Prominently display on its internet website one of the following:
  - (1) The current average timeframes for processing each license type that the board administers.
  - (2) The combined current average timeframe for processing all license types that the board administers.

*(Added by Stats. 2020, Ch. 131, Sec. 1. (SB 878) Effective January 1, 2021.)*

### **141. Licensure; Discipline by Another State, Federal Agency, or Another Country**

- (a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.
- (b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.

*(Added by Stats. 1994, Ch. 1275, Sec. 2. Effective January 1, 1995.)*



#### **142. Authority to Synchronize Renewal Dates of Licensees; Abandonment Date for Application; Delinquency Fee**

This section shall apply to the bureaus and programs under the direct authority of the director, and to any board that, with the prior approval of the director, elects to have the department administer one or more of the licensing services set forth in this section.

- (a) Notwithstanding any other provision of law, each bureau and program may synchronize the renewal dates of licenses granted to applicants with more than one license issued by the bureau or program. To the extent practicable, fees shall be prorated or adjusted so that no applicant shall be required to pay a greater or lesser fee than he or she would have been required to pay if the change in renewal dates had not occurred.
- (b) Notwithstanding any other provision of law, the abandonment date for an application that has been returned to the applicant as incomplete shall be 12 months from the date of returning the application.
- (c) Notwithstanding any other provision of law, a delinquency, penalty, or late fee shall be assessed if the renewal fee is not postmarked by the renewal expiration date.

*(Added by Stats. 1998, Ch. 970, Sec. 2. Effective January 1, 1999.)*

#### **154. Matters Relating to Employees of the Boards**

Any and all matters relating to employment, tenure or discipline of employees of any board, agency or commission, shall be initiated by said board, agency or commission, but all such actions shall, before reference to the State Personnel Board, receive the approval of the appointing power.

To effect the purposes of Division 1 of this code and each agency of the department, employment of all personnel shall be in accord with Article XXIV of the Constitution, the law and rules and regulations of the State Personnel Board. Each board, agency or commission, shall select its employees from a list of eligibles obtained by the appointing power from the State Personnel Board. The person selected by the board, agency or commission to fill any position or vacancy shall thereafter be reported by the board, agency or commission, to the appointing power.

*(Amended by Stats. 1945, Ch. 1276.)*

#### **154.2. Authority to Employ Individuals to Perform Investigative Services or to Serve as Experts**

- (a) The healing arts boards within Division 2 (commencing with Section 500) may employ individuals, other than peace officers, to perform investigative services.
- (b) The healing arts boards within Division 2 (commencing with Section 500) may employ individuals to serve as experts.

*(Added by Stats. 2010, Ch. 719, Sec. 1. (SB 856) Effective October 19, 2010.)*

### **158. Refunds to Applicants**

With the approval of the Director of Consumer Affairs, the boards and commissions comprising the department or subject to its jurisdiction may make refunds to applicants who are found ineligible to take the examinations or whose credentials are insufficient to entitle them to certificates or licenses.

Notwithstanding any other law, any application fees, license fees, or penalties imposed and collected illegally, by mistake, inadvertence, or error shall be refunded. Claims authorized by the department shall be filed with the State Controller, and the Controller shall draw a warrant against the fund of the agency in payment of the refund.

*(Amended by Stats. 2019, Ch. 351, Sec. 43. (AB 496) Effective January 1, 2020.)*

### **163.5. Delinquency Fees; Reinstatement Fees**

Except as otherwise provided by law, the delinquency, penalty, or late fee for any licensee within the Department of Consumer Affairs shall be 50 percent of the renewal fee for such license in effect on the date of the renewal of the license, but not less than twenty-five dollars (\$25) nor more than one hundred fifty dollars (\$150).

A delinquency, penalty, or late fee shall not be assessed until 30 days have elapsed from the date that the licensing agency mailed a notice of renewal to the licensee at the licensee's last known address of record. The notice shall specify the date for timely renewal, and that failure to renew in a timely fashion shall result in the assessment of a delinquency, penalty, or late fee.

In the event a reinstatement or like fee is charged for the reinstatement of a license, the reinstatement fee shall be 150 percent of the renewal fee for such license in effect on the date of the reinstatement of the license, but not more than twenty-five dollars (\$25) in excess of the renewal fee, except that in the event that such a fee is fixed by statute at less than 150 percent of the renewal fee and less than the renewal fee plus twenty-five dollars (\$25), the fee so fixed shall be charged.

*(Amended by Stats. 1985, Ch. 587, Sec. 1.)*

### **462. Inactive Category of Licensure**

- (a) Any of the boards, bureaus, commissions, or programs within the department may establish, by regulation, a system for an inactive category of licensure for persons who are not actively engaged in the practice of their profession or vocation.
- (b) The regulation shall contain the following provisions:
  - (1) The holder of an inactive license issued pursuant to this section shall not engage in any activity for which a license is required.
  - (2) An inactive license issued pursuant to this section shall be renewed during the same time period in which an active license is renewed. The holder of an inactive license need not comply with any continuing education requirement for renewal of an active license.

- (3) The renewal fee for a license in an active status shall apply also for a renewal of a license in an inactive status, unless a lesser renewal fee is specified by the board.
- (4) In order for the holder of an inactive license issued pursuant to this section to restore his or her license to an active status, the holder of an inactive license shall comply with all the following:
  - (A) Pay the renewal fee.
  - (B) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.
- (c) This section shall not apply to any healing arts board as specified in Section 701.  
*(Added by Stats. 1994, Ch. 26, Sec. 14. Effective March 30, 1994.)*

#### **464. Retired Category of Licensure**

- (a) Any of the boards within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.
- (b) The regulation shall contain the following:
  - (1) A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.
  - (2) The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.
  - (3) The holder of a retired license shall not be required to renew that license.
  - (4) The board shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.
  - (5) In order for the holder of a retired license issued pursuant to this section to restore his or her license to an active status, the holder of that license shall meet all the following:
    - (A) Pay a fee established by statute or regulation.
    - (B) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.
    - (C) Comply with the fingerprint submission requirements established by regulation.
    - (D) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.
    - (E) Complete any other requirements as specified by the board by regulation.

- (c) A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.
- (d) Subdivisions (a) and (b) shall not apply to a board that has other statutory authority to establish a retired license.  
*(Added by Stats. 2016, Ch. 473, Sec. 1. (AB 2859) Effective January 1, 2017.)*

#### **475. Denial of Licensure**

- (a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:
  - (1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.
  - (2) Conviction of a crime.
  - (3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.
  - (4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- (b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).
- (c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.  
*(Amended by Stats. 1992, Ch. 1289, Sec. 5. Effective January 1, 1993.)*

#### **480. Grounds for Denial; Effect of Obtaining Certificate of Rehabilitation**

- (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:
  - (1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

- (A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.
- (B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:
  - (i) Chapter 6 (commencing with Section 6500) of Division 3.
  - (ii) Chapter 9 (commencing with Section 7000) of Division 3.
  - (iii) Chapter 11.3 (commencing with Section 7512) of Division 3.
  - (iv) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
  - (v) Division 4 (commencing with Section 10000).
- (2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement.
- (b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.
- (c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

- (d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.
- (e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.
- (f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:
  - (1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.
  - (2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.
  - (3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:
    - (A) The denial or disqualification of licensure.
    - (B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.
    - (C) That the applicant has the right to appeal the board's decision.
    - (D) The processes for the applicant to request a copy of the applicant's complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.
- (g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

- (2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:
  - (A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.
  - (B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.
  - (C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.
  - (D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).
- (3) (A) Each board under this code shall annually make available to the public through the board's internet website and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.
  - (B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.
- (h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.
- (i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:
  - (1) The State Athletic Commission.
  - (2) The Bureau for Private Postsecondary Education.
  - (3) The California Horse Racing Board.
- (j) This section shall become operative on July 1, 2020.  
*(Amended (as added by Stats. 2018, Ch. 995, Sec. 4) by Stats. 2019, Ch. 578, Sec. 2.5. (AB 1076) Effective January 1, 2020.)*

**481. Denial of Licensure; Substantial Relationship Criteria**

- (a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.
- (b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:
  - (1) The nature and gravity of the offense.
  - (2) The number of years elapsed since the date of the offense.
  - (3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

- (c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.
- (d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.
- (e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:
  - (1) The State Athletic Commission.
  - (2) The Bureau for Private Postsecondary Education.
  - (3) The California Horse Racing Board.
- (f) This section shall become operative on July 1, 2020.  
*(Repealed and added by Stats. 2018, Ch. 995, Sec. 7. (AB 2138) Effective January 1, 2019. Section operative July 1, 2020, by its own provisions.)*

#### **496. Grounds for Denial, Suspension, or Revocation of License**

A board may deny, suspend, revoke, or otherwise restrict a license on the ground that an applicant or licensee has violated Section 123 pertaining to subversion of licensing examinations.

*(Repealed and added by Stats. 1989, Ch. 1022, Sec. 3.)*

#### **498. Fraud, Deceit, or Misrepresentation as Grounds for Action Against License**

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

*(Added by Stats. 1992, Ch. 1289, Sec. 8. Effective January 1, 1993.)*

#### **499. Action Against License Based on Licentiate's Actions Regarding Application of Another**

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee, in support of another person's application for license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the board regarding the application.

*(Added by Stats. 1992, Ch. 1289, Sec. 9. Effective January 1, 1993.)*



## **DENTAL HYGIENISTS**

### **Sections 1900–1967.4**

#### **1900. Legislative Intent**

It is the intent of the Legislature by enactment of this article to permit the full utilization of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions in order to meet the dental care needs of all of the state's citizens.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

#### **1901. Dental Hygiene Board of California Created (Repealed January 1, 2024)**

- (a) There is hereby created in the Department of Consumer Affairs a Dental Hygiene Board of California in which the administration of this article is vested.
- (b) Whenever the terms “Dental Hygiene Committee of California” or “committee” are used in this article, they mean the Dental Hygiene Board of California.
- (c) Whenever the term “Dental Hygiene Committee of California” is used in any other law, it means the Dental Hygiene Board of California.
- (d) This section shall remain in effect only until January 1, 2024, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the hygiene board subject to review by the appropriate policy committees of the Legislature.

*(Amended by Stats. 2021, Ch. 367, Sec. 10. (SB 607) Effective January 1, 2022. Repealed as of January 1, 2024, by its own provisions.)*

#### **1902. Definitions**

For purposes of this article, the following definitions apply:

- (a) “Dental hygiene board” means the Dental Hygiene Board of California.
- (b) “Dental board” means the Dental Board of California.
- (c) “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.
- (d) “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.
- (e) “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.

*(Amended by Stats. 2019, Ch. 456, Sec. 2. (SB 786) Effective January 1, 2020.)*

### **1902.1. Priority of the Board; Protection of the Public**

Protection of the public shall be the highest priority for the dental hygiene board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

*(Amended by Stats. 2019, Ch. 456, Sec. 3. (SB 786) Effective January 1, 2020.)*

### **1902.2. Disclosure of Practice or Employment Status of Licensee**

- (a) A licensee shall report, upon initial licensure and any subsequent application for renewal or inactive license, the practice or employment status of the licensee, designated as one of the following:
- (1) Full-time practice or employment in a dental or dental hygiene practice of 32 hours per week or more in California.
  - (2) Full-time practice or employment in a dental or dental hygiene practice of 32 hours or more outside of California.
  - (3) Part-time practice or employment in a dental or dental hygiene practice for less than 32 hours per week in California.
  - (4) Part-time practice or employment in a dental or dental hygiene practice for less than 32 hours per week outside of California.
  - (5) Dental hygiene administrative employment that does not include direct patient care, as may be further defined by the dental hygiene board.
  - (6) Retired.
  - (7) Other practice or employment status, as may be further defined by the dental hygiene board.
- (b) Information collected pursuant to subdivision (a) shall be posted on the internet website of the dental hygiene board.
- (c) (1) A licensee may report on an application for renewal, and the dental hygiene board, as appropriate, 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 dental hygiene 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 website of the dental hygiene board as appropriate, on or before July 1 of each year.
- (d) It is the intent of the Legislature to utilize moneys in the State Dental Hygiene Fund to pay any cost incurred by the dental hygiene board in implementing this section.

*(Amended by Stats. 2019, Ch. 456, Sec. 4. (SB 786) Effective January 1, 2020.)*

### **1902.3. Registered Dental Hygienist Licensed in Another State; Issuance of Permit to Practice; Teaching Position; Requirements**

A registered dental hygienist licensed in another state may teach in a dental hygiene college without being licensed in this state if the person has a special permit. A special permit shall remain valid for a period of four years, subject to subdivision (g), after which time the permit shall not be renewed. The dental hygiene board may issue a special permit to practice dental hygiene in a discipline at a dental hygiene college in this state to any person who submits an application and satisfies all of the following eligibility requirements:

- (a) Furnishing satisfactory evidence of having a pending contract with a California dental hygiene college approved by the dental hygiene board as a full-time or part-time professor, associate professor, assistant professor, faculty member, or instructor.
- (b) Furnishing satisfactory evidence of having graduated from a dental hygiene college approved by the dental hygiene board.
- (c) Furnishing satisfactory evidence of having been certified as a diplomate of a specialty committee or, in lieu thereof, establishing qualifications to take a specialty committee examination or furnishing satisfactory evidence of having completed an advanced educational program in a discipline from a dental hygiene college approved by the dental hygiene board.
- (d) Furnishing satisfactory evidence of having successfully completed an examination in California law and ethics developed and administered by the dental hygiene board.
- (e) If teaching during clinical practice sessions, furnishing satisfactory evidence of having successfully completed a course in periodontal soft-tissue curettage, local anesthesia, and nitrous oxide-oxygen analgesia approved by the dental hygiene board.
- (f) Complying with the fingerprint submission requirements as provided by Section 1916.
- (g) Paying an application fee, subject to a biennial renewal fee, as provided by subdivision (k) of Section 1944.

*(Amended by Stats. 2021, Ch. 491, Sec. 1. (SB 534) Effective January 1, 2022.)*

### **1903. Board; Membership; Terms; Officers; Vacancies; Per Diem and Expenses (Repealed January 1, 2024)**

- (a) (1) The dental hygiene board shall consist of nine members as follows:
  - (A) Seven members appointed by the Governor as follows:
    - (i) Two members shall be public members.
    - (ii) One member shall be a practicing general or public health dentist who holds a current license in California.

- (iii) Four members shall be registered dental hygienists who hold current licenses in California. Of the registered dental hygienist members, one 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 their appointment or have any current financial interest in a dental-related business.
  - (B) One public member appointed by the Senate Committee on Rules.
  - (C) One public member appointed by the Speaker of the Assembly.
- (2) (A) The first appointment by the Senate Committee on Rules or the Speaker of the Assembly pursuant to this subdivision shall be made upon the expiration of the term of a public member that is scheduled to occur, or otherwise occurs, on or after January 1, 2019.
  - (B) It is the intent of the Legislature that committee members appointed prior to January 1, 2019, remain as hygiene board members until their term expires or except as otherwise provided in law, whichever occurs first.
- (3) For purposes of this subdivision, a public health dentist is a dentist whose primary employer or place of employment is in any of the following:
  - (A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.
  - (B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.
  - (C) A clinic owned or operated by a public hospital or health system.
  - (D) 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.
- (b) (1) Except as specified in paragraph (2), members of the dental hygiene board shall be appointed for a term of four years. Each member shall hold office until the appointment and qualification of the member's successor or until one year shall have lapsed since the expiration of the term for which the member was appointed, whichever comes first.
- (2) For the term commencing on January 1, 2012, two of the public members, the general or public health dentist member, and two of the registered dental hygienist members, other than the dental hygiene educator member or the registered dental hygienist member licensed in alternative practice or in extended functions, shall each serve a term of two years, expiring January 1, 2014.
- (c) Notwithstanding any other provision of law and subject to subdivision (e), the Governor may appoint to the dental hygiene board a person who previously served as a member of the former committee or hygiene board even if the person's previous term expired.
- (d) The dental hygiene board shall elect a president, a vice president, and a secretary from its membership.

- (e) No person shall serve as a member of the dental hygiene board for more than two consecutive terms.
- (f) A vacancy in the dental hygiene board shall be filled by appointment to the unexpired term.
- (g) Each member of the dental hygiene board shall receive a per diem and expenses as provided in Section 103.
- (h) The Governor shall have the power to remove any member from the dental hygiene board for neglect of a duty required by law, for incompetence, or for unprofessional or dishonorable conduct.
- (i) The dental hygiene board, with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the dental hygiene board and vested in the executive officer by this article.
- (j) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

*(Amended by Stats. 2021, Ch. 367, Sec. 11. (SB 607) Effective January 1, 2022. Repealed as of January 1, 2024, by its own provisions.)*

#### **1904. Board Meetings**

The dental hygiene board shall meet at least two times each calendar year and shall conduct additional meetings in appropriate locations that are necessary to transact its business.

*(Amended by Stats. 2019, Ch. 456, Sec. 7. (SB 786) Effective January 1, 2020.)*

#### **1905. Board Functions**

- (a) The dental hygiene board 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 dental hygiene board. Any such educational programs approved by the dental board on or before June 30, 2009, shall be deemed approved by the dental hygiene board. Any dental hygiene program accredited by the Commission on Dental Accreditation may 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 dental hygiene board. The dental hygiene board 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 dental hygiene board.
  - (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 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 dental hygiene board 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.
- (b) The dental hygiene board may employ employees and examiners that it deems necessary to carry out its functions and responsibilities under this article.  
*(Amended by Stats. 2019, Ch. 456, Sec. 8. (SB 786) Effective January 1, 2020.)*

### **1905.1. Authority of Board**

The dental hygiene board may contract with the dental board to carry out this article. The dental hygiene board may contract with the dental board to perform investigations of applicants and licensees under this article.

*(Amended by Stats. 2019, Ch. 456, Sec. 9. (SB 786) Effective January 1, 2020.)*

### **1905.2. Recommendations**

Recommendations by the dental hygiene board regarding scope of practice issues, as specified in paragraph (8) of subdivision (a) of Section 1905, shall be approved, modified, or rejected by the board within 90 days of submission of the recommendation to the board. If the board rejects or significantly modifies the

intent or scope of the recommendation, the dental hygiene board 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.

*(Amended by Stats. 2019, Ch. 456, Sec. 10. (SB 786) Effective January 1, 2020.)*

### **1906. Regulations**

- (a) The dental hygiene board shall adopt, amend, and revoke regulations to implement the requirements of this article.
- (b) All regulations adopted by the dental hygiene board shall comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (c) No regulation adopted by the dental hygiene board shall impose a requirement or a prohibition directly upon a licensed dentist or on the administration of a dental office, unless specifically authorized by this article.
- (d) Unless contrary to the provisions of this article, regulations adopted by the dental board shall continue to apply to registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions until other regulations are adopted by the dental hygiene board. All references in those regulations to “board” shall mean the dental hygiene board, which shall solely enforce the regulations with respect to registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions.

*(Amended by Stats. 2019, Ch. 456, Sec. 11. (SB 786) Effective January 1, 2020.)*

### **1907. Functions That May Be Performed by a Dental Hygienist**

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.

*(Amended by Stats. 2009, Ch. 308, Sec. 11.5. (SB 819) Effective January 1, 2010.)*

### **1908. Practices Included in and Excluded from Dental Hygiene**

- (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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1909. Procedures a Dental Hygienist is Authorized to Perform Under Direct Supervision**

A registered dental hygienist is authorized to perform the following procedures under direct supervision of a licensed dentist, after submitting to the dental hygiene board evidence of satisfactory completion of a course of instruction, approved by the dental hygiene board, 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.

*(Amended by Stats. 2019, Ch. 456, Sec. 12. (SB 786) Effective January 1, 2020.)*

### **1910. Procedures a Dental Hygienist is Authorized to Perform Under General Supervision**

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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*



### **1910.5. Additional Authorized Duties of a Registered Dental Hygienist**

- (a) In addition to the duties specified in Section 1910, a registered dental hygienist is authorized to perform the following additional duties, as specified:
- (1) Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental hygienist shall follow protocols established by the supervising dentist. This paragraph only applies in the following settings:
    - (A) In a dental office setting.
    - (B) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.
  - (2) Place protective restorations, which for this purpose are identified as interim therapeutic restorations, and defined as a direct provisional restoration placed to stabilize the tooth until a licensed dentist diagnoses the need for further definitive treatment. An interim therapeutic restoration consists of the removal of soft material from the tooth using only hand instrumentation, without the use of rotary instrumentation, and subsequent placement of an adhesive restorative material. Local anesthesia shall not be necessary for interim therapeutic restoration placement. Interim therapeutic restorations shall be placed only in accordance with both of the following:
    - (A) In either of the following settings:
      - (i) In a dental office setting.
      - (ii) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.
    - (B) After the diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist.
- (b) The functions described in subdivision (a) may be performed by a registered dental hygienist only after completion of a program that includes training in performing those functions, or after providing evidence, satisfactory to the dental hygiene board, of having completed a dental hygiene board-approved course in those functions.
- (c) No later than January 1, 2018, the dental hygiene board shall adopt regulations to establish requirements for courses of instruction for the procedures authorized to be performed by a registered dental hygienist and registered dental hygienist in alternative practice pursuant to Sections 1910.5 and 1926.05, using the competency-based training protocols established by the Health Workforce Pilot Project (HWPP) No. 172 through the Department of Health Care Access and Information. The dental hygiene board shall use the curriculum submitted by the board pursuant to Section 1753.55 to adopt regulatory language for approval of courses of instruction for the interim therapeutic restoration.

Any subsequent amendments to the regulations for the interim therapeutic restoration curriculum that are promulgated by the dental hygiene board shall be agreed upon by the board and the dental hygiene board.

(d) This section shall become operative on January 1, 2018.

*(Amended by Stats. 2022, Ch. 511, Sec. 3. (SB 1495) Effective January 1, 2023.)*

### **1911. Dental Hygienist, Services That Can Be Provided without Direct Supervision**

(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, at a sponsored event by a sponsoring entity or at a nonprofit organization, 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 practicing 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.

(d) For purposes of this section, the following shall apply:

(1) "Nonprofit organization" means a tax-exempt nonprofit corporation supported and maintained in whole or in substantial part by donations, bequests, gifts, grants, government funds, or contributions, in the form of money, goods, or services, where dental hygiene services are performed. A nonprofit organization shall not be construed to be engaging in the unlicensed practice of dentistry.

(2) "Sponsored event" shall be defined as in paragraph (4) of subdivision (b) of Section 1626.6.

(3) "Sponsoring entity" shall be defined as in paragraph (6) of subdivision (b) of Section 1626.6.

*(Amended by Stats. 2020, Ch. 130, Sec. 1. (SB 653) Effective January 1, 2021.)*

### **1911.5. Dental Hygienist, Fluoride Varnish**

Notwithstanding Section 1912, a registered dental hygienist may provide, without supervision, fluoride varnish to a patient.

*(Added by Stats. 2020, Ch. 130, Sec. 2. (SB 653) Effective January 1, 2021.)*

### **1912. Dental Hygienist, General Supervision Requirement**

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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1913. Dental Hygienist, Authority to Perform Procedures or Provide Services**

Unless otherwise specified in this chapter, a registered dental hygienist may perform any procedure or provide any service within the scope of their practice in any setting under the appropriate level of supervision required by this article, if the registered dental hygienist has completed the appropriate education and training required to perform the procedure or provide the service.

*(Amended by Stats. 2020, Ch. 312, Sec. 11. (SB 1474) Effective January 1, 2021.)*

### **1914. Dental Hygienist, Use of Materials and Devices Authorized**

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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1915. Limitations on Who May Engage in the Practice of Dental Hygiene**

No person other than a registered dental hygienist, registered dental hygienist in alternative practice, 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 sealants.
- (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.  
*(Amended by Stats. 2013, Ch. 473, Sec. 2. (SB 821) Effective January 1, 2014.)*

### **1916. Dental Hygienist, Criminal Background Check**

- (a) (1) An applicant for licensure under this article shall furnish electronic fingerprint images for submission to state and federal criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation, in order to establish the identity of the applicant and for the other purposes described in this section.
- (2) Notwithstanding paragraph (1), an out-of-state applicant or licensee residing out of state for whom an electronic record of the licensee's fingerprints does not exist shall furnish a hardcopy of the applicant's or licensee's fingerprint card if electronic fingerprint images are not available or shared in the applicant's or licensee's state of residence.
- (b) The dental hygiene board shall submit the fingerprint images or card to the Department of Justice for the purposes of obtaining criminal offender record information regarding state and federal level convictions and arrests, including arrests for which the Department of Justice establishes that the person is free on bail or on their own recognizance pending trial or appeal.
- (c) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate the response to the dental hygiene board.
- (d) The Department of Justice shall provide a response to the dental hygiene board pursuant to subdivision (p) of Section 11105 of the Penal Code.
- (e) The dental hygiene board shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code.
- (f) The information obtained as a result of the fingerprinting shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure pursuant to Division 1.5 (commencing with Section 475) or Section 1943.
- (g) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.  
*(Amended by Stats. 2019, Ch. 456, Sec. 14. (SB 786) Effective January 1, 2020.)*

### **1917. Dental Hygienist, Requirements for Licensure**

The dental hygiene board shall grant initial licensure as a registered dental hygienist to a person who satisfies all of the following requirements:

- (a) Completion of an educational program for registered dental hygienists, approved by the dental hygiene board, accredited by the Commission on Dental Accreditation, and conducted by a degree-granting, postsecondary institution.

- (b) Within the preceding three years, satisfactory completion of the dental hygiene examination given by the Western Regional Examining Board or any other clinical or dental hygiene examination approved by the dental hygiene board.
- (c) Satisfactory completion of the National Board Dental Hygiene Examination.
- (d) Satisfactory completion of the examination in California law and ethics as prescribed by the dental hygiene board.
- (e) Submission of a completed application form and all fees required by the dental hygiene board.
- (f) Satisfactory completion of dental hygiene board-approved instruction in gingival soft-tissue curettage, nitrous oxide-oxygen analgesia, and local anesthesia.  
*(Amended by Stats. 2020, Ch. 312, Sec. 12. (SB 1474) Effective January 1, 2021.)*

**1917.1. Dental Hygienist, Licensure Without Examination; Out-of-State Dental Hygienists**

- (a) The dental hygiene board may grant a license as a registered dental hygienist to an applicant who has not taken a clinical examination before the dental hygiene board, if the applicant submits all of the following to the dental hygiene board:
  - (1) A completed application form and all fees required by the dental hygiene board.
  - (2) Proof of a current license as a registered dental hygienist issued by another state that is not revoked, suspended, or otherwise restricted.
  - (3) Proof that the applicant has been in clinical practice as a registered dental hygienist or has been a full-time faculty member in an accredited dental hygiene education program for a minimum of 750 hours per year for at least five years immediately preceding the date of application under this section. The clinical practice requirement shall be deemed met if the applicant provides proof of at least three years of clinical practice and commits to completing the remaining two years of clinical practice by filing with the dental hygiene board a copy of a pending contract to practice dental hygiene in any of the following facilities:
    - (A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.
    - (B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.
    - (C) A clinic owned or operated by a public hospital or health system.
    - (D) 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.
  - (4) Satisfactory performance on a California law and ethics examination and any examination that may be required by the dental hygiene board.
  - (5) Proof that the applicant has not been subject to disciplinary action by any state in which the applicant is or has been previously issued any professional or vocational license. If the applicant has been subject to disciplinary action, the dental hygiene board shall review that action to determine if it warrants refusal to issue a license to the applicant.

- (6) Proof of graduation from a school of dental hygiene accredited by the Commission on Dental Accreditation.
  - (7) Proof of satisfactory completion of the National Board Dental Hygiene Examination and of a state clinical examination, regional clinical licensure examination, or any other clinical dental hygiene examination approved by the dental hygiene board.
  - (8) Proof that the applicant has not failed the state clinical examination, the examination given by the Western Regional Examining Board, or any other clinical dental hygiene examination approved by the dental hygiene board for licensure to practice dental hygiene under this chapter more than once or once within five years prior to the date of application for a license under this section.
  - (9) Documentation of completion of a minimum of 25 units of continuing education earned in the two years preceding application, including completion of any continuing education requirements imposed by the dental hygiene board on registered dental hygienists licensed in this state at the time of application.
  - (10) Satisfactory evidence of having successfully completed a course or education and training in local anesthesia, nitrous oxide-oxygen analgesia, and periodontal soft-tissue curettage approved by the dental hygiene board.
  - (11) Any other information as specified by the dental hygiene board to the extent that it is required of applicants for licensure by examination under this article.
- (b) The dental hygiene board may periodically request verification of compliance with the requirements of paragraph (3) of subdivision (a) and may revoke the license upon a finding that the employment requirement or any other requirement of paragraph (3) of subdivision (a) has not been met.
- (c) The dental hygiene board shall provide in the application packet to each out-of-state dental hygienist pursuant to this section the following information:
- (1) The location of dental manpower shortage areas in the state.
  - (2) Any nonprofit clinics, public hospitals, and accredited dental hygiene education programs seeking to contract with licensees for dental hygiene service delivery or training purposes.
- (Amended by Stats. 2021, Ch. 491, Sec. 2. (SB 534) Effective January 1, 2022.)*

### **1917.3. Failure to Pass Clinical Examination; Re-examination**

Notwithstanding Section 135, an examinee for a registered dental hygienist license who either fails to pass the clinical examination required by Section 1917 after three attempts or fails to pass the clinical examination as a result of a single incidence of imposing gross trauma on a patient shall not be eligible for further reexamination until the examinee has successfully completed remedial education at an approved dental hygiene program or a comparable organization approved by the dental hygiene board.

*(Amended by Stats. 2019, Ch. 456, Sec. 17. (SB 786) Effective January 1, 2020.)*

### **1918. Licensure as a Registered Dental Hygienist in Extended Functions**

The dental hygiene board shall license as a registered dental hygienist in extended functions a person who meets all of the following requirements:

- (a) Holds a current license as a registered dental hygienist in California.
- (b) Completes clinical training approved by the dental hygiene board in a facility affiliated with a dental school under the direct supervision of the dental school faculty.
- (c) Performs satisfactorily on an examination required by the dental hygiene board.
- (d) Completes an application form and pays all application fees required by the dental hygiene board.

*(Amended by Stats. 2019, Ch. 456, Sec. 18. (SB 786) Effective January 1, 2020.)*

### **1920. Automatic Licensure as a Registered Dental Hygienist**

- (a) A person who holds a current and active license as a registered dental hygienist in extended functions or a registered dental hygienist in alternative practice on July 1, 2009, shall automatically be issued a license as a registered dental hygienist, unless the person holds a current and active registered dental hygienist license.
- (b) A registered dental hygienist license issued pursuant to this section shall expire on the same date as the person's registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions license, and shall be subject to the same renewal and other requirements imposed by law or regulation on a license.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1921. Authority as a Registered Dental Hygienist in Extended Functions or as a Registered Dental Hygienist in Alternative Practice**

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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1922. Licensure as a Registered Dental Hygienist in Alternative Practice**

The dental hygiene board shall license as a registered dental hygienist in alternative practice a person who demonstrates satisfactory performance on an examination in California law and ethics required by the dental hygiene board and who completes an application form and pays all application fees required by the dental hygiene board and meets either of the following requirements:

- (a) Holds a current California license as a registered dental hygienist and meets the following requirements:

- (1) Has been engaged in the practice of dental hygiene, as defined in Section 1908, as a registered dental hygienist in any setting, including, but not limited to, educational settings and public health settings, for a minimum of 2,000 hours during the immediately preceding 36 months.
  - (2) Has successfully completed a bachelor's degree or its equivalent, recognized as a minimum of 120 semester credit hours or 180 quarter credit hours in postsecondary education, from a college or institution of higher education that is accredited by a national or regional accrediting agency recognized by the United States Department of Education, and a minimum of 150 hours of additional educational requirements, as prescribed by the dental hygiene board by regulation, that are consistent with good dental and dental hygiene practice, including, but not necessarily limited to, dental hygiene technique and theory including gerontology and medical emergencies, and business administration and practice management.
- (b) Has received a letter of acceptance into the employment utilization phase of the Health Workforce Pilot Project No. 155 established by the Department of Health Care Access and Information pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code.
- (Amended by Stats. 2022, Ch. 511, Sec. 4. (SB 1495) Effective January 1, 2023.)*

#### **1924. Grandfathering as a Registered Dental Hygienist in Alternative Practice by Virtue of Having Established Practice Under the Health Manpower Pilot Project**

A person licensed as a registered dental hygienist who has completed the prescribed classes through the Health Manpower Pilot Project (HMPP) and who has established an independent practice under the HMPP by June 30, 1997, shall be deemed to have satisfied the licensing requirements under Section 1922, and shall be authorized to continue to operate the practice he or she presently operates, so long as he or she follows the requirements for prescription and functions as specified in Sections 1922, 1925, 1926, 1927, 1928, 1930, and 1931, and subdivision (b) of Section 1929, and as long as he or she continues to personally practice and operate the practice or until he or she sells the practice to a licensed dentist.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

#### **1925. Practices Authorized for a Registered Dental Hygienist in Alternative Practice**

A registered dental hygienist in alternative practice may practice, pursuant to subdivision (a) of Section 1907, subdivision (a) of Section 1908, subdivisions (a) and (b) of Section 1910, Section 1910.5, and Section 1926.05 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, in a primary care clinic or specialty clinic that is licensed pursuant to



Section 1204 of the Health and Safety Code, in a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, in a clinic owned or operated by a public hospital or health system, in 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 in 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.

*(Amended by Stats. 2020, Ch. 130, Sec. 3. (SB 653) Effective January 1, 2021.)*

## **1926. Scope of Authority for a Registered Dental Hygienist in Alternative Practice**

In addition to practices authorized in Section 1925, 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 and medical settings that a residential facility patient has been transferred to for outpatient services.
- (d) Dental health professional shortage areas, as certified by the Department of Health Care Access and Information in accordance with existing office guidelines.
- (e) Dental offices.

*(Amended by Stats. 2022, Ch. 511, Sec. 5. (SB 1495) Effective January 1, 2023.)*

### **1926.01. Registered Dental Hygienists in Alternative Practice, Soft Tissue Curettage and Local Anesthesia Supervision**

(a) In addition to practices authorized in Section 1925, a registered dental hygienist in alternative practice may perform the duties authorized pursuant to subdivisions (a) and (b) of Section 1909 with documented consultation with a collaborating dentist in the following settings:

- (1) Residences of the homebound.
  - (2) Residential facilities and other institutions and medical settings that a residential facility patient has been transferred to for outpatient services.
  - (3) Dental health professional shortage areas, as certified by the Department of Health Care Access and Information in accordance with existing office guidelines.
  - (4) Dental offices.
- (b) The registered dental hygienist in alternative practice shall have all of the following immediately available when services authorized in this section are being performed:

- (1) One additional individual trained in basic life support qualified to administer cardiopulmonary resuscitation during an emergency.
  - (2) Equipment and supplies for emergency response, including oxygen.
- (Amended by Stats. 2022, Ch. 511, Sec. 6. (SB 1495) Effective January 1, 2023.)*

### **1926.05. Additional Authorized Duties for a Registered Dental Hygienist in Alternative Practice**

- (a) In addition to the duties specified in Section 1926, a registered dental hygienist in alternative practice is authorized to perform the duties pursuant to Section 1910.5, in the following settings:
    - (1) Residences of the homebound.
    - (2) Schools.
    - (3) Residential facilities and other institutions.
    - (4) Dental or medical settings.
    - (5) Dental health professional shortage areas, as certified by the Department of Health Care Access and Information in accordance with existing office guidelines.
  - (b) A registered dental hygienist in alternative practice is authorized to perform the duties pursuant to paragraph (2) of subdivision (a) of Section 1910.5 in the settings specified in this section after there has been a diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist.
- (Amended by Stats. 2022, Ch. 511, Sec. 7. (SB 1495) Effective January 1, 2023.)*

### **1926.1. Operation of a Mobile Dental Hygiene Clinic; Requirements**

- (a) Notwithstanding any other provision of law, a registered dental hygienist in alternative practice may operate a mobile dental hygiene clinic in the settings listed in Section 1926.
- (b) The registered dental hygienist in alternative practice shall register the mobile dental hygiene clinic with the dental hygiene board in compliance with Sections 1926.2 and 1926.3.
- (c) The dental hygiene board may conduct announced and unannounced reviews and inspections of a mobile dental hygiene clinic to ensure continued compliance with the requirements for continued approval under this article.
- (d) It shall constitute unprofessional conduct if the mobile dental hygiene clinic is found to be noncompliant with any requirements necessary for licensure, and the registered dental hygienist in alternative practice may be placed on probation with terms, issued a citation and fine, or have the mobile dental hygiene clinic registration withdrawn if compliance is not demonstrated within reasonable timelines, as established by the dental hygiene board.

- (e) The dental hygiene board, by itself or through an authorized representative, may issue a citation containing fines and orders of abatement to the registered dental hygienist in alternative practice for any violation of this section, Section 1926.2, Section 1926.3, or any regulations adopted thereunder. Any fine collected pursuant to this section shall be deposited into the State Dental Hygiene Fund established pursuant to Section 1944.

*(Amended by Stats. 2021, Ch. 491, Sec. 3. (SB 534) Effective January 1, 2022.)*

### **1926.2. Operation of a Mobile Dental Hygiene Clinic Registered as a Dental Hygiene Office or Facility; Mobile Unit Exempted from Certain Laws**

- (a) Notwithstanding any other provision of law, a registered dental hygienist in alternative practice may operate one mobile dental hygiene clinic registered as a dental hygiene office or facility. The owner or operator of the mobile dental hygiene clinic or unit shall be registered and operated in accordance with regulations established by the dental hygiene board, which regulations shall not be designed to prevent or lessen competition in service areas, and shall pay the fees described in Section 1944.
- (b) A mobile service unit, as defined in subdivision (b) of Section 1765.105 of the Health and Safety Code, and a mobile unit operated by an entity that is exempt from licensure pursuant to subdivision (b), (c), or (h) of Section 1206 of the Health and Safety Code, are exempt from this article. Notwithstanding this exemption, the owner or operator of the mobile unit shall notify the dental hygiene board within 60 days of the date on which dental hygiene services are first delivered in the mobile unit, or the date on which the mobile unit's application pursuant to Section 1765.130 of the Health and Safety Code is approved, whichever is earlier.
- (c) A licensee practicing in a mobile unit described in subdivision (b) is not subject to subdivision (a) as to that mobile unit.

*(Amended by Stats. 2019, Ch. 456, Sec. 21. (SB 786) Effective January 1, 2020.)*

### **1926.3. Registered Dental Hygienist in Alternative Practice; Registration; Time Period**

- (a) Every person who is now or hereafter licensed as a registered dental hygienist in alternative practice in this state shall register with the executive officer, on forms prescribed by the dental hygiene board, the physical facility of registered dental hygienist in alternative practice or, if the registered dental hygienist in alternative practice has more than one physical facility pursuant to Section 1926.4, all of the physical facilities. If the registered dental hygienist in alternative practice does not have a physical facility, the registered dental hygienist in alternative practice shall notify the executive officer. A person licensed by the dental hygiene board shall register with the executive officer within 30 days after the date of the issuance of the person's license as a registered dental hygienist in alternative practice.

- (b) (1) A registered dental hygienist in alternative practice who utilizes portable equipment to practice dental hygiene shall register with the executive officer, on forms prescribed by the dental hygiene board, the registered dental hygienist in alternative practice's physical facility where the portable equipment is maintained.
- (2) The dental hygiene board may conduct announced and unannounced reviews and inspections of a registered dental hygienist in alternative practice's physical facilities and equipment described in paragraph (1) to ensure continued compliance with the requirements for continued approval under this article.
- (c) It shall constitute unprofessional conduct if the registered dental hygienist in alternative practice's physical facility or equipment is found to be noncompliant with any requirements necessary for licensure and a registered dental hygienist in alternative practice may be placed on probation with terms, issued a citation and fine, or have the owned physical facility registration withdrawn if compliance is not demonstrated within reasonable timelines, as established by the dental hygiene board.
- (d) The dental hygiene board, by itself or through an authorized representative, may issue a citation containing fines and orders of abatement to the registered dental hygienist in alternative practice for any violation of this section, Section 1925, Section 1926.4, or any regulations adopted thereunder. Any fine collected pursuant to this section shall be deposited into the State Dental Hygiene Fund established pursuant to Section 1944.
- (Amended by Stats. 2021, Ch. 491, Sec. 4. (SB 534) Effective January 1, 2022.)*

#### **1926.4. More than One Place of Practice; Requirements**

When a registered dental hygienist in alternative practice desires to have more than one place of practice, the person shall, before opening the additional office, apply to the dental hygiene board, pay the fee required by Section 1944, and obtain permission in writing from the dental hygiene board to have the additional place of practice, subject to a biennial renewal fee described in Section 1944.

*(Amended by Stats. 2019, Ch. 456, Sec. 23. (SB 786) Effective January 1, 2020.)*

#### **1927. Limitation on Practice of a Registered Dental Hygienist in Alternative Practice**

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 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.

*(Amended by Stats. 2011, Ch. 350, Sec. 7. (SB 943) Effective January 1, 2012.)*

**1928. Registered Dental Hygienist in Alternative Practice, Submitting of Insurance**

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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

**1929. Registered Dental Hygienist in Alternative Practice, Hiring of Employees**

- (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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

**1930. Registered Dental Hygienist in Alternative Practice, Relationship with Dentist Required**

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

*(Amended by Stats. 2019, Ch. 456, Sec. 24. (SB 786) Effective January 1, 2020.)*

**1931. Registered Dental Hygienist in Alternative Practice, Requirement of Prescription from Dentist or Physician and Surgeon**

- (a) (1) 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.
- (2) If the dental hygienist in alternative practice provides services to a patient 18 months or more after the first date that the person provides services to a patient, the person 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).
- (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.

- (c) (1) The dental hygiene board may seek to obtain an injunction against any registered dental hygienist in alternative practice who provides services pursuant to this section, if the dental hygiene board 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.
- (2) Providing 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 dental hygiene board to revoke or suspend the license of the registered dental hygienist in alternative practice pursuant to Section 1947.
- (Amended by Stats. 2019, Ch. 456, Sec. 25. (SB 786) Effective January 1, 2020.)*

### **1932. Dental Hygienists, Probationary Licenses**

- (a) The dental hygiene board may, in its sole discretion, issue a probationary license to an applicant who has satisfied all requirements for licensure as a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions. The dental hygiene board may require, as a term or condition of issuing the probationary license, that the applicant comply with certain additional requirements, including, but not limited to, the following:
- (1) Successfully completing a professional competency examination.
  - (2) Submitting to a medical or psychological evaluation.
  - (3) Submitting to continuing medical or psychological treatment.
  - (4) Abstaining from the use of alcohol or drugs.
  - (5) Submitting to random fluid testing for alcohol or controlled substance abuse.
  - (6) Submitting to continuing participation in a dental hygiene board-approved rehabilitation program.
  - (7) Restricting the type or circumstances of practice.
  - (8) Submitting to continuing education and coursework.
  - (9) Complying with requirements regarding notifying the dental hygiene board of any change of employer or employment.
  - (10) Complying with probation monitoring.
  - (11) Complying with all laws and regulations governing the practice of dental hygiene.
  - (12) Limiting the applicant's practice to a supervised, structured environment in which the applicant's activities are supervised by a specified person.
- (b) The term of a probationary license is three years. During the term of the license, the licensee may petition the dental hygiene board for a modification of a term or condition of the license or for the issuance of a license that is not probationary.
- (c) The proceedings under this section 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 dental hygiene board shall have all the powers granted in that chapter.
- (Amended by Stats. 2019, Ch. 456, Sec. 26. (SB 786) Effective January 1, 2020.)*

### **1933. Substitute Licenses**

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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1934. Change of Address or Name**

A licensee who changes their physical address of record or email address shall notify the dental hygiene board within 30 days of the change. A licensee who changes their legal name shall provide the dental hygiene board with documentation of the change within 10 days.

*(Amended by Stats. 2019, Ch. 456, Sec. 27. (SB 786) Effective January 1, 2020.)*

### **1935. Expiration and Renewal of License**

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 dental hygiene board and pay the renewal fee prescribed by this article.

*(Amended by Stats. 2019, Ch. 456, Sec. 28. (SB 786) Effective January 1, 2020.)*

### **1936. Renewal of Expired License**

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 dental hygiene board 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.

*(Amended by Stats. 2019, Ch. 456, Sec. 29. (SB 786) Effective January 1, 2020.)*

#### **1936.1. Continuing Education**

(a) The dental hygiene board shall require, as a condition of license renewal, that licensees submit assurances satisfactory to the dental hygiene board that they had, during the preceding two-year period, informed 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 dental hygiene board, or by other means deemed equivalent by the dental hygiene board. The dental hygiene board 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 dental hygiene board shall conduct random audits of at least 5 percent of the licensee population each year to ensure compliance of the continuing education requirement.

- (b) The dental hygiene board shall 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 dental hygiene board. The dental hygiene board 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 dental hygiene board shall not exceed seven and one-half hours per renewal period. Any mandatory coursework required by the dental hygiene board shall be credited toward the continuing education requirements established by the dental hygiene board pursuant to subdivision (a).
- (c) The providers of courses referred to in this section shall be approved by the dental hygiene board. Providers approved by the dental board shall be deemed approved by the dental hygiene board.

*(Amended by Stats. 2022, Ch. 511, Sec. 8. (SB 1495) Effective January 1, 2023.)*

### **1937. Suspended Licenses**

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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1938. Revoked Licenses**

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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1939. Licenses Not Renewed Within Five Years of Expiration**

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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*



#### **1940. Inactive Licenses**

- (a) A licensee who desires an inactive license shall submit an application to the dental hygiene board on a form provided by the dental hygiene board.
  - (b) In order to restore an inactive license to active status, the licensee shall submit an application to the dental hygiene board on a form provided by the dental hygiene board, 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 dental hygiene board 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 dental hygiene board 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.
- (Amended by Stats. 2019, Ch. 456, Sec. 31. (SB 786) Effective January 1, 2020.)*

#### **1941. Approval of Educational Programs; Need for New Educational Programs**

- (a) The dental hygiene board shall grant or renew approval of only those educational programs for RDHs 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 dental hygiene board.
  - (b) A new educational program for RDHs shall submit a feasibility study demonstrating a need for a new educational program and shall apply for approval from the dental hygiene board before seeking any required approval for initial accreditation from the Commission on Dental Accreditation of the American Dental Association or an equivalent body, as determined by the dental hygiene board. The dental hygiene board may approve, provisionally approve, or deny approval of a new educational program for RDHs.
  - (c) For purposes of this section, a new or existing educational program for RDHs 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 dental hygiene board.
  - (d) For purposes of this section, "RDHs" means registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.
- (Amended by Stats. 2021, Ch. 491, Sec. 5. (SB 534) Effective January 1, 2022.)*

### **1941.5. Compliance with Educational Program Requirements**

- (a) The dental hygiene board shall renew approval of educational programs for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions that certify to the dental hygiene board on a form prescribed by the dental hygiene board that the program continues to meet the requirements prescribed by the dental hygiene board.
- (b) The dental hygiene board may conduct periodic surveys, evaluations, and announced and unannounced site visits to existing and new educational programs for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions to ensure continued compliance of educational program requirements and Commission on Dental Accreditation standards for continued approval.
- (c) An existing or new educational program for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions that is found to be noncompliant with the educational program requirements and Commission on Dental Accreditation standards may be placed on probation with terms, issued a citation and fine, or have its approval withdrawn if compliance is not met within reasonable specified timelines.
- (d) The dental hygiene board, or through an authorized representative, may issue a citation containing fines and orders of abatement for any approved educational program for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions for any violation of this section or the regulations adopted pursuant to this section.  
*(Amended by Stats. 2019, Ch. 456, Sec. 33. (SB 786) Effective January 1, 2020.)*

### **1942. “Extramural Dental Facility”; Registration**

- (a) As used in this article, “extramural dental facility” means any clinical facility that has contracted with an approved dental hygiene educational program for instruction in dental hygiene, that exists outside or beyond the walls, boundaries, or precincts of the primary campus of the approved program, and in which dental hygiene services are rendered.
- (b) An approved dental hygiene educational program shall register an extramural dental facility with the dental hygiene board. That registration shall be accompanied by information supplied by the dental hygiene program pertaining to faculty supervision, scope of treatment to be rendered, name and location of the facility, date on which the operation will commence, discipline of which the instruction is a part, and a brief description of the equipment and facilities available. The foregoing information shall be supplemented by a copy of the agreement between the approved dental hygiene educational program or parent university, and the affiliated institution establishing the contractual relationship. Any change in the information initially provided to the dental hygiene board shall be communicated to the dental hygiene board.  
*(Amended by Stats. 2019, Ch. 456, Sec. 34. (SB 786) Effective January 1, 2020.)*

### **1943. Denial of Application to Take Examination**

- (a) The dental hygiene board may deny an application to take an examination for licensure as a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions at any time prior to licensure for any of the following reasons:
- (1) The applicant committed an act that is a ground for license suspension or revocation under this code or that is a ground for the denial of licensure under Section 480.
  - (2) The applicant committed or aided and abetted the commission of any act for which a license is required under this chapter.
  - (3) Another state or territory suspended or revoked the license that it had issued to the applicant on a ground that constitutes a basis in this state for the suspension or revocation of licensure under this article.
- (b) The proceedings under this section 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 dental hygiene board shall have all of the powers granted therein.
- (Amended by Stats. 2019, Ch. 456, Sec. 35. (SB 786) Effective January 1, 2020.)*

### **1944. Fees**

- (a) The dental hygiene board 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 dental hygiene board. 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 five hundred dollars (\$500).
  - (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 feasibility study review for educational programs for dental hygienists who are not accredited by a dental hygiene board-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.
- (13) The fee for the dental hygiene board to conduct a site visit to educational programs for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions to ensure compliance of educational program requirements shall not exceed the actual cost incurred by the dental hygiene board for cost recovery of site visit expenditures.
- (14) The fee for a retired license shall not exceed one-half of the current license renewal fee.
- (b) The renewal and delinquency fees shall be fixed by the dental hygiene board by resolution at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars (\$5).
- (c) Fees fixed by the dental hygiene board by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.
- (d) Fees collected pursuant to this section shall be collected by the dental hygiene board and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement this article.
- (e) No fees or charges other than those listed in this section shall be levied by the dental hygiene board in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.
- (f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars (\$250).
- (g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150).

- (h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars (\$250).
- (i) The fee for an additional office permit shall not exceed two hundred fifty dollars (\$250).
- (j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).
- (k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).
- (l) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out this article.  
*(Amended by Stats. 2019, Ch. 456, Sec. 36. (SB 786) Effective January 1, 2020.)*

#### **1947. Revocation or Suspension of License**

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 dental hygiene board for any reason specified in this article for the suspension or revocation of a license to practice dental hygiene.

*(Amended by Stats. 2019, Ch. 456, Sec. 37. (SB 786) Effective January 1, 2020.)*

#### **1949. Consequences of Unprofessional Conduct, Incompetence, Gross Negligence, Repeated Acts of Negligence in the Profession, Receiving a License by Mistake, and the Like**

A licensee may have their license revoked or suspended, or may be reprimanded or placed on probation by the dental hygiene board for unprofessional conduct, incompetence, gross negligence, repeated acts of negligence in the licensee's 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 dental hygiene board shall have all the powers granted therein.

*(Amended by Stats. 2019, Ch. 456, Sec. 38. (SB 786) Effective January 1, 2020.)*

#### **1950. Consequences of Conviction of a Crime Substantially Related to the Licensee's Qualifications, Functions, or Duties**

- (a) A licensee may have their license revoked or suspended, or may be reprimanded or placed on probation by the dental hygiene board, 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 dental hygiene board 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 dental hygiene board may reprimand a licensee or order a license suspended or revoked, or placed on probation 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 their 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.
- (Amended by Stats. 2019, Ch. 456, Sec. 39. (SB 786) Effective January 1, 2020.)*

### **1950.5. Unprofessional Conduct Defined**

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

- (a) The obtaining of any fee by fraud or misrepresentation.
- (b) The aiding or abetting of any unlicensed person to practice dentistry or dental hygiene.
- (c) The aiding or abetting of a licensed person to practice dentistry or dental hygiene unlawfully.
- (d) 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.
- (e) 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 the person is licensed to practice, in advertising or in any other manner indicating that the person is practicing or will practice dentistry, except the name specified in a valid permit issued pursuant to Section 1962.
- (f) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiographs, prescriptions, or other services or articles supplied to patients.
- (g) 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.
- (h) 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.
- (i) The employing or the making use of solicitors.
- (j) Advertising in violation of Section 651.

- (k) 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.
- (l) The violation of any of the provisions of this division.
- (m) The permitting of any person to operate dental radiographic equipment who has not met the requirements to do so, as determined by the dental hygiene board.
- (n) 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 one hundred dollars (\$100) or more than six hundred dollars (\$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.

- (o) 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.
- (p) 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.
- (q) The alteration of a patient's record with intent to deceive.
- (r) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental hygiene profession.
- (s) 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.
- (t) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.
- (u) Use of fraud in the procurement of any license issued pursuant to this article.
- (v) Any action or conduct that would have warranted the denial of the license.
- (w) 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.
- (x) The failure to report to the dental hygiene board in writing within seven days any of the following: (1) the death of the licensee's patient during the performance of any dental hygiene procedure; (2) the discovery of the death of a patient whose death is related to a dental hygiene procedure performed by the licensee; or (3) 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 dental hygiene board may conduct an inspection of the dental hygiene practice office if the dental hygiene board finds that it is necessary.

- (y) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions shall report to the dental hygiene board all deaths occurring in their 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 their practice with a copy sent to the dental hygiene board 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.
- (z) Knowingly making a statement or signing a certificate or other document that falsely represents the existence or nonexistence of a fact directly or indirectly related to the practice of dental hygiene.  
*(Amended by Stats. 2021, Ch. 491, Sec. 6. (SB 534) Effective January 1, 2022.)*

### **1951. Probation Options**

The dental hygiene board may discipline a licensee by placing the licensee on probation under various terms and conditions that may include, but are not limited to, the following:

- (a) Requiring the licensee to obtain additional training in a remedial education course approved by the dental hygiene board or pass an examination upon completion of training in a remedial education course approved by the dental hygiene board, 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 dental hygiene board.
- (b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the dental hygiene board, if warranted by the physical or mental condition of the licensee. If the dental hygiene board requires the licensee to submit to an examination, the dental hygiene board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.
- (c) Restricting or limiting the extent, scope, or type of practice of the licensee.
- (d) Requiring restitution of fees to the licensee's patients or payers of services, unless restitution has already been made.
- (e) 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.  
*(Amended by Stats. 2021, Ch. 491, Sec. 7. (SB 534) Effective January 1, 2022.)*

### **1952. Violation of Controlled Substance Laws as Unprofessional Conduct**

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

- (a) 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.



- (b) 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 themselves, 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 their license.
  - (c) 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 in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug, as defined in Section 4022, 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 their license.
    - (1) 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.
    - (2) The dental hygiene board 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 a 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.
- (Amended by Stats. 2019, Ch. 456, Sec. 42. (SB 786) Effective January 1, 2020.)*

**1953. Identification in Patient Record Required; Violation**

- (a) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions who performs a service on a patient in a dental office shall identify himself or herself in the patient record by signing his or her name or identification number and initials next to the service performed, and shall date those treatment entries in the record.
- (b) A repeated violation of this section constitutes unprofessional conduct.  
*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

**1954. Holding Oneself Out as Able to Perform Professional Services Beyond the Scope of One's License and Field of Competence as Unprofessional Conduct; Exception**

- (a) 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.

- (b) 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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1955. Duty to Release Records; Penalties**

- (a) (1) A licensee who fails or refuses to comply with a request for a patient's dental or dental hygiene records that is accompanied by that patient's written authorization for release of the records to the dental hygiene board, within 15 days of receiving the request and authorization, shall pay to the dental hygiene board a civil or administrative penalty or fine up to a maximum 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.
- (2) A health care facility shall comply with a request for the dental or dental hygiene records of a patient that is accompanied by that patient's written authorization for release of records to the dental hygiene board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's dental hygiene records to the dental hygiene board within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil or administrative penalty or fine, payable to the dental hygiene board, of up to a maximum of two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars (\$5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the dental hygiene board in obtaining the patient's authorization. The dental hygiene board shall pay the reasonable cost of copying the dental hygiene records.
- (b) (1) 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 dental hygiene board shall pay to the dental hygiene board a civil penalty of one thousand dollars (\$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 dental hygiene board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

- (2) 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 dental hygiene board is guilty of a misdemeanor punishable by a fine payable to the dental hygiene board not to exceed five thousand dollars (\$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 dental hygiene board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.
  - (3) 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 dental hygiene 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 dental hygiene board a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced, up to ten thousand dollars (\$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 dental hygiene 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.
  - (4) 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 records to the dental hygiene board is guilty of a misdemeanor punishable by a fine payable to the dental hygiene board not to exceed five thousand dollars (\$5,000). Any statute of limitations applicable to the filing of an accusation by the dental hygiene 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.
- (c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$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 five thousand dollars (\$5,000) and shall be reported to the State Department of Public Health and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or permit.
  - (d) A failure or refusal to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the dental hygiene board constitutes unprofessional conduct and is grounds for suspension or revocation of the person's license.
  - (e) Imposition of the civil or administrative penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

- (f) 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.  
*(Amended by Stats. 2019, Ch. 456, Sec. 43. (SB 786) Effective January 1, 2020.)*

### **1956. Negligence as Unprofessional Conduct**

It is unprofessional conduct for a person licensed under this article 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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1957. Petition for Reinstatement or Modification of Penalty**

- (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 dental hygiene board 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 dental hygiene board.
- (c) The petition may be heard by the dental hygiene board, or the dental hygiene board 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 dental hygiene board 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 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 dental hygiene board or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.

- (f) The dental hygiene board or the administrative law judge may impose necessary terms and conditions on the licensee in reinstating a license 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 dental hygiene 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.

*(Amended by Stats. 2019, Ch. 456, Sec. 44. (SB 786) Effective January 1, 2020.)*

**1958. Misdemeanor for False Representation, Failing to Furnish Names of Associates, Using Controlled Substances While Engaged in Practice, and the Like**

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 one hundred dollars (\$100) nor more than one thousand five hundred dollars (\$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 the person’s name without having had the right to assume the title conferred upon the person through licensure.
- (b) Assumes any title, or appends any letters to the person’s name, with the intent to represent falsely that the person 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 the person’s office the person’s license under this article to practice dental hygiene.
- (d) Within 10 days after demand is made by the executive officer of the dental hygiene board, fails to furnish to the dental hygiene board 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 the licensee's ability to conduct the practice of dental hygiene with safety to patients and the public.  
*(Amended by Stats. 2019, Ch. 456, Sec. 45. (SB 786) Effective January 1, 2020.)*

### **1958.1. Registered Sex Offenders**

- (a) Notwithstanding any other 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, all of the following shall apply:
- (1) The dental hygiene board shall deny an application by the individual for licensure pursuant to this article.
  - (2) If the individual is licensed under this article, the dental hygiene board shall promptly revoke the license of the individual. The dental hygiene board shall not stay the revocation nor place the license on probation.
  - (3) The dental hygiene board shall not reinstate or reissue the individual's licensure under this article. The dental hygiene 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 the individual's 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 the individual's 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 dental hygiene 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, 2013. 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.

*(Amended by Stats. 2019, Ch. 456, Sec. 46. (SB 786) Effective January 1, 2020.)*

### **1959. Identification as a Dental Hygienist**

A person who holds a valid, unrevoked, and unsuspended license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions under this article may append the letters "R.D.H.," "R.D.H.A.P.," or "R.D.H.E.F.," respectively, to his or her name.

*(Amended by Stats. 2011, Ch. 350, Sec. 13. (SB 943) Effective January 1, 2012.)*

**1960. Penalties for Bartering Transcript or Diploma, Making or Using False Diploma, Making a False Statement in an Affidavit, Practicing without a Valid License, or Practicing Under a False Name**

For the first offense, a person is guilty of a misdemeanor and shall be punishable by a fine of not less than two hundred dollars (\$200) nor more than three thousand dollars (\$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 two thousand dollars (\$2,000) nor more than six thousand dollars (\$6,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both that fine and imprisonment, who does any of the following:

- (a) 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.
- (b) 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 dental hygiene, or in fraud of the laws regulating the practice of dental hygiene.
- (c) With fraudulent intent, makes, attempts to make, counterfeits, or materially alters a diploma, certificate, or transcript.
- (d) 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.
- (e) In an affidavit required of an applicant for an examination or license under this article, willfully makes a false statement in a material regard.
- (f) Practices dental hygiene or offers to practice dental hygiene, as defined in this article, either without a license, or when his or her license has been revoked or suspended.
- (g) 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 dental hygiene, except a name specified in a valid permit issued pursuant to Section 1962.

*(Amended by Stats. 2011, Ch. 15, Sec. 10. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)*

**1961. Penalty for Practicing without a Valid License Under Circumstances That Cause Risk of Bodily Harm, Serious Physical or Mental Illness, or Death**

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 article, 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.  
(Amended by Stats. 2011, Ch. 350, Sec. 14. (SB 943) Effective January 1, 2012.)

## **1962. Use of name by a Registered Dental Hygienist in Alternative Practice in Professional Association**

- (a) 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 Section 1960 may practice under that name if the association, partnership, corporation, or group holds an unexpired, unsuspended, and unrevoked permit issued by the dental hygiene board under this section.
- (b) 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 dental hygiene board under this section. The dental hygiene board 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 dental hygiene board 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.
- (c) 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 permits issued under this article.
- (d) A permit issued under this section may be revoked or suspended if the dental hygiene board finds that any requirement for original issuance of a permit is no longer being fulfilled by the permitholder. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).



- (e) 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.

*(Amended by Stats. 2019, Ch. 456, Sec. 47. (SB 786) Effective January 1, 2020.)*

### **1963. Jurisdiction at the Discretion of the Board**

The dental hygiene board may file a complaint for violation of any part of this article with 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.

*(Amended by Stats. 2019, Ch. 456, Sec. 48. (SB 786) Effective January 1, 2020.)*

### **1964. Injunction**

In addition to the other proceedings provided for in this article, on application of the dental hygiene board, 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.

*(Amended by Stats. 2019, Ch. 456, Sec. 49. (SB 786) Effective January 1, 2020.)*

### **1965. Procedure to Request Injunction**

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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

### **1966. Rehabilitation for Impairment; Diversion Program Authorized**

- (a) It is the intent of the Legislature that the dental hygiene board 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 dental hygiene board 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 dental

hygiene board. The dental hygiene board 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. *(Amended by Stats. 2019, Ch. 456, Sec. 50. (SB 786) Effective January 1, 2020.)*

**1966.1. Diversion Program, Acceptance into, Participation in, Withdrawal from**

- (a) The dental hygiene board shall establish criteria for the acceptance, denial, or termination of licensees in a diversion program. Unless ordered by the dental hygiene board 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 dental hygiene board may also request entry into a diversion program by contacting the dental hygiene board. The dental hygiene board 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 dental hygiene board 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 the licensee's violations of this article or other statutes, that would otherwise be the basis for discipline, may still be investigated and be 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 dental hygiene board shall close the investigation without further action if the licensee is accepted into the dental hygiene board'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 dental hygiene board.
- (e) Neither acceptance nor participation in the diversion program shall preclude the dental hygiene board 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 dental hygiene board 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 dental hygiene board for acts committed before, during, and after participation in the diversion program. A licensee who has been under investigation by the dental hygiene board and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the dental hygiene board.

*(Amended by Stats. 2019, Ch. 456, Sec. 51. (SB 786) Effective January 1, 2020.)*

### **1966.2. Duties of Diversion Evaluation Committee**

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 dental hygiene board and to consider the recommendations of any licensees designated by the dental hygiene board 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 the licensee may safely continue or resume the practice of dental hygiene.
- (e) To perform other related duties as the dental hygiene board may by regulation require.

*(Amended by Stats. 2019, Ch. 456, Sec. 52. (SB 786) Effective January 1, 2020.)*

### **1966.3. Diversion Evaluation Committee, Closed Sessions Authorized**

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 licentiate 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.

*(Added by Stats. 2008, Ch. 31, Sec. 47. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)*

#### **1966.4. Diversion Evaluation Program, Compliance Required**

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 dental hygiene board. Any failure to comply with the provisions of a treatment program may result in termination of the licensee's participation in a program.

*(Amended by Stats. 2019, Ch. 456, Sec. 53. (SB 786) Effective January 1, 2020.)*

#### **1966.5. Diversion Evaluation Program, Records: Purging; Confidentiality**

(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 dental hygiene board 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.

*(Amended by Stats. 2019, Ch. 456, Sec. 54. (SB 786) Effective January 1, 2020.)*

#### **1966.6. Reports to the Diversion Evaluation Committee; Representation in an Action for Defamation**

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

*(Amended by Stats. 2019, Ch. 456, Sec. 55. (SB 786) Effective January 1, 2020.)*

#### **1967. Authorization of Registered Dental Hygienists to Render Professional Services as a Professional Corporation**

A registered dental hygienist in alternative practice corporation is a professional corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that professional corporation and its shareholders, officers, directors, and professional employees rendering professional services are in compliance with the Moscone-Knox Professional Corporation Act (commencing with Section 13400) of Part 4 of Division 3 of Title 1 of the Corporations Code, this article, and all other statutes and regulations now or hereafter adopted pertaining to the professional corporation and the conduct of its affairs. With respect to a registered dental hygienist in alternative practice corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Dental Hygiene Board of California.

*(Amended by Stats. 2018, Ch. 858, Sec. 60. (SB 1482) Effective January 1, 2019.)*

### **1967.1. Unprofessional Conduct and Violations of This Article**

It shall constitute unprofessional conduct and a violation of this article for any person licensed under this article to violate, attempt to violate, directly or indirectly, assist in or abet the violation of, or conspire to violate any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

*(Added by Stats. 2015, Ch. 516, Sec. 2. (AB 502) Effective January 1, 2016.)*

### **1967.2. Licensure Scope and Provisions**

A licensee employed by, or practicing in, a registered dental hygienist in alternative practice corporation pursuant to Section 13401.5 of the Corporations Code shall practice within the scope of their license and shall be subject to all applicable licensure provisions in their respective practice act.

*(Added by Stats. 2015, Ch. 516, Sec. 2. (AB 502) Effective January 1, 2016.)*

### **1967.3. Income of a Registered Dental Hygienist Not Accrued to the Benefit of a Shareholder That is a Disqualified Person**

The income of a registered dental hygienist in alternative practice corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in subdivision (e) of Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of such shareholder or his or her shares in the registered dental hygienist in alternative practice corporation.

*(Added by Stats. 2015, Ch. 516, Sec. 2. (AB 502) Effective January 1, 2016.)*

### **1967.4. Requisite Bylaw That Capital Stock Owned by a Disqualified or Deceased Person to be Sold to the Professional Corporation; Insurance Claims Arising Out of the Rendering of Professional Services**

- (a) The bylaws of a registered dental hygienist in alternative practice corporation shall include a provision whereby the capital stock of the professional corporation owned by a disqualified person, as defined in subdivision (e) of Section 13401 of the Corporations Code, or a deceased person, shall be sold to the professional corporation or to the remaining shareholders of the professional corporation not later than 90 days after disqualification, if the shareholder becomes a disqualified person, or not later than six months after death, if the shareholder becomes deceased.
- (b) A registered dental hygienist in alternative practice corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

*(Added by Stats. 2015, Ch. 516, Sec. 2. (AB 502) Effective January 1, 2016.)*

# EXCERPTS FROM THE CALIFORNIA PENAL CODE

## CHILD ABUSE AND NEGLECT REPORTING ACT

### Sections 11164–11174.4

#### **11164.**

- (a) This article shall be known and may be cited as the Child Abuse and Neglect Reporting Act.
- (b) The intent and purpose of this article 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.

*(Amended by Stats. 2000, Ch. 916, Sec. 1. Effective January 1, 2001.)*

#### **11165.**

As used in this article “child” means a person under the age of 18 years.

*(Repealed and added by Stats. 1987, Ch. 1459, Sec. 2.)*

#### **11165.**

As used in this article, “sexual abuse” means sexual assault or sexual exploitation as defined by the following:

- (a) “Sexual assault” means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), Section 264.1 (rape in concert), Section 285 (incest), Section 286 (sodomy), Section 287 or former Section 288a (oral copulation), subdivision (a) or (b) of, or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), Section 289 (sexual penetration), or Section 647.6 (child molestation). “Sexual assault” for the purposes of this article does not include voluntary conduct in violation of Section 286, 287, or 289, or former Section 288a, if there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and a minor who is under 16 years of age.
- (b) Conduct described as “sexual assault” includes, but is not limited to, all of the following:
  - (1) Penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.
  - (2) Sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.
  - (3) Intrusion by one person into the genitals or anal opening of another person, including the use of an object for this purpose, except that, it does not include acts performed for a valid medical purpose.

- (4) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.
  - (5) The intentional masturbation of the perpetrator's genitals in the presence of a child.
- (c) "Sexual exploitation" refers to any of the following:
- (1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).
  - (2) A person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or a person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.
  - (3) A person who depicts a child in, or who knowingly develops, duplicates, prints, downloads, streams, accesses through any electronic or digital media, or exchanges, a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.
- (d) "Commercial sexual exploitation" refers to either of the following:
- (1) The sexual trafficking of a child, as described in subdivision (c) of Section 236.1.
  - (2) The provision of food, shelter, or payment to a child in exchange for the performance of any sexual act described in this section or subdivision (c) of Section 236.1.

*(Amended by Stats. 2020, Ch. 180, Sec. 1. (AB 1145) Effective January 1, 2021.)*

## **11165.2.**

As used in this article, "neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(a) “Severe neglect” means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. “Severe neglect” also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(b) “General neglect” means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

*(Repealed and added by Stats. 1987, Ch. 1459, Sec. 7.)*

### **11165.3.**

As used in this article, “the willful harming or injuring of a child or the endangering of the person or health of a child,” means a situation in which any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation in which his or her person or health is endangered.

*(Amended by Stats. 2004, Ch. 842, Sec. 1. Effective January 1, 2005.)*

### **11165.4.**

As used in this article, “unlawful corporal punishment or injury” means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. It does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Section 44807 of the Education Code. It also does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

*(Amended by Stats. 1993, Ch. 346, Sec. 1. Effective January 1, 1994.)*



**11165.5.**

As used in this article, the term “abuse or neglect in out-of-home care” includes physical injury or death inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, unlawful corporal punishment or injury as defined in Section 11165.4, or the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, where the person responsible for the child’s welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency. “Abuse or neglect in out-of-home care” does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

*(Amended by Stats. 2007, Ch. 393, Sec. 1. Effective January 1, 2008.)*

**11165.6.**

As used in this article, the term “child abuse or neglect” includes physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. “Child abuse or neglect” does not include a mutual affray between minors. “Child abuse or neglect” does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

*(Amended by Stats. 2007, Ch. 393, Sec. 2. Effective January 1, 2008.)*

**11165.7.**

- (a) As used in this article, “mandated reporter” is defined as any of the following:
- (1) A teacher.
  - (2) An instructional aide.
  - (3) A teacher’s aide or teacher’s assistant employed by a public or private school.
  - (4) A classified employee of a public school.
  - (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
  - (6) An administrator of a public or private day camp.
  - (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
  - (8) An administrator, board member, or employee of a public or private organization whose duties require direct contact and supervision of children, including a foster family agency.
  - (9) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.

- (10) A licensee, an administrator, or an employee of a licensed community care or child daycare facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a childcare institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.
- (17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.
- (18) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
- (20) A firefighter, except for volunteer firefighters.
- (21) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed under Division 2(commencing with Section 500) of the Business and Professions Code.
- (22) An emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- (24) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- (25) An unlicensed associate marriage and family therapist registered under Section 4980.44 of the Business and Professions Code.
- (26) A state or county public health employee who treats a minor for venereal disease or any other condition.
- (27) A coroner.
- (28) A medical examiner or other person who performs autopsies.
- (29) A commercial film and photographic print or image processor as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print or image processor" means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer

- software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.
- (30) A child visitation monitor. As used in this article, “child visitation monitor” means a person who, for financial compensation, acts as a monitor of a visit between a child and another person when the monitoring of that visit has been ordered by a court of law.
- (31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:
- (A) “Animal control officer” means a person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.
- (B) “Humane society officer” means a person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.
- (32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, “clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.
- (33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.
- (34) An employee of any police department, county sheriff’s department, county probation department, or county welfare department.
- (35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.
- (36) A custodial officer, as defined in Section 831.5.
- (37) A person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.
- (38) An alcohol and drug counselor. As used in this article, an “alcohol and drug counselor” is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.
- (39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.
- (40) An associate professional clinical counselor registered under Section 4999.42 of the Business and Professions Code.
- (41) An employee or administrator of a public or private postsecondary educational institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution’s premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client

- privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.
- (42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.
- (43)(A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, “commercial computer technician” means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.
- (B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.
- (44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary educational institutions.
- (45) An individual certified by a licensed foster family agency as a certified family home, as defined in Section 1506 of the Health and Safety Code.
- (46) An individual approved as a resource family, as defined in Section 1517 of the Health and Safety Code and Section 16519.5 of the Welfare and Institutions Code.
- (47) A qualified autism service provider, a qualified autism service professional, or a qualified autism service paraprofessional, as defined in Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code.
- (48) A human resource employee of a business subject to Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code that employs minors. For purposes of this section, a “human resource employee” is the employee or employees designated by the employer to accept any complaints of misconduct as required by Chapter 6 (commencing with Section 12940) of Part 2.8 of Division 3 of Title 2 of the Government Code.

- (49) An adult person whose duties require direct contact with and supervision of minors in the performance of the minors' duties in the work place of a business subject to Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code is a mandated reporter of sexual abuse, as defined in Section 11165.1. Nothing in this paragraph shall be construed to modify or limit the person's duty to report known or suspected child abuse or neglect when the person is acting in some other capacity that would otherwise make the person a mandated reporter
- (b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.
- (c) (1) Except as provided in subdivision (d) and paragraph (2), employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.
- (2) Employers subject to paragraphs (48) and (49) of subdivision (a) shall provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. The training requirement may be met by completing the general online training for mandated reporters offered by the Office of Child Abuse Prevention in the State Department of Social Services.
- (d) Pursuant to Section 44691 of the Education Code, school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.
- (e) (1) On and after January 1, 2018, pursuant to Section 1596.8662 of the Health and Safety Code, a childcare licensee applicant shall take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a childcare administrator or an employee of a licensed child daycare facility shall take training in the duties of mandated reporters during the first 90 days when that administrator or employee is employed by the facility.

- (2) A person specified in paragraph (1) who becomes a licensee, administrator, or employee of a licensed child daycare facility shall take renewal mandated reporter training every two years following the date on which that person completed the initial mandated reporter training. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.
- (f) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.
- (g) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.
- (Amended by Stats. 2020, Ch. 243, Sec. 1. (AB 1963) Effective January 1, 2021.)*

### **11165.9.**

Reports of suspected child abuse or neglect shall be made by mandated reporters, or in the case of reports pursuant to Section 11166.05, may be made, 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 suspected child abuse or neglect whether offered by a mandated reporter or another person, or referred by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction. Agencies that are required to receive reports of suspected child abuse or neglect may not refuse to accept a report of suspected child abuse or neglect from a mandated reporter or another person unless otherwise authorized pursuant to this section, and shall maintain a record of all reports received.

*(Amended by Stats. 2006, Ch. 701, Sec. 2. Effective January 1, 2007.)*

### **11165.11.**

As used in this article, "licensing agency" means the State Department of Social Services office responsible for the licensing and enforcement of the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code), the California Child Day Care Act (Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code), and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code), or the county licensing agency which has contracted with the state for performance of those duties.

*(Added by Stats. 1987, Ch. 1459, Sec. 18.)*

**11165.12.**

As used in this article, the following definitions shall control:

- (a) “Unfounded report” means a report that is determined by the investigator who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined in Section 11165.6.
- (b) “Substantiated report” means a report that is determined by the investigator who conducted the investigation to constitute child abuse or neglect, as defined in Section 11165.6, based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred. A substantiated report shall not include a report where the investigator who conducted the investigation found the report to be false, inherently improbable, to involve an accidental injury, or to not constitute child abuse or neglect as defined in Section 11165.6.
- (c) “Inconclusive report” means a report that is determined by the investigator who conducted the investigation not to be unfounded, but the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred.

*(Amended by Stats. 2011, Ch. 468, Sec. 1. (AB 717) Effective January 1, 2012.)*

**11165.13.**

For purposes of this article, a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect. However, any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child pursuant to Section 123605 of the Health and Safety Code. If other factors are present that indicate risk to a child, then a report shall be made. However, a report based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent’s substance abuse shall be made only to a county welfare or probation department, and not to a law enforcement agency.

*(Amended by Stats. 2000, Ch. 916, Sec. 11. Effective January 1, 2001.)*

**11165.14.**

The appropriate local law enforcement agency shall investigate a child abuse complaint filed by a parent or guardian of a pupil with a school or an agency specified in Section 11165.9 against a school employee or other person that commits an act of child abuse, as defined in this article, against a pupil at a school site and shall transmit a substantiated report, as defined in Section 11165.12, of that investigation to the governing board of the appropriate school district or county office of education. A substantiated report received by a governing board of a school district or county office of education shall be subject to the provisions of Section 44031 of the Education Code.

*(Amended by Stats. 2000, Ch. 916, Sec. 12. Effective January 1, 2001.)*

### **11165.15.**

For the purposes of this article, the fact that a child is homeless or is classified as an unaccompanied youth, as defined in Section 11434a of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), is not, in and of itself, a sufficient basis for reporting child abuse or neglect. This section shall not limit a mandated reporter, as defined in Section 11165.7, from making a report pursuant to Section 11166 whenever the mandated reporter has knowledge of or observes an unaccompanied minor whom the mandated reporter knows or reasonably suspects to be the victim of abuse or neglect.

*(Amended by Stats. 2014, Ch. 71, Sec. 132. (SB 1304) Effective January 1, 2015.)*

### **11166.**

- (a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in the mandated reporter's professional capacity or within the scope of the mandated reporter's employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.
- (1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on the person's training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.
  - (2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.
  - (3) A report made by a mandated reporter pursuant to this section shall be known as a mandated report.
- (b) If, after reasonable efforts, a mandated reporter is unable to submit an initial report by telephone, the mandated reporter shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone follow up call by the agency with which the mandated reporter filed the report. A mandated reporter



who files a one-time automated written report because the mandated reporter was unable to submit an initial report by telephone is not required to submit a written follow up report.

- (1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written follow up report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/ Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.
  - (2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.
  - (3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.
  - (4) This section does not supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.
- (c) A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals the mandated reporter's failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.
- (d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of the clergy member's church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of the clergy member's church, denomination, or organization, has a duty to keep those communications secret.
- (2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

- (3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in the clergy member's professional capacity or within the scope of the clergy member's employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse and that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.
- (B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.
- (C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.
- (e) (1) A commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of that person's professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall, immediately or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written follow up report of the incident with a copy of the image or material attached.
- (2) A commercial computer technician who has knowledge of or observes, within the scope of the technician's professional capacity or employment, any representation of information, data, or an image, including, but not limited to, any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images or materials are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written follow up report of the incident with a brief description of the images or materials.

- (3) For purposes of this article, “commercial computer technician” includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (43) of subdivision (a) of Section 11165.7.
- (4) As used in this subdivision, “electronic medium” includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumb drive, or any other computer hardware or media.
- (5) As used in this subdivision, “sexual conduct” means any of the following:
  - (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
  - (B) Penetration of the vagina or rectum by any object.
  - (C) Masturbation for the purpose of sexual stimulation of the viewer.
  - (D) Sadoomasochistic abuse for the purpose of sexual stimulation of the viewer.
  - (E) Exhibition of the genitals, pubic, or rectal areas of a person for the purpose of sexual stimulation of the viewer.
- (f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, the mandated reporter makes a report of the abuse or neglect pursuant to subdivision (a).
- (g) Any other person who has knowledge of or observes a child whom the person knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, “any other person” includes a mandated reporter who acts in the person’s private capacity and not in the person’s professional capacity or within the scope of the person’s employment.
- (h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.
- (i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article. An internal policy shall not direct an employee to allow the employee’s supervisor to file or process a mandated report under any circumstances.

- (2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose the employee's identity to the employer.
  - (3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.
- (j) (1) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child that relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.
- (2) A county probation or welfare department shall immediately, and in no case in more than 24 hours, report to the law enforcement agency having jurisdiction over the case after receiving information that a child or youth who is receiving child welfare services has been identified as the victim of commercial sexual exploitation, as defined in subdivision (d) of Section 11165.1.
  - (3) When a child or youth who is receiving child welfare services and who is reasonably believed to be the victim of, or is at risk of being the victim of, commercial sexual exploitation, as defined in Section 11165.1, is missing or has been abducted, the county probation or welfare department shall immediately, or in no case later than 24 hours from receipt of the information, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children.
- (k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged

to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

*(Amended by Stats. 2019, Ch. 27, Sec. 16. (SB 80) Effective June 27, 2019.)*

#### **11166.01.**

- (a) Except as provided in subdivision (b), any supervisor or administrator who violates paragraph (1) of subdivision (i) of Section 11166 shall be punished by not more than six months in a county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.
- (b) Notwithstanding Section 11162 or subdivision (c) of Section 11166, any mandated reporter who willfully fails to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect, in violation of this article, where that abuse or neglect results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment.

*(Amended by Stats. 2006, Ch. 901, Sec. 10. Effective January 1, 2007.)*

#### **11166.05.**

Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, evidenced by states of being or behavior, including, but not limited to, severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, may make a report to an agency specified in Section 11165.9.

*(Amended by Stats. 2004, Ch. 842, Sec. 9. Effective January 1, 2005.)*

#### **11166.1.**

- (a) (1) When an agency receives a report pursuant to Section 11166 that contains either of the following, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility:
  - (A) A report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services.
  - (B) A report of the death of a child who was, at the time of death, living at, enrolled in, or regularly attending a facility licensed to care for children by the State Department of Social Services, unless the circumstances of the child's death are clearly unrelated to the child's care at the facility.
- (2) The agency shall send the licensing agency a copy of its investigation and any other pertinent materials.

- (b) Any employee of an agency specified in Section 11165.9 who has knowledge of, or observes in their professional capacity or within the scope of their employment, a child in protective custody whom the employee knows or reasonably suspects has been the victim of child abuse or neglect shall, within 36 hours, send or have sent to the attorney who represents the child in dependency court, a copy of the report prepared in accordance with Section 11166. The agency shall maintain a copy of the written report. All information requested by the attorney for the child or the child's guardian ad litem shall be provided by the agency within 30 days of the request.
- (c) (1) When an agency receives a report pursuant to Section 11166 alleging abuse or neglect of the child of a minor parent or a nonminor dependent parent, the agency shall, within 36 hours, provide notice of the report to the attorney who represents the minor parent or nonminor dependent in dependency court.
- (2) For purposes of this subdivision, "minor parent" and "nonminor dependent parent" have the same meaning as in Section 16002.5 of the Welfare and Institutions Code.

*(Amended by Stats. 2021, Ch. 585, Sec. 1. (AB 670) Effective January 1, 2022.)*

### **11166.2.**

In addition to the reports required under Section 11166, any agency specified in Section 11165.9 shall immediately or as soon as practically possible report by telephone, fax, or electronic transmission to the appropriate licensing agency every known or suspected instance of child abuse or neglect when the instance of abuse or neglect occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. The agency shall also send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision. The agency shall send the licensing agency a copy of its investigation report and any other pertinent materials.

*(Amended by Stats. 2001, Ch. 133, Sec. 7. Effective July 31, 2001.)*

### **11166.3.**

- (a) The Legislature intends that in each county the law enforcement agencies and the county welfare or probation department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse or neglect cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare or probation department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or probation department shall, in cases where a minor is a victim of actions specified in Section 288 of this code and a petition has been filed pursuant to Section 300 of the Welfare and Institutions Code with regard

to the minor, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or probation department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel in the manner specified in Section 859.

- (b) The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the district office of the State Department of Social Services any case reported under this section if the case involves a facility specified in paragraph (5) or (6) of subdivision (a) of Section 1502, Section 1596.750 or 1596.76 of the Health and Safety Code, and the licensing of the facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon the request of the licensing agency.  
*(Amended by Stats. 2001, Ch. 133, Sec. 8. Effective July 31, 2001.)*

### **11166.5.**

- (a) (1) On and after January 1, 1985, any mandated reporter as specified in Section 11165.7, with the exception of child visitation monitors, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions. The statement shall inform the employee that he or she is a mandated reporter and inform the employee of his or her reporting obligations under Section 11166 and of his or her confidentiality rights under subdivision (d) of Section 11167. The employer shall provide a copy of Sections 11165.7, 11166, and 11167 to the employee.  
On and after January 1, 1993, any person who acts as a child visitation monitor, as defined in paragraph (31) of subdivision (a) of Section 11165.7, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.
- (2) The signed statements shall be retained by the employer or the court, as the case may be. The cost of printing, distribution, and filing of these statements shall be borne by the employer or the court.
- (3) This subdivision is not applicable to persons employed by public or private youth centers, youth recreation programs, and youth organizations as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.
- (b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation, the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one

contained in subdivision (a) to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in subdivision (a), the statement also shall indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in a county jail, by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine.

- (c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986.
- (d) On and after January 1, 1993, any child visitation monitor, as defined in paragraph (31) of subdivision (a) of Section 11165.7, who desires to act in that capacity shall have received training in the duties imposed by this article, including training in child abuse identification and child abuse reporting. The person, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has received this training. This statement may be included in the statement required by subdivision (a) or it may be a separate statement. This statement shall be filed, along with the statement required by subdivision (a), in the court file of the case for which the visitation monitoring is being provided.
- (e) Any person providing services to a minor child, as described in paragraph (38) of subdivision (a) of Section 11165.7, shall not be required to make a report pursuant to Section 11166 unless that person has received training, or instructional materials in the appropriate language, on the duties imposed by this article, including identifying and reporting child abuse and neglect.  
*(Amended by Stats. 2004, Ch. 842, Sec. 10.5. Effective January 1, 2005.)*

## **11167.**

- (a) Reports of suspected child abuse or neglect pursuant to Section 11166 or Section 11166.05 shall include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report: the child's name, the child's address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child. The mandated reporter shall make a report even if some of this information is not known or is uncertain to him or her.
- (b) Information relevant to the incident of child abuse or neglect and information relevant to a report made pursuant to Section 11166.05 may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or neglect.



- (c) Information relevant to the incident of child abuse or neglect, including the investigation report and other pertinent materials, and information relevant to a report made pursuant to Section 11166.05 may be given to the licensing agency when it is investigating a known or suspected case of child abuse or neglect.
- (d) (1) The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated reports, to the prosecutor in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.  
(2) No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order.
- (e) Notwithstanding the confidentiality requirements of this section, a representative of a child protective services agency performing an investigation that results from a report of suspected child abuse or neglect made pursuant to Section 11166 or Section 11166.05, at the time of the initial contact with the individual who is subject to the investigation, shall advise the individual of the complaints or allegations against him or her, in a manner that is consistent with laws protecting the identity of the reporter under this article.
- (f) Persons who may report pursuant to subdivision (g) of Section 11166 are not required to include their names.  
*(Amended by Stats. 2010, Ch. 95, Sec. 1. (AB 2339) Effective January 1, 2011.)*

#### **11167.5.**

- (a) The reports required by Sections 11166 and 11166.2, or authorized by Section 11166.05, and child abuse or neglect investigative reports that result in a summary report being filed with the Department of Justice pursuant to subdivision (a) of Section 11169 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars (\$500), or by both that imprisonment and fine.
- (b) Reports of suspected child abuse or neglect and information contained therein may be disclosed only to the following:
  - (1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.
  - (2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170 or subdivision (a) of Section 11170.5.

- (3) Persons or agencies with whom investigations of child abuse or neglect are coordinated under the regulations promulgated under Section 11174.
- (4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.
- (5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.
- (6) The State Department of Social Services or any county, as specified in paragraph (4) of subdivision (b) of Section 11170, when an individual has applied for a license to operate a community care facility or child day care facility, or for a certificate of approval to operate a certified family home or resource family home, or for employment or presence in a licensed facility, certified family home, or resource family home, or when a complaint alleges child abuse or neglect by a licensee or employee of, or individual approved to be present in, a licensed facility, certified family home, or resource family home.
- (7) Hospital scan teams. As used in this paragraph, "hospital scan team" means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse or neglect. The disclosure authorized by this section includes disclosure among all hospital scan teams.
- (8) Coroners and medical examiners when conducting a post mortem examination of a child.
- (9) The Board of Parole Hearings, which may subpoena an employee of a county welfare department who can provide relevant evidence and reports that both (A) are not unfounded, pursuant to Section 11165.12, and (B) concern only the current incidents upon which parole revocation proceedings are pending against a parolee charged with child abuse or neglect. The reports and information shall be confidential pursuant to subdivision (d) of Section 11167.
- (10) Personnel from an agency responsible for making a placement of a child pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.
- (11) Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to paragraph (7) of subdivision (b) of Section 11170 or subdivision (c) of Section 11170, or persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided in subdivision (f) of Section 11170. Disclosure under this paragraph is required notwithstanding the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting any information necessary to maintain confidentiality as required by law.

- (12) Out-of-state law enforcement agencies conducting an investigation of child abuse or neglect only when an agency makes the request for reports of suspected child abuse or neglect in writing and on official letterhead, or as designated by the Department of Justice, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written request shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports is to be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the safeguards in place to prevent unlawful disclosure provided by the requesting state or the applicable interstate compact provision.
- (13) Out-of-state agencies responsible for approving prospective foster or adoptive parents for placement of a child only when the agency makes the request in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248). The request shall also cite the safeguards in place to prevent unlawful disclosure provided by the requesting state or the applicable interstate compact provision and indicate that the requesting state shall maintain continual compliance with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases.
- (14) Each chairperson of a county child death review team, or his or her designee, to whom disclosure of information is permitted under this article, relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.
- (c) Authorized persons within county health departments shall be permitted to receive copies of any reports made by health practitioners, as defined in paragraphs (21) to (28), inclusive, of subdivision (a) of Section 11165.7, and pursuant to Section 11165.13, and copies of assessments completed pursuant to Sections 123600 and 123605 of the Health and Safety Code, to the extent permitted by federal law. Any information received pursuant to this subdivision is protected by subdivision (e).
- (d) Nothing in this section requires the Department of Justice to disclose information contained in records maintained under Section 11170 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

- (e) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse or neglect if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse or neglect.  
*(Amended by Stats. 2017, Ch. 732, Sec. 41. (AB 404) Effective January 1, 2018. Superseded on January 1, 2023; see amendment by Stats. 2021, Ch. 615.)*

**11168.**

The written reports required by Section 11166 shall be submitted on forms adopted by the Department of Justice after consultation with representatives of the various professional medical associations and hospital associations and county probation or welfare departments. Those forms shall be distributed by the agencies specified in Section 11165.9.

*(Amended by Stats. 2000, Ch. 916, Sec. 26. Effective January 1, 2001.)*

**11169.**

- (a) An agency specified in Section 11165.9 shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse or severe neglect that is determined to be substantiated, other than cases coming within subdivision (b) of Section 11165.2. An agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is substantiated, as defined in Section 11165.12. If a report has previously been filed which subsequently proves to be not substantiated, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The reports required by this section shall be in a form approved by the Department of Justice and may be sent by fax or electronic transmission. An agency specified in Section 11165.9 receiving a written report from another agency specified in Section 11165.9 shall not send that report to the Department of Justice.
- (b) On and after January 1, 2012, a police department or sheriff's department specified in Section 11165.9 shall no longer forward to the Department of Justice a report in writing of any case it investigates of known or suspected child abuse or severe neglect.
- (c) At the time an agency specified in Section 11165.9 forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index (CACI). The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.

- (d) Subject to subdivision (e), any person who is listed on the CACI has the right to a hearing before the agency that requested his or her inclusion in the CACI to challenge his or her listing on the CACI. The hearing shall satisfy due process requirements. It is the intent of the Legislature that the hearing provided for by this subdivision shall not be construed to be inconsistent with hearing proceedings available to persons who have been listed on the CACI prior to the enactment of the act that added this subdivision.
- (e) A hearing requested pursuant to subdivision (d) shall be denied when a court of competent jurisdiction has determined that suspected child abuse or neglect has occurred, or when the allegation of child abuse or neglect resulting in the referral to the CACI is pending before the court. A person who is listed on the CACI and has been denied a hearing pursuant to this subdivision has a right to a hearing pursuant to subdivision (d) only if the court's jurisdiction has terminated, the court has not made a finding concerning whether the suspected child abuse or neglect was substantiated, and a hearing has not previously been provided to the listed person pursuant to subdivision (d).
- (f) Any person listed in the CACI who has reached 100 years of age shall have his or her listing removed from the CACI.
- (g) Any person listed in the CACI as of January 1, 2013, who was listed prior to reaching 18 years of age, and who is listed once in CACI with no subsequent listings, shall be removed from the CACI 10 years from the date of the incident resulting in the CACI listing.
- (h) If, after a hearing pursuant to subdivision (d) or a court proceeding described in subdivision (e), it is determined the person's CACI listing was based on a report that was not substantiated, the agency shall notify the Department of Justice of that result and the department shall remove that person's name from the CACI.
- (i) Agencies, including police departments and sheriff's departments, shall retain child abuse or neglect investigative reports that result or resulted in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the CACI pursuant to this section and subdivision (a) of Section 11170. Nothing in this section precludes an agency from retaining the reports for a longer period of time if required by law.
- (j) The immunity provisions of Section 11172 shall not apply to the submission of a report by an agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.

*(Amended by Stats. 2012, Ch. 848, Sec. 1. (AB 1707) Effective January 1, 2013.)*

## **11170.**

- (a) (1) The Department of Justice shall maintain an index of all reports of child abuse and severe neglect submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be not substantiated. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

- (2) The department shall act only as a repository of reports of suspected child abuse and severe neglect to be maintained in the Child Abuse Central Index (CACI) pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the CACI accurately reflects the report it receives from the submitting agency.
  - (3) Only information from reports that are reported as substantiated shall be filed pursuant to paragraph (1), and all other determinations shall be removed from the central list. If a person listed in the CACI was under 18 years of age at the time of the report, the information shall be deleted from the CACI 10 years from the date of the incident resulting in the CACI listing, if no subsequent report concerning the same person is received during that time period.
- (b) The provisions of subdivision (c) of Section 11169 apply to any information provided pursuant to this subdivision.
- (1) The Department of Justice shall immediately notify an agency that submits a report pursuant to Section 11169, or a prosecutor who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse or severe neglect reported by the agency. The agency shall make that information available to the reporting health care practitioner who is treating a person reported as a possible victim of known or suspected child abuse. The agency shall make that information available to the reporting child custodian, Child Abuse Prevention and Treatment Act guardian ad litem appointed under Rule 5.662 of the California Rules of Court, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she or the licensing agency is handling or investigating a case of known or suspected child abuse or severe neglect.
  - (2) When a report is made pursuant to subdivision (a) of Section 11166, or Section 11166.05, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required or authorized to report of the results of the investigation and of any action the agency is taking with regard to the child or family.
  - (3) The Department of Justice shall make relevant information from the CACI available to a law enforcement agency, county welfare department, or county probation department that is conducting a child abuse investigation.
  - (4) The department shall make available to the State Department of Social Services, or to any county licensing agency that has contracted with the state for the performance of licensing duties, or to a tribal court or tribal child welfare agency of a tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or approval, or any adult who resides or is employed in the home of an applicant for licensure or approval, or who is an applicant for employment in

- a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code, or Section 11403.2 of the Welfare and Institutions Code.
- (5) The Department of Justice shall make available to a Court Appointed Special Advocate program that is conducting a background investigation of an applicant seeking employment with the program or a volunteer position as a Court Appointed Special Advocate, as defined in Section 101 of the Welfare and Institutions Code, information contained in the index regarding known or suspected child abuse by the applicant.
  - (6) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information for investigative purposes only that is maintained in the CACI pursuant to subdivision (a) relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.
  - (7) The department shall make available to investigative agencies or probation officers, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, or Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interest of the child. Upon receipt of relevant information concerning child abuse or neglect investigation reports contained in the CACI from the Department of Justice pursuant to this subdivision, the agency or court investigator shall notify, in writing, the person listed in the CACI that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.
  - (8) Pursuant to Section 10553.12 of the Welfare and Institutions Code, the department shall make available to a tribal child welfare agency information regarding a known or suspected child abuser maintained pursuant to this section or subdivision (a) of Section 11169 who is being considered as a prospective foster parent or adoptive parent, an adult who resides or is employed in the home of an applicant for approval, or an employee of the tribal child welfare agency who may have contact with children.

- (9) The Department of Justice shall make available to a government agency conducting a background investigation pursuant to Section 1031 of the Government Code of an applicant seeking employment as a peace officer, as defined in Section 830, information regarding a known or suspected child abuser maintained pursuant to this section concerning the applicant.
- (10) The Department of Justice shall make available to a county child welfare agency or delegated county adoption agency, as defined in Section 8515 of the Family Code, conducting a background investigation, or a government agency conducting a background investigation on behalf of one of those agencies, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any applicant seeking employment or volunteer status with the agency who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect.
- (11) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse or neglect, or the State Department of Social Services or any county licensing agency pursuant to paragraph (4), or a Court Appointed Special Advocate (CASA) program conducting a background investigation for employment or volunteer candidates pursuant to paragraph (5), or an investigative agency, probation officer, or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (7), or a government agency conducting a background investigation of an applicant seeking employment as a peace officer pursuant to paragraph (9), or a county child welfare agency or delegated county adoption agency conducting a background investigation of an applicant seeking employment or volunteer status who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect, pursuant to paragraph (10), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, placement of a child, employment or volunteer positions with a CASA program, or employment as a peace officer.
- (B) If CACI information is requested by an agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the agency's inquiry and if further delay in placement may be detrimental to the child.



- (12) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing or volunteer status pursuant to paragraph (4), (5), (8), (9), or (10), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).
- (B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse or neglect system checks pursuant to this section.
- (C) All moneys, other than those described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1), and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the California DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1).
- (c) (1) The Department of Justice shall make available to any agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse or neglect reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse or neglect reports contained in the index from the Department of Justice pursuant to this subdivision, the agency shall also notify in writing the person listed in the CACI that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

- (2) If information is requested by an agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.
- (d) The department shall make available any information maintained pursuant to subdivision (a) to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse or neglect only when an agency makes the request for information in writing and on official letterhead, or as designated by the department, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the safeguards in place to prevent unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision.
- (e) (1) The department shall make available to an out-of-state agency, for purposes of approving a prospective foster or adoptive parent in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248), information regarding a known or suspected child abuser maintained pursuant to subdivision (a) concerning the prospective foster or adoptive parent, and any other adult living in the home of the prospective foster or adoptive parent. The department shall make that information available only when the out-of-state agency makes the request indicating that continual compliance will be maintained with the requirement in paragraph (20) of subsection (a) of Section 671 of Title 42 of the United States Code that requires the state to have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoption placement cases.
- (2) With respect to any information provided by the department in response to the out-of-state agency's request, the out-of-state agency is responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed and its sufficiency for making decisions regarding the approval of prospective foster or adoptive parents.

- (3) (A) Whenever information contained in the index is furnished pursuant to this subdivision, the department shall charge the out-of-state agency making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).
- (B) All moneys received by the department pursuant to this subdivision shall be deposited in the Department of Justice Child Abuse Fund, established under subparagraph (B) of paragraph (12) of subdivision (b). Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process requests for information pursuant to this subdivision.
- (f) (1) Any person may determine if he or she is listed in the CACI by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (b) of Section 11167.5.
- (2) No person or agency shall require or request another person to furnish a copy of a record concerning himself or herself, or notification that a record concerning himself or herself exists or does not exist, pursuant to paragraph (1).
- (g) If a person is listed in the CACI only as a victim of child abuse or neglect, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.
- (Amended by Stats. 2017, Ch. 732, Sec. 42. (AB 404) Effective January 1, 2018.)*

### **11170.5.**

- (a) Notwithstanding paragraph (4) of subdivision (b) of Section 11170, the Department of Justice shall make available to a licensed adoption agency, as defined in Section 8530 of the Family Code, information regarding a known or suspected child abuser maintained in the Child Abuse Central Index, pursuant to subdivision (a) of Section 11170, concerning any person who has submitted to the agency an application for adoption.
- (b) A licensed adoption agency, to which disclosure of any information pursuant to subdivision (a) is authorized, is responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed and the sufficiency of the evidence for making decisions when evaluating an application for adoption.

- (c) Whenever information contained in the Department of Justice files is furnished as the result of an application for adoption pursuant to subdivision (a), the Department of Justice may charge the agency making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

All moneys received by the department pursuant to this subdivision shall be deposited in the Department of Justice Sexual Habitual Offender Fund pursuant to subparagraph (C) of paragraph (9) of subdivision (b) of Section 11170.

*(Amended by Stats. 2004, Ch. 842, Sec. 19. Effective January 1, 2005.)*

## **11171.**

- (a) (1) The Legislature hereby finds and declares that adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.
- (2) Enhancing examination procedures, documentation, and evidence collection relating to child abuse or neglect will improve the investigation and prosecution of child abuse or neglect as well as other child protection efforts.
- (b) The Office of Emergency Services shall, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California District Attorneys Association, the California State Sheriffs' Association, the California Peace Officers Association, the California Medical Association, the California Police Chiefs' Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, establish medical forensic forms, instructions, and examination protocols for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 13823.5.
- (c) The forms shall include, but not be limited to, a place for notation concerning each of the following:
- (1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children's protective services, in accordance with existing reporting procedures.
  - (2) Addressing relevant consent issues, if indicated.
  - (3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.
  - (4) The performance of a physical examination for evidence of child physical abuse or neglect.
  - (5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.
  - (6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.

- (7) Procedures for the preservation and disposition of evidence.
  - (8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.
  - (9) An assessment as to whether there are findings that indicate physical abuse or neglect.
- (d) The forms shall become part of the patient's medical record pursuant to guidelines established by the advisory committee of the Office of Emergency Services and subject to the confidentiality laws pertaining to the release of medical forensic examination records.
- (e) The forms shall be made accessible for use on the Internet.  
*(Amended by Stats. 2013, Ch. 352, Sec. 421. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)*

**11171.2.**

- (a) A physician and surgeon or dentist or their agents and by their direction may take skeletal X-rays of the child without the consent of the child's parent or guardian, but only for purposes of diagnosing the case as one of possible child abuse or neglect and determining the extent of the child abuse or neglect.
- (b) Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this article in any court proceeding or administrative hearing.  
*(Added by renumbering Section 11171 by Stats. 2002, Ch. 249, second Sec. 3. Effective January 1, 2003.)*

**11171.5.**

- (a) If a peace officer, in the course of an investigation of child abuse or neglect, has reasonable cause to believe that the child has been the victim of physical abuse, the officer may apply to a magistrate for an order directing that the victim be X-rayed without parental consent.  
Any X-ray taken pursuant to this subdivision shall be administered by a physician and surgeon or dentist or their agents.
- (b) With respect to the cost of an X-ray taken by the county coroner or at the request of the county coroner in suspected child abuse or neglect cases, the county may charge the parent or legal guardian of the child-victim the costs incurred by the county for the X-ray.
- (c) No person who administers an X-ray pursuant to this section shall be entitled to reimbursement from the county for any administrative cost that exceeds 5 percent of the cost of the X-ray.  
*(Amended by Stats. 2000, Ch. 916, Sec. 30. Effective January 1, 2001.)*

**11172.**

- (a) No mandated reporter shall be civilly or criminally liable for any report required or authorized by this article, and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of their professional capacity or outside the scope of their employment. Any other person reporting a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any person who makes a report of child abuse or neglect known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, nor any person taking photographs at their direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse or neglect, or causing photographs to be taken of a suspected victim of child abuse or neglect, without parental consent, or for disseminating the photographs, images, or material with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.
- (b) Any person, who, pursuant to a request from a government agency investigating a report of suspected child abuse or neglect, provides the requesting agency with access to the victim of a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of providing that access.
- (c) Any commercial computer technician, and any employer of any commercial computer technician, who, pursuant to a warrant from a law enforcement agency investigating a report of suspected child abuse or neglect, provides the law enforcement agency with a computer or computer component which contains possible evidence of a known or suspected instance of child abuse or neglect, shall not incur civil or criminal liability as a result of providing that computer or computer component to the law enforcement agency.
- (d) Any person who, in good faith, provides information or assistance, including medical evaluations or consultations, to an agency specified in Section 11165.9, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect under this article, shall not incur civil or criminal liability as a result of providing that information or assistance. This subdivision does not grant immunity from liability for an individual who is suspected of committing abuse or neglect of the child who is the subject of the report.

- (e) (1) The Legislature finds that even though it has provided immunity from liability to persons required or authorized to make reports pursuant to this article, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required or authorized reports. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a mandated reporter may present a claim to the Department of General Services for reasonable attorney's fees and costs incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if they prevail in the action. The Department of General Services shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorney's fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000).
- (2) This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.
- (f) A court may award attorney's fees and costs to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.
- (Amended by Stats. 2019, Ch. 777, Sec. 17. (AB 819) Effective January 1, 2020.)*

#### **11174.**

The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of abuse in out-of-home care, as defined in Section 11165.5, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

*(Amended by Stats. 1988, Ch. 269, Sec. 5.)*

#### **11174.1.**

- (a) The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse or neglect, as defined in Section 11165.6, in facilities licensed to care for children, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.
- (b) For community treatment facilities, day treatment facilities, group homes, and foster family agencies, the State Department of Social Services shall prescribe the following regulations:

- (1) Regulations designed to assure that all licensees and employees of community treatment facilities, day treatment facilities, group homes, and foster family agencies licensed to care for children have had appropriate training, as determined by the State Department of Social Services, in consultation with representatives of licensees, on the provisions of this article.
  - (2) Regulations designed to assure the community treatment facilities, day treatment facilities, group homes, and foster family agencies licensed to care for children maintain a written protocol for the investigation and reporting of child abuse or neglect, as defined in Section 11165.6, alleged to have occurred involving a child placed in the facility.
  - (c) The State Department of Social Services shall provide such orientation and training as it deems necessary to assure that its officers, employees, or agents who conduct inspections of facilities licensed to care for children are knowledgeable about the reporting requirements of this article and have adequate training to identify conditions leading to, and the signs of, child abuse or neglect, as defined in Section 11165.6.
- (Amended by Stats. 2000, Ch. 916, Sec. 32. Effective January 1, 2001.)*

### **11174.3.**

- (a) Whenever a representative of a government agency investigating suspected child abuse or neglect or the State Department of Social Services deems it necessary, a suspected victim of child abuse or neglect may be interviewed during school hours, on school premises, concerning a report of suspected child abuse or neglect that occurred within the child's home or out-of-home care facility. The child shall be afforded the option of being interviewed in private or selecting any adult who is a member of the staff of the school, including any certificated or classified employee or volunteer aide, to be present at the interview. A representative of the agency investigating suspected child abuse or neglect or the State Department of Social Services shall inform the child of that right prior to the interview.

The purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible. However, the member of the staff so elected shall not participate in the interview. The member of the staff so present shall not discuss the facts or circumstances of the case with the child. The member of the staff so present, including, but not limited to, a volunteer aide, is subject to the confidentiality requirements of this article, a violation of which is punishable as specified in Section 11167.5. A representative of the school shall inform a member of the staff so selected by a child of the requirements of this section prior to the interview. A staff member selected by a child may decline the request to be present at the interview. If the staff person selected agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. Failure to comply with the requirements of this section does not affect the admissibility of evidence in a criminal or civil proceeding.



- (b) The Superintendent of Public Instruction shall notify each school district and each agency specified in Section 11165.9 to receive mandated reports, and the State Department of Social Services shall notify each of its employees who participate in the investigation of reports of child abuse or neglect, of the requirements of this section.

*(Amended by Stats. 2000, Ch. 916, Sec. 33. Effective January 1, 2001.)*

**11174.32.**

- (a) Each county may establish an interagency child death review team to assist local agencies in identifying and reviewing suspicious child deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases. Interagency child death review teams have been used successfully to ensure that incidents of child abuse or neglect are recognized and other siblings and nonoffending family members receive the appropriate services in cases where a child has expired.
- (b) Each county may develop a protocol that may be used as a guideline by persons performing autopsies on children to assist coroners and other persons who perform autopsies in the identification of child abuse or neglect, in the determination of whether child abuse or neglect contributed to death or whether child abuse or neglect had occurred prior to but was not the actual cause of death, and in the proper written reporting procedures for child abuse or neglect, including the designation of the cause and mode of death.
- (c) In developing an interagency child death review team and an autopsy protocol, each county, working in consultation with local members of the California State Coroner's Association and county child abuse prevention coordinating councils, may solicit suggestions and final comments from persons, including, but not limited to, the following:
- (1) Experts in the field of forensic pathology.
  - (2) Pediatricians with expertise in child abuse.
  - (3) Coroners and medical examiners.
  - (4) Criminologists.
  - (5) District attorneys.
  - (6) Child protective services staff.
  - (7) Law enforcement personnel.
  - (8) Representatives of local agencies which are involved with child abuse or neglect reporting.
  - (9) County health department staff who deals with children's health issues.
  - (10) Local professional associations of persons described in paragraphs (1) to (9), inclusive.
- (d) Records exempt from disclosure to third parties pursuant to state or federal law shall remain exempt from disclosure when they are in the possession of a child death review team.

- (e) (1) No less than once each year, each child death review team shall make available to the public findings, conclusions and recommendations of the team, including aggregate statistical data on the incidences and causes of child deaths.
- (2) In its report, the child death review team shall withhold the last name of the child that is subject to a review or the name of the deceased child's siblings unless the name has been publicly disclosed or is required to be disclosed by state law, federal law, or court order.

*(Amended by Stats. 2017, Ch. 561, Sec. 195. (AB 1516) Effective January 1, 2018.)*

**11174.33.**

Subject to available funding, the Attorney General, working with the California Consortium of Child Abuse Councils, shall develop a protocol for the development and implementation of interagency child death teams for use by counties, which shall include relevant procedures for both urban and rural counties. The protocol shall be designed to facilitate communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases so that incidents of child abuse or neglect are recognized and other siblings and nonoffending family members receive the appropriate services in cases where a child has expired. The protocol shall be completed on or before January 1, 1991.

*(Added by renumbering Section 11166.8 by Stats. 2004, Ch. 842, Sec. 12. Effective January 1, 2005.)*

**11174.34.**

- (a) (1) The purpose of this section shall be to coordinate and integrate state and local efforts to address fatal child abuse or neglect, and to create a body of information to prevent child deaths.
- (2) It is the intent of the Legislature that the California State Child Death Review Council, the Department of Justice, the State Department of Social Services, the State Department of Health Services, and state and local child death review teams shall share data and other information necessary from the Department of Justice Child Abuse Central Index and Supplemental Homicide File, the State Department of Health Services Vital Statistics and the Department of Social Services Child Welfare Services/Case Management System files to establish accurate information on the nature and extent of child abuse- or neglect-related fatalities in California as those documents relate to child fatality cases. Further, it is the intent of the Legislature to ensure that records of child abuse- or neglect-related fatalities are entered into the State Department of Social Services, Child Welfare Services/Case Management System. It is also the intent that training and technical assistance be provided to child death review teams and professionals in the child protection system regarding multiagency case review.

- (b) (1) It shall be the duty of the California State Child Death Review Council to oversee the statewide coordination and integration of state and local efforts to address fatal child abuse or neglect and to create a body of information to prevent child deaths. The Department of Justice, the State Department of Social Services, the State Department of Health Care Services, the California Coroner's Association, the County Welfare Directors Association, Prevent Child Abuse California, the California Homicide Investigators Association, the Office of Emergency Services, the Inter-Agency Council on Child Abuse and Neglect/National Center on Child Fatality Review, the California Conference of Local Health Officers, the California Conference of Local Directors of Maternal, Child, and Adolescent Health, the California Conference of Local Health Department Nursing Directors, the California District Attorneys Association, and at least three regional representatives, chosen by the other members of the council, working collaboratively for the purposes of this section, shall be known as the California State Child Death Review Council. The council shall select a chairperson or cochairpersons from the members.
- (2) The Department of Justice is hereby authorized to carry out the purposes of this section by coordinating council activities and working collaboratively with the agencies and organizations in paragraph (1), and may consult with other representatives of other agencies and private organizations, to help accomplish the purpose of this section.
- (c) Meetings of the agencies and organizations involved shall be convened by a representative of the Department of Justice. All meetings convened between the Department of Justice and any organizations required to carry out the purpose of this section shall take place in this state. There shall be a minimum of four meetings per calendar year.
- (d) To accomplish the purpose of this section, the Department of Justice and agencies and organizations involved shall engage in the following activities:
- (1) Analyze and interpret state and local data on child death in an annual report to be submitted to local child death review teams with copies to the Governor and the Legislature, no later than July 1 each year. Copies of the report shall also be distributed to public officials in the state who deal with child abuse issues and to those agencies responsible for child death investigation in each county. The report shall contain, but not be limited to, information provided by state agencies and the county child death review teams for the preceding year.
- The state data shall include the Department of Justice Child Abuse Central Index and Supplemental Homicide File, the State Department of Health Services Vital Statistics, and the State Department of Social Services Child Welfare Services/Case Management System.

- (2) In conjunction with the Office of Emergency Services, coordinate statewide and local training for county death review teams and the members of the teams, including, but not limited to, training in the application of the interagency child death investigation protocols and procedures established under Sections 11166.7 and 11166.8 to identify child deaths associated with abuse or neglect.
- (e) The State Department of Public Health, in collaboration with the California State Child Death Review Council, shall design, test and implement a statewide child abuse or neglect fatality tracking system incorporating information collected by local child death review teams. The department shall:
  - (1) Establish a minimum case selection criteria and review protocols of local child death review teams.
  - (2) Develop a standard child death review form with a minimum core set of data elements to be used by local child death review teams, and collect and analyze that data.
  - (3) Establish procedural safeguards in order to maintain appropriate confidentiality and integrity of the data.
  - (4) Conduct annual reviews to reconcile data reported to the State Department of Health Services Vital Statistics, Department of Justice Homicide Files and Child Abuse Central Index, and the State Department of Social Services Child Welfare Services/Case Management System data systems, with data provided from local child death review teams.
  - (5) Provide technical assistance to local child death review teams in implementing and maintaining the tracking system.
  - (6) This subdivision shall become operative on July 1, 2000, and shall be implemented only to the extent that funds are appropriated for its purposes in the Budget Act.
- (f) Local child death review teams shall participate in a statewide child abuse or neglect fatalities monitoring system by:
  - (1) Meeting the minimum standard protocols set forth by the State Department of Public Health in collaboration with the California State Child Death Review Council.
  - (2) Using the standard data form to submit information on child abuse or neglect fatalities in a timely manner established by the State Department of Public Health.
- (g) The California State Child Death Review Council shall monitor the implementation of the monitoring system and incorporate the results and findings of the system and review into an annual report.

- (h) The Department of Justice shall direct the creation, maintenance, updating, and distribution electronically and by paper, of a statewide child death review team directory, which shall contain the names of the members of the agencies and private organizations participating under this section, and the members of local child death review teams and local liaisons to those teams. The department shall work in collaboration with members of the California State Child Death Review Council to develop a directory of professional experts, resources, and information from relevant agencies and organizations and local child death review teams, and to facilitate regional working relationships among teams. The Department of Justice shall maintain and update these directories annually.
- (i) The agencies or private organizations participating under this section shall participate without reimbursement from the state. Costs incurred by participants for travel or per diem shall be borne by the participant agency or organization. The participants shall be responsible for collecting and compiling information to be included in the annual report. The Department of Justice shall be responsible for printing and distributing the annual report using available funds and existing resources.
- (j) The Office of Emergency Services, in coordination with the State Department of Social Services, the Department of Justice, and the California State Child Death Review Council shall contract with state or nationally recognized organizations in the area of child death review to conduct statewide training and technical assistance for local child death review teams and relevant organizations, develop standardized definitions for fatal child abuse or neglect, develop protocols for the investigation of fatal child abuse or neglect, and address relevant issues such as grief and mourning, data collection, training for medical personnel in the identification of child abuse or neglect fatalities, domestic violence fatality review, and other related topics and programs. The provisions of this subdivision shall only be implemented to the extent that the agency can absorb the costs of implementation within its current funding, or to the extent that funds are appropriated for its purposes in the Budget Act.
- (k) Law enforcement and child welfare agencies shall cross-report all cases of child death suspected to be related to child abuse or neglect whether or not the deceased child has any known surviving siblings.
- (l) County child welfare agencies shall create a record in the Child Welfare Services/Case Management System (CWS/CMS) on all cases of child death suspected to be related to child abuse or neglect, whether or not the deceased child has any known surviving siblings. Upon notification that the death was determined not to be related to child abuse or neglect, the child welfare agency shall enter that information into the Child Welfare Services/Case Management System.

*(Amended by Stats. 2013, Ch. 352, Sec. 422. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)*

**11174.35.**

The State Department of Social Services shall work with state and local child death review teams and child protective services agencies in order to identify child death cases that were, or should have been, reported to or by county child protective services agencies. Findings made pursuant to this section shall be used to determine the extent of child abuse or neglect fatalities occurring in families known to child protective services agencies and to define child welfare training needs for reporting, cross-reporting, data integration, and involvement by child protective services agencies in multiagency review in child deaths. The State Department of Social Services, the State Department of Health Services, and the Department of Justice shall develop a plan to track and maintain data on child deaths from abuse or neglect, and submit this plan, not later than December 1, 1997, to the Senate Committee on Health and Human Services, the Assembly Committee on Human Services, and the chairs of the fiscal committees of the Legislature.

*(Added by renumbering Section 11166.95 by Stats. 2004, Ch. 842, Sec. 14. Effective January 1, 2005.)*

**11174.4.**

The following definitions shall govern the construction of this article, unless the context requires otherwise:

- (a) "Elder" means any person who is 65 years of age or older.
- (b) (1) "Abuse" means any of the conduct described in Article 2 (commencing with Section 15610) of Chapter 11 of Part 3 of Division 9 of the Welfare and Institutions Code.
- (2) Abuse does not include the use of any reasonable and necessary force that may result in an injury used by a peace officer acting within the course of his or her employment as a peace officer.

*(Amended (as added by Stats. 2001, Ch. 301) by Stats. 2002, Ch. 664, Sec. 174. Effective January 1, 2003.)*

# EXCERPTS FROM THE WELFARE AND INSTITUTIONS CODE

## ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT

### Sections 15610–15610.65, 15630–15632

#### 15610.

The definitions contained in this article shall govern the construction of this chapter, unless the context requires otherwise.

*(Repealed and added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

#### 15610.05.

“Abandonment” means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

#### 15610.06.

“Abduction” means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

*(Added by Stats. 1997, Ch. 663, Sec. 2. Effective January 1, 1998.)*

#### 15610.07.

(a) “Abuse of an elder or a dependent adult” means any of the following:

- (1) Physical abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering.
- (2) The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.
- (3) Financial abuse, as defined in Section 15610.30.

(b) This section shall become operative on July 1, 2016.

*(Repealed (in Sec. 1) and added by Stats. 2015, Ch. 285, Sec. 2. (SB 196) Effective January 1, 2016. Section operative July 1, 2016, by its own provisions.)*

#### 15610.10.

“Adult protective services” means those activities performed on behalf of elders and dependent adults who have come to the attention of the adult protective services agency due to potential abuse or neglect.

*(Amended by Stats. 2021, Ch. 85, Sec. 63. (AB 135) Effective July 16, 2021.)*

**15610.13.**

“Adult protective services agency” means a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

**15610.15.**

“Division” means the Division of Medi-Cal Fraud and Elder Abuse within the office of the Attorney General.

*(Amended by Stats. 2021, Ch. 554, Sec. 13. (SB 823) Effective January 1, 2022.)*

**15610.17.**

“Care custodian” means an administrator or an employee of any of the following public or private facilities or agencies, or persons providing care or services for elders or dependent adults, including members of the support staff and maintenance staff:

- (a) Twenty-four-hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.
- (b) Clinics.
- (c) Home health agencies.
- (d) Agencies providing publicly funded in-home supportive services, nutrition services, or other home and community-based support services.
- (e) Adult day health care centers and adult day care.
- (f) Secondary schools that serve 18- to 22-year-old dependent adults and postsecondary educational institutions that serve dependent adults or elders.
- (g) Independent living centers.
- (h) Camps.
- (i) Alzheimer's Disease day care resource centers.
- (j) Community care facilities, as defined in Section 1502 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.
- (k) Respite care facilities.
- (l) Foster homes.
- (m) Vocational rehabilitation facilities and work activity centers.
- (n) Designated area agencies on aging.
- (o) Regional centers for persons with developmental disabilities.
- (p) State Department of Social Services and State Department of Health Services licensing divisions.
- (q) County welfare departments.
- (r) Offices of patients' rights advocates and clients' rights advocates, including attorneys.
- (s) The office of the long-term care ombudsman.
- (t) Offices of public conservators, public guardians, and court investigators.
- (u) Any protection or advocacy agency or entity that is designated by the Governor to fulfill the requirements and assurances of the following:



- (1) The federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, for protection and advocacy of the rights of persons with developmental disabilities.
  - (2) The Protection and Advocacy for the Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with mental illness.
  - (v) Humane societies and animal control agencies.
  - (w) Fire departments.
  - (x) Offices of environmental health and building code enforcement.
  - (y) Any other protective, public, sectarian, mental health, or private assistance or advocacy agency or person providing health services or social services to elders or dependent adults.
- (Amended by Stats. 2002, Ch. 54, Sec. 2. Effective January 1, 2003.)*

**15610.19.**

“Clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, synagogue, temple, mosque, or recognized religious denomination or organization. “Clergy member” does not include unpaid volunteers whose principal occupation or vocation does not involve active or ordained ministry in a church, synagogue, temple, mosque, or recognized religious denomination or organization, and who periodically visit elder or dependent adults on behalf of that church, synagogue, temple, mosque, or recognized religious denomination or organization.

*(Added by Stats. 2002, Ch. 54, Sec. 3. Effective January 1, 2003.)*

**15610.20.**

“Clients’ rights advocate” means the individual or individuals assigned by a regional center or state hospital developmental center to be responsible for clients’ rights assurance for persons with developmental disabilities.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

**15610.23.**

- (a) “Dependent adult” means a person, regardless of whether the person lives independently, between the ages of 18 and 64 years who resides in this state and 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.
- (b) “Dependent adult” includes any person between the ages of 18 and 64 years who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

*(Amended by Stats. 2018, Ch. 70, Sec. 5. (AB 1934) Effective January 1, 2019.)*

**15610.25.**

“Developmentally disabled person” means a person with a developmental disability specified by or as described in subdivision (a) of Section 4512.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

**15610.27.**

“Elder” means any person residing in this state, 65 years of age or older.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

**15610.30.**

(a) “Financial abuse” of an elder or dependent adult occurs when a person or entity does any of the following:

- (1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
- (2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
- (3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.

(c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.

(d) For purposes of this section, “representative” means a person or entity that is either of the following:

- (1) A conservator, trustee, or other representative of the estate of an elder or dependent adult.
- (2) An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

*(Amended by Stats. 2013, Ch. 668, Sec. 2. (AB 140) Effective January 1, 2014.)*

**15610.35.**

“Goods and services necessary to avoid physical harm or mental suffering” include, but are not limited to, all of the following:

- (a) The provision of medical care for physical and mental health needs.
- (b) Assistance in personal hygiene.

- (c) Adequate clothing.
  - (d) Adequately heated and ventilated shelter.
  - (e) Protection from health and safety hazards.
  - (f) Protection from malnutrition, under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment.
  - (g) Transportation and assistance necessary to secure any of the needs set forth in subdivisions (a) to (f), inclusive.
- (Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

**15610.37.**

“Health practitioner” means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, registered nurse, dental hygienist, licensed clinical social worker or associate clinical social worker, marriage and family therapist, licensed professional clinical counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, an unlicensed marriage and family therapist intern registered under Section 4980.44 of the Business and Professions Code, a clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code, a clinical counselor intern registered under Section 4999.42 of the Business and Professions Code, a state or county public health or social service employee who treats an elder or a dependent adult for any condition, a coroner, or a substance use disorder counselor. As used in this section, a “substance use disorder counselor” is a person providing counseling services in an alcoholism or drug abuse recovery and treatment program licensed, certified, or funded under Part 2 (commencing with Section 11760) of Division 10.5 of the Health and Safety Code.

*(Amended by Stats. 2017, Ch. 407, Sec. 1. (AB 575) Effective January 1, 2018.)*

**15610.39.**

“Imminent danger” means a substantial probability that an elder or dependent adult is in imminent or immediate risk of death or serious physical harm, through either his or her own action or inaction, or as a result of the action or inaction of another person.

*(Added by Stats. 2002, Ch. 54, Sec. 6. Effective January 1, 2003.)*

**15610.40.**

“Investigation” means that activity undertaken to determine the validity of a report of elder or dependent adult abuse.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

**15610.43.**

(a) "Isolation" means any of the following:

- (1) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
- (2) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
- (3) False imprisonment, as defined in Section 236 of the Penal Code.
- (4) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safety.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

**15610.45.**

"Local law enforcement agency" means a city police or county sheriff's department, or a county probation department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

**15610.47.**

"Long-term care facility" means any of the following:

- (a) Any long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.
- (b) Any community care facility, as defined in paragraphs (1) and (2) of subdivision (a) of Section 1502 of the Health and Safety Code, whether licensed or unlicensed.
- (c) Any swing bed in an acute care facility, or any extended care facility.
- (d) Any adult day health care facility as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.
- (e) Any residential care facility for the elderly as defined in Section 1569.2 of the Health and Safety Code.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

**15610.50.**

“Long-term care ombudsman” means the State Long-Term Care Ombudsman, local ombudsman coordinators, and other persons currently certified as ombudsmen by the Department of Aging as described in Chapter 11 (commencing with Section 9700) of Division 8.5.

*(Amended by Stats. 2002, Ch. 54, Sec. 7. Effective January 1, 2003.)*

**15610.53.**

“Mental suffering” means fear, agitation, confusion, severe depression, or other forms of serious emotional distress that is brought about by forms of intimidating behavior, threats, harassment, or by deceptive acts performed or false or misleading statements made with malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress of the elder or dependent adult.

*(Amended by Stats. 2000, Ch. 559, Sec. 3. Effective January 1, 2001.)*

**15610.55.**

(a) “Multidisciplinary personnel team” means any team of two or more persons who are trained in the prevention, identification, management, or treatment of abuse of elderly or dependent adults and who are qualified to provide a broad range of services related to abuse of elderly or dependent adults.

(b) A multidisciplinary personnel team may include, but need not be limited to, any of the following:

- (1) Psychiatrists, psychologists, or other trained counseling personnel.
- (2) Police officers or other law enforcement agents, including district attorneys.
- (3) Health practitioners, as defined in Section 15610.37.
- (4) Social workers with experience or training in prevention of abuse of elderly or dependent adults.
- (5) Public guardians, public conservators, or public administrators.
- (6) The local long-term care ombudsman.
- (7) Child welfare services personnel.
- (8) Representatives of a health plan.
- (9) Housing representatives.
- (10) County counsel.
- (11) A person with expertise in finance or accounting.

*(Amended by Stats. 2021, Ch. 85, Sec. 64. (AB 135) Effective July 16, 2021.)*

**15610.57.**

(a) “Neglect” means either of the following:

- (1) 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.
- (2) The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

- (1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
  - (2) Failure to provide medical care for physical and mental health needs. A person shall not be deemed neglected or abused for the sole reason that the person voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
  - (3) Failure to protect from health and safety hazards.
  - (4) Failure to prevent malnutrition or dehydration.
  - (5) Substantial inability or failure of an elder or dependent adult to manage their own finances.
  - (6) Failure of an elder or dependent adult to satisfy any of the needs specified in paragraphs (1) to (5), inclusive, for themselves as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.
- (c) Neglect includes being homeless if the elder or dependent adult is also unable to meet any of the needs specified in paragraphs (1) to (5), inclusive, of subdivision (b).  
*(Amended by Stats. 2021, Ch. 85, Sec. 65. (AB 135) Effective July 16, 2021.)*

**15610.60.**

“Patients’ rights advocate” means a person who has no direct or indirect clinical or administrative responsibility for the patient, and who is responsible for ensuring that laws, regulations, and policies on the rights of the patient are observed.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

**15610.63.**

“Physical abuse” means any of the following:

- (a) Assault, as defined in Section 240 of the Penal Code.
- (b) Battery, as defined in Section 242 of the Penal Code.
- (c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.
- (d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
- (e) Sexual assault, that means any of the following:
  - (1) Sexual battery, as defined in Section 243.4 of the Penal Code.
  - (2) Rape, as defined in Section 261 of the Penal Code.
  - (3) Rape in concert, as described in Section 264.1 of the Penal Code.
  - (4) Incest, as defined in Section 285 of the Penal Code.
  - (5) Sodomy, as defined in Section 286 of the Penal Code.
  - (6) Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
  - (7) Sexual penetration, as defined in Section 289 of the Penal Code.
  - (8) Lewd or lascivious acts, as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.

- (f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
    - (1) For punishment.
    - (2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
    - (3) For any purpose not authorized by the physician and surgeon.
- (Amended by Stats. 2021, Ch. 626, Sec. 75. (AB 1171) Effective January 1, 2022.)*

### **15610.65.**

“Reasonable suspicion” means 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.

*(Added by Stats. 1994, Ch. 594, Sec. 3. Effective January 1, 1995.)*

### **15630.**

- (a) A person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not they receive compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.
- (b) (1) A mandated reporter who, in their professional capacity, or within the scope of their employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that they have experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an internet report shall be made through the confidential internet reporting tool established in Section 15658, within two working days.
  - (A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:

- (i) If the suspected abuse results in serious bodily injury, a telephone report shall be made to the local law enforcement agency immediately, but also no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
  - (ii) If the suspected abuse does not result in serious bodily injury, a telephone report shall be made to the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.
  - (iii) When the suspected abuse is allegedly caused by a resident with a physician's diagnosis of dementia, and there is no serious bodily injury, as reasonably determined by the mandated reporter, drawing upon their training or experience, the reporter shall report to the local ombudsman or law enforcement agency by telephone, immediately or as soon as practicably possible, and by written report, within 24 hours.
  - (iv) When applicable, reports made pursuant to clauses (i) and (ii) shall be deemed to satisfy the reporting requirements of the federal Elder Justice Act of 2009, as set out in Subtitle H of the federal Patient Protection and Affordable Care Act (Public Law 111-148), Section 1418.91 of the Health and Safety Code, and Section 72541 of Title 22 of the California Code of Regulations. When a local law enforcement agency receives an initial report of suspected abuse in a long-term care facility pursuant to this subparagraph, the local law enforcement agency may coordinate efforts with the local ombudsman to provide the most immediate and appropriate response warranted to investigate the mandated report. The local ombudsman and local law enforcement agencies may collaborate to develop protocols to implement this subparagraph.
- (B) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any other law, the department may implement subparagraph (A), in whole or in part, by means of all-county letters, provider bulletins, or other similar instructions without taking regulatory action.



- (C) If the suspected or alleged abuse is abuse other than physical abuse, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, a telephone report and a written report shall be made to the local ombudsman or the local law enforcement agency.
- (D) With regard to abuse reported pursuant to subparagraph (C), the local ombudsman and the local law enforcement agency shall, as soon as practicable, except in the case of an emergency or pursuant to a report required to be made pursuant to clause (v), in which case these actions shall be taken immediately, do all of the following:
  - (i) Report to the State Department of Public Health any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.
  - (ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day program, as defined in paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code.
  - (iii) Report to the State Department of Public Health and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.
  - (iv) Report to the Division of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.
  - (v) Report all cases of known or suspected physical abuse and financial abuse to the local district attorney's office in the county where the abuse occurred.
- (E) (i) If the suspected or alleged abuse or neglect occurred in a state mental hospital or a state developmental center, and the suspected or alleged abuse or neglect resulted in any of the following incidents, a report shall be made immediately, but no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting abuse, to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, and to the local law enforcement agency:
  - (I) A death.
  - (II) A sexual assault, as defined in Section 15610.63.
  - (III) An assault with a deadly weapon, as described in Section 245 of the Penal Code, by a nonresident of the state mental hospital or state developmental center.
  - (IV) An assault with force likely to produce great bodily injury, as described in Section 245 of the Penal Code.

- (V) An injury to the genitals when the cause of the injury is undetermined.
- (VI) A broken bone when the cause of the break is undetermined.
- (ii) All other reports of suspected or alleged abuse or neglect that occurred in a state mental hospital or a state developmental center shall be made immediately, but no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting abuse, to designated investigators of the State Department of State Hospitals or the State Department of Developmental Services, or to the local law enforcement agency.
- (iii) When a local law enforcement agency receives an initial report of suspected or alleged abuse or neglect in a state mental hospital or a state developmental center pursuant to clause (i), the local law enforcement agency shall coordinate efforts with the designated investigators of the State Department of State Hospitals or the State Department of Developmental Services to provide the most immediate and appropriate response warranted to investigate the mandated report. The designated investigators of the State Department of State Hospitals or the State Department of Developmental Services and local law enforcement agencies may collaborate to develop protocols to implement this clause.
- (iv) Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Division of Medi-Cal Fraud and Elder Abuse.
- (v) Notwithstanding any other law, a mandated reporter who is required to report pursuant to Section 4427.5 shall not be required to report under clause (i).
- (F) If the abuse has occurred in any place other than a long-term care facility, a state mental hospital, or a state developmental center, the report shall be made to the adult protective services agency or the local law enforcement agency.
- (2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, "penitential communication" means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of their church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of their church, denomination, or organization, has a duty to keep those communications secret.
- (B) This subdivision shall not modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse if they are acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency.

- (C) Notwithstanding this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.
- (3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident if all of the following conditions exist:
- (i) The mandated reporter has been told by an elder or dependent adult that they have experienced behavior constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect.
  - (ii) The mandated reporter is unaware of any independent evidence that corroborates the statement that the abuse has occurred.
  - (iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.
  - (iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.
- (B) This paragraph shall not impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not lessen or restrict any existing duty of mandated reporters.
- (4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident if all of the following conditions exist:
- (i) The mandated reporter is aware that there is a proper plan of care.
  - (ii) The mandated reporter is aware that the plan of care was properly provided or executed.
  - (iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).
  - (iv) The mandated reporter reasonably believes that the injury was not the result of abuse.
- (B) This paragraph shall neither require a mandated reporter to seek, nor preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse before reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Public Health determines, upon approval by the Division of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsman, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

- (c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that their emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.
- (2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsman program. Except in an emergency, the local ombudsman shall report any case of known or suspected abuse to the State Department of Public Health and any case of known or suspected criminal activity to the Division of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.
- (3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of State Hospitals or the State Department of Developmental Services or to a local law enforcement agency. Except in an emergency, the local law enforcement agency shall report any case of known or suspected criminal activity to the Division of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.
- (4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.
- (5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.
- (d) If two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and there is agreement among them, the telephone report or internet report, as authorized by Section 15658, may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.
- (e) A telephone report or internet report, as authorized by Section 15658, of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

- (f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.
- (g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.
- (2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.
- (3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision allow disclosure of any reports or records if the disclosure would be prohibited by any other state or federal law.
- (h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. A mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, if that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals their failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 discovers the offense.
- (i) For purposes of this section, “dependent adult” has the same meaning as that term is defined in Section 15610.23.
- (Amended by Stats. 2021, Ch. 554, Sec. 14. (SB 823) Effective January 1, 2022.)*

### **15630.1.**

- (a) As used in this section, “mandated reporter of suspected financial abuse of an elder or dependent adult” means all officers and employees of financial institutions.
- (b) As used in this section, the term “financial institution” means any of the following:

- (1) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).
  - (2) An institution-affiliated party, as defined in Section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(u)).
  - (3) A federal credit union or state credit union, as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. Sec. 1752), including, but not limited to, an institution-affiliated party of a credit union, as defined in Section 206(r) of the Federal Credit Union Act (12 U.S.C. Sec. 1786(r)).
- (c) As used in this section, “financial abuse” has the same meaning as in Section 15610.30.
- (d) (1) Any mandated reporter of suspected financial abuse of an elder or dependent adult who has direct contact with the elder or dependent adult or who reviews or approves the elder or dependent adult’s financial documents, records, or transactions, in connection with providing financial services with respect to an elder or dependent adult, and who, within the scope of his or her employment or professional practice, has observed or has knowledge of an incident, that is directly related to the transaction or matter that is within that scope of employment or professional practice, that reasonably appears to be financial abuse, or who reasonably suspects that abuse, based solely on the information before him or her at the time of reviewing or approving the document, record, or transaction in the case of mandated reporters who do not have direct contact with the elder or dependent adult, shall report the known or suspected instance of financial abuse by telephone or through a confidential Internet reporting tool, as authorized pursuant to Section 15658, immediately, or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days to the local adult protective services agency or the local law enforcement agency.
- (2) When two or more mandated reporters jointly have knowledge or reasonably suspect that financial abuse of an elder or a dependent adult for which the report is mandated has occurred, and when there is an agreement among them, the telephone report or Internet report, as authorized by Section 15658, may be made by a member of the reporting team who is selected by mutual agreement. A single report may be made and signed by the selected member of the reporting team. Any member of the team who has knowledge that the member designated to report has failed to do so shall thereafter make that report.
- (3) If the mandated reporter knows that the elder or dependent adult resides in a long-term care facility, as defined in Section 15610.47, the report shall be made to the local ombudsman or local law enforcement agency.
- (e) An allegation by the elder or dependent adult, or any other person, that financial abuse has occurred is not sufficient to trigger the reporting requirement under this section if both of the following conditions are met:

- (1) The mandated reporter of suspected financial abuse of an elder or dependent adult is aware of no other corroborating or independent evidence of the alleged financial abuse of an elder or dependent adult. The mandated reporter of suspected financial abuse of an elder or dependent adult is not required to investigate any accusations.
  - (2) In the exercise of his or her professional judgment, the mandated reporter of suspected financial abuse of an elder or dependent adult reasonably believes that financial abuse of an elder or dependent adult did not occur.
- (f) Failure to report financial abuse under this section shall be subject to a civil penalty not exceeding one thousand dollars (\$1,000) or if the failure to report is willful, a civil penalty not exceeding five thousand dollars (\$5,000), which shall be paid by the financial institution that is the employer of the mandated reporter to the party bringing the action. Subdivision (h) of Section 15630 shall not apply to violations of this section.
- (g) (1) The civil penalty provided for in subdivision (f) shall be recovered only in a civil action brought against the financial institution by the Attorney General, district attorney, or county counsel. No action shall be brought under this section by any person other than the Attorney General, district attorney, or county counsel. Multiple actions for the civil penalty may not be brought for the same violation.
- (2) Nothing in the Financial Elder Abuse Reporting Act of 2005 shall be construed to limit, expand, or otherwise modify any civil liability or remedy that may exist under this or any other law.
- (h) As used in this section, “suspected financial abuse of an elder or dependent adult” occurs when a person who is required to report under subdivision (a) observes or has knowledge of behavior or unusual circumstances or transactions, or a pattern of behavior or unusual circumstances or transactions, that would lead an individual with like training or experience, based on the same facts, to form a reasonable belief that an elder or dependent adult is the victim of financial abuse as defined in Section 15610.30.
- (i) Reports of suspected financial abuse of an elder or dependent adult made by an employee or officer of a financial institution pursuant to this section are covered under subdivision (b) of Section 47 of the Civil Code.
- (j) (1) A mandated reporter of suspected financial abuse of an elder or dependent adult is authorized to not honor a power of attorney described in Division 4.5 (commencing with Section 4000) of the Probate Code as to an attorney-in-fact, if the mandated reporter of suspected financial abuse of an elder or dependent adult makes a report to an adult protective services agency or a local law enforcement agency of any state that the principal may be subject to financial abuse, as described in this chapter or as defined in similar laws of another state, by that attorney-in-fact or person acting for or with that attorney-in-fact.

- (2) If a mandated reporter of suspected financial abuse of an elder or dependent adult does not honor a power of attorney as to an attorney-in-fact pursuant to paragraph (1), the power of attorney shall remain enforceable as to every other attorney-in-fact also designated in the power of attorney about whom a report has not been made.
- (3) For purposes of this subdivision, the terms “principal” and “attorney-in-fact” shall have the same meanings as those terms are used in Division 4.5 (commencing with Section 4000) of the Probate Code.

*(Amended by Stats. 2017, Ch. 408, Sec. 1. (AB 611) Effective January 1, 2018.)*

### **15631.**

- (a) Any person who is not a mandated reporter under Section 15630, who knows, or reasonably suspects, that an elder or a dependent adult has been the victim of abuse may report that abuse to a long-term care ombudsman program or local law enforcement agency, or both the long-term care ombudsman program and local law enforcement agency when the abuse is alleged to have occurred in a long-term care facility.
  - (b) Any person who is not a mandated reporter under Section 15630, who knows, or reasonably suspects, that an elder or a dependent adult has been the victim of abuse in any place other than a long-term care facility may report the abuse to the county adult protective services agency or local law enforcement agency
- (Amended by Stats. 2012, Ch. 659, Sec. 3. (AB 40) Effective January 1, 2013.)*

### **15632.**

- (a) In any court proceeding or administrative hearing, neither the physician-patient privilege nor the psychotherapist-patient privilege applies to the specific information reported pursuant to this chapter.
- (b) Nothing in this chapter shall be interpreted as requiring an attorney to violate his or her oath and duties pursuant to Section 6067 or subdivision (e) of Section 6068 of the Business and Professions Code, and Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

*(Repealed and added by Stats. 1994, Ch. 594, Sec. 11. Effective January 1, 1995.)*



# EXCERPTS FROM THE CALIFORNIA CODE OF REGULATIONS

## TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS

### DIVISION 10. DENTAL BOARD OF CALIFORNIA

#### CHAPTER 1. GENERAL PROVISIONS APPLICABLE TO ALL LICENSEES

##### Article 1. General Provisions

##### § 1005. Minimum Standards for Infection Control

(a) Definitions of terms used in this section:

- (1) "Standard precautions" are a group of infection prevention practices that apply to all patients, regardless of suspected or confirmed infection status, in any setting in which healthcare is delivered. These include: hand hygiene, use of gloves, gown, mask, eye protection, or face shield, depending on the anticipated exposure, and safe handling of sharps. Standard precautions shall be used for care of all patients regardless of their diagnoses or personal infectious status.
- (2) "Critical items" confer a high risk for infection if they are contaminated with any microorganism. These include all instruments, devices, and other items used to penetrate soft tissue or bone.
- (3) "Semi-critical items" are instruments, devices and other items that are not used to penetrate soft tissue or bone, but contact oral mucous membranes, non-intact skin or other potentially infectious materials (OPIM).
- (4) "Non-critical items" are instruments, devices, equipment, and surfaces that come in contact with soil, debris, saliva, blood, OPIM and intact skin, but not oral mucous membranes.
- (5) "Low-level disinfection" is the least effective disinfection process. It kills some bacteria, some viruses and fungi, but does not kill bacterial spores or mycobacterium tuberculosis var bovis, a laboratory test organism used to classify the strength of disinfectant chemicals.
- (6) "Intermediate-level disinfection" kills mycobacterium tuberculosis var bovis indicating that many human pathogens are also killed. This process does not necessarily kill spores.
- (7) "High-level disinfection" kills some, but not necessarily all bacterial spores. This process kills mycobacterium tuberculosis var bovis, bacteria, fungi, and viruses.
- (8) "Germicide" is a chemical agent that can be used to disinfect items and surfaces based on the level of contamination.
- (9) "Sterilization" is a validated process used to render a product free of all forms of viable microorganisms.

- (10) "Cleaning" is the removal of visible soil (e.g., organic and inorganic material) debris and OPIM from objects and surfaces and shall be accomplished manually or mechanically using water with detergents or enzymatic products.
- (11) "Personal Protective Equipment" (PPE) is specialized clothing or equipment worn or used for protection against a hazard. PPE items may include, but are not limited to, gloves, masks, respiratory devices, protective eyewear and protective attire which are intended to prevent exposure to blood, body fluids, OPIM, and chemicals used for infection control. General work attire such as uniforms, scrubs, pants and shirts, are not considered to be PPE.
- (12) "Other Potentially Infectious Materials" (OPIM) means any one of the following:
- (A) Human body fluids such as saliva in dental procedures and any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids.
  - (B) Any unfixed tissue or organ (other than intact skin) from a human (living or dead).
  - (C) Any of the following, if known or reasonably likely to contain or be infected with human immunodeficiency virus (HIV), hepatitis B virus (HBV), or hepatitis C virus (HCV):
    - 1. Cell, tissue, or organ cultures from humans or experimental animals;
    - 2. Blood, organs, or other tissues from experimental animals; or
    - 3. Culture medium or other solutions.
- (13) "Dental Healthcare Personnel" (DHCP), are all paid and non-paid personnel in the dental healthcare setting who might be occupationally exposed to infectious materials, including body substances and contaminated supplies, equipment, environmental surfaces, water, or air. DHCP includes dentists, dental hygienists, dental assistants, dental laboratory technicians (in-office and commercial), students and trainees, contractual personnel, and other persons not directly involved in patient care but potentially exposed to infectious agents (e.g., administrative, clerical, housekeeping, maintenance, or volunteer personnel).
- (b) All DHCP shall comply with infection control precautions and enforce the following minimum precautions to protect patients and DHCP and to minimize the transmission of pathogens in health care settings as mandated by the California Division of Occupational Safety and Health (Cal/OSHA).
- (1) Standard precautions shall be practiced in the care of all patients.
  - (2) A written protocol shall be developed, maintained, and periodically updated for proper instrument processing, operatory cleanliness, and management of injuries. The protocol shall be made available to all DHCP at the dental office.
  - (3) A copy of this regulation shall be conspicuously posted in each dental office.

#### Personal Protective Equipment:

- (4) All DHCP shall wear surgical facemasks in combination with either chin length plastic face shields or protective eyewear whenever there is potential for aerosol spray, splashing or spattering of the following: droplet nuclei, blood, chemical or germicidal agents or OPIM. Chemical-resistant utility gloves and appropriate, task specific PPE shall be worn when handling hazardous chemicals. After each patient treatment, masks shall be changed and disposed. After each patient treatment, face shields and protective eyewear shall be cleaned, disinfected, or disposed.
- (5) Protective attire shall be worn for disinfection, sterilization, and housekeeping procedures involving the use of germicides or handling contaminated items. All DHCP shall wear reusable or disposable protective attire whenever there is a potential for aerosol spray, splashing or spattering of blood, OPIM, or chemicals and germicidal agents. Protective attire must be changed daily or between patients if they should become moist or visibly soiled. All PPE used during patient care shall be removed when leaving laboratories or areas of patient care activities. Reusable gowns shall be laundered in accordance with Cal/OSHA Bloodborne Pathogens Standards (Title 8, Cal. Code Regs., section 5193).

#### Hand Hygiene:

- (6) All DHCP shall thoroughly wash their hands with soap and water at the start and end of each workday. DHCP shall wash contaminated or visibly soiled hands with soap and water and put on new gloves before treating each patient. If hands are not visibly soiled or contaminated an alcohol based hand rub may be used as an alternative to soap and water. Hands shall be thoroughly dried before donning gloves in order to prevent promotion of bacterial growth and washed again immediately after glove removal. A DHCP shall refrain from providing direct patient care if hand conditions are present that may render DHCP or patients more susceptible to opportunistic infection or exposure.
- (7) All DHCP who have exudative lesions or weeping dermatitis of the hand shall refrain from all direct patient care and from handling patient care equipment until the condition resolves.

#### Gloves:

- (8) Medical exam gloves shall be worn whenever there is contact with mucous membranes, blood, OPIM, and during all pre-clinical, clinical, post-clinical, and laboratory procedures. When processing contaminated sharp instruments, needles, and devices, DHCP shall wear heavy-duty utility gloves to prevent puncture wounds. Gloves must be discarded when torn or punctured, upon completion of treatment, and before leaving laboratories or areas of patient care activities. All DHCP shall perform hand hygiene procedures before donning gloves and after removing and discarding gloves. Gloves shall not be washed before or after use.

### Needle and Sharps Safety:

- (9) Needles shall be recapped only by using the scoop technique or a protective device. Needles shall not be bent or broken for the purpose of disposal. Disposable needles, syringes, scalpel blades, or other sharp items and instruments shall be placed into sharps containers for disposal as close as possible to the point of use according to all applicable local, state, and federal regulations.

### Sterilization and Disinfection:

- (10) All germicides must be used in accordance with intended use and label instructions.
- (11) Cleaning must precede any disinfection or sterilization process. Products used to clean items or surfaces prior to disinfection procedures shall be used according to all label instructions.
- (12) Critical instruments, items and devices shall be discarded or pre-cleaned, packaged or wrapped and sterilized after each use. Methods of sterilization shall include steam under pressure (autoclaving), chemical vapor, and dry heat. If a critical item is heat-sensitive, it shall, at minimum, be processed with high-level disinfection and packaged or wrapped upon completion of the disinfection process. These instruments, items, and devices, shall remain sealed and stored in a manner so as to prevent contamination, and shall be labeled with the date of sterilization and the specific sterilizer used if more than one sterilizer is utilized in the facility.
- (13) Semi-critical instruments, items, and devices shall be pre-cleaned, packaged or wrapped and sterilized after each use. Methods of sterilization include steam under pressure (autoclaving), chemical vapor and dry heat. If a semi-critical item is heat sensitive, it shall, at minimum, be processed with high level disinfection and packaged or wrapped upon completion of the disinfection process. These packages or containers shall remain sealed and shall be stored in a manner so as to prevent contamination, and shall be labeled with the date of sterilization and the specific sterilizer used if more than one sterilizer is utilized in the facility.
- (14) Non-critical surfaces and patient care items shall be cleaned and disinfected with a California Environmental Protection Agency (Cal/EPA)-registered hospital disinfectant (low-level disinfectant) labeled effective against HBV and HIV. When the item is visibly contaminated with blood or OPIM, a Cal/EPA-registered hospital intermediate-level disinfectant with a tuberculocidal claim shall be used.
- (15) All high-speed dental hand pieces, low-speed hand pieces, rotary components and dental unit attachments such as reusable air/water syringe tips and ultrasonic scaler tips, shall be packaged, labeled and heat-sterilized in a manner consistent with the same sterilization practices as a semi-critical item.

- (16) Single use disposable items such as prophylaxis angles, prophylaxis cups and brushes, tips for high-speed evacuators, saliva ejectors, air/water syringe tips, and gloves shall be used for one patient only and discarded.
- (17) Proper functioning of the sterilization cycle of all sterilization devices shall be verified at least weekly through the use of a biological indicator (such as a spore test). Test results shall be documented and maintained for 12 months.

Irrigation:

- (18) Sterile coolants/irrigants shall be used for surgical procedures involving soft tissue or bone. Sterile coolants/irrigants must be delivered using a sterile delivery system.

Facilities:

- (19) If non-critical items or surfaces likely to be contaminated are manufactured in a manner preventing cleaning and disinfection, they shall be protected with disposable impervious barriers. Disposable barriers shall be changed when visibly soiled or damaged and between patients.
- (20) Clean and disinfect all clinical contact surfaces that are not protected by impervious barriers using a California Environmental Protection Agency (Cal/EPA) registered, hospital grade low- to intermediate-level germicide after each patient. The low-level disinfectants used shall be labeled effective against HBV and HIV. Use disinfectants in accordance with the manufacturer's instructions. Clean all housekeeping surfaces (e.g. floors, walls, sinks) with a detergent and water or a Cal/EPA registered, hospital grade disinfectant. Products used to clean items or surfaces prior to disinfection procedures shall be clearly labeled and DHCP shall follow all material safety data sheet (MSDS) handling and storage instructions.
- (21) Dental unit water lines shall be anti-retractable. At the beginning of each workday, dental unit lines and devices shall be purged with air or flushed with water for at least two (2) minutes prior to attaching handpieces, scalers, air water syringe tips, or other devices. The dental unit lines and devices shall be flushed between each patient for a minimum of twenty (20) seconds.
- (22) Contaminated solid waste shall be disposed of according to applicable local, state, and federal environmental standards.

Lab Areas:

- (23) Splash shields and equipment guards shall be used on dental laboratory lathes. Fresh pumice and a sterilized or new rag-wheel shall be used for each patient. Devices used to polish, trim, or adjust contaminated intraoral devices shall be disinfected or sterilized, properly packaged or wrapped and labeled with the date and the specific sterilizer used if more than one sterilizer is utilized in the facility. If packaging is compromised, the instruments shall be recleaned, packaged in new wrap, and sterilized again. Sterilized items will be stored in a manner so as to prevent contamination.

- (24) All intraoral items such as impressions, bite registrations, prosthetic and orthodontic appliances shall be cleaned and disinfected with an intermediate-level disinfectant before manipulation in the laboratory and before placement in the patient's mouth. Such items shall be thoroughly rinsed prior to placement in the patient's mouth.
- (c) The Dental Board of California and Dental Hygiene Committee of California shall review this regulation annually and establish a consensus.
- Note: Authority cited: Section 1614, Business and Professions Code. Reference: Section 1680, Business and Professions Code.*

<sup>1</sup>Cal/EPA contacts: [www.cdpr.ca.gov](http://www.cdpr.ca.gov) or (916) 324-0419.

## **Article 4. Continuing Education**

### **§ 1016. Continuing Education Courses and Providers.**

- (a) Definition of Terms:
- (1) Course of Study Defined. "Course of study" means an orderly learning experience in an area of study pertaining to dental and medical health, preventive dental services, diagnosis and treatment planning, clinical procedures, basic health sciences, dental practice management and administration, communication, ethics, patient management or the Dental Practice Act and other laws specifically related to dental practice.
  - (2) Coursework Defined. The term "Coursework" used herein refers to materials presented or used for continuing education and shall be designed and delivered in a manner that serves to directly enhance the licensee's knowledge, skill and competence in the provision of service to patients or the community.
- (b) Courses of study for continuing education credit shall include:
- (1) Mandatory courses required by the Board for license renewal shall include a Board-approved course in Infection Control, a Board-approved course in the California Dental Practice Act, completion of certification in Basic Life Support, and a Board-approved course on the responsibilities and requirements of prescribing Schedule II opioids.
    - (A) At a minimum, course content for a Board-approved course in Infection Control shall include all content of Section 1005 and the application of the regulations in the dental environment.
    - (B) At a minimum, course content for the Dental Practice Act [Division 2, Chapter 4 of the Code (beginning with § 1600)] shall instruct on acts in violation of the Dental Practice Act and attending regulations, and other statutory mandates relating to the dental practice. This includes utilization and scope of practice for auxiliaries and dentists; laws governing the prescribing of drugs; professional ethics, citations, fines, revocation and suspension of a license, and license renewal; and the mandatory reporter obligations set forth in the Child Abuse and Neglect Reporting Act (Penal Code Section 11164 et seq.) and the Elder Abuse

and Dependent Adult Civil Protection Act (Welfare and Institutions Code Section 15600 et seq.) and the clinical signs to look for in identifying abuse.

- (C) The mandatory requirement for certification in Basic Life Support shall be met by completion of:
- (i) An American Heart Association (AHA) or American Red Cross (ARC) course in Basic Life Support (BLS) or,
  - (ii) A BLS course taught by a provider approved by the American Dental Association's Continuing Education Recognition Program (CERP) or the Academy of General Dentistry's Program Approval for Continuing Education (PACE), or,
  - (iii) A BLS course taught by a provider approved by the American Safety and Health Institute (ASHI).

For the purposes of this section, a Basic Life Support course shall include all of the following:

- 1. Instruction in both adult and pediatric CPR, including 2-rescuer scenarios;
  - 2. Instruction in foreign-body airway obstruction;
  - 3. Instruction in relief of choking for adults, child and infant;
  - 4. Instruction in the use of automated external defibrillation with CPR; and;
  - 5. A live, in-person skills practice session, a skills test and a written examination;
- The course provider shall ensure that the course meets the required criteria.

- (D) At a minimum, course content for a Board-approved course on the responsibilities and requirements of prescribing Schedule II opioid drugs shall include the practices for pain management in dentistry, regulatory requirements for prescribers and dispensers, and dental office procedures for managing vulnerable or substance use disorder patients.
- (2) Courses in the actual delivery of dental services to the patient or the community, such as:
- (A) Courses in preventive services, diagnostic protocols and procedures (including physical evaluation, radiography, dental photography) comprehensive treatment planning, charting of the oral conditions, informed consent protocols and recordkeeping.
  - (B) Courses dealing primarily with nutrition and nutrition counseling of the patient.
  - (C) Courses in esthetic, corrective and restorative oral health diagnosis and treatment.
  - (D) Courses in dentistry's role in individual and community health emergencies, disasters, and disaster recovery.
  - (E) Courses that pertain to the legal requirement governing the licensee in the areas of auxiliary employment and delegation of responsibilities; the Health Insurance Portability and Accountability Act (HIPAA); actual delivery of care.

- (F) Courses pertaining to federal, state and local regulations, guidelines or statutes regarding workplace safety, fire and emergency, environmental safety, waste disposal and management, general office safety, sexual harassment prevention, and all training requirements set forth by the California Division of Occupational Safety and Health (Cal-DOSH) including the Bloodborne Pathogens Standard.
  - (G) Courses pertaining to the administration of general anesthesia, moderate sedation, oral conscious sedation or medical emergencies.
  - (H) Courses pertaining to the evaluation, selection, use and care of dental instruments, sterilization equipment, operatory equipment, and personal protective attire.
  - (I) Courses in dependency issues and substance abuse such as alcohol and drug use as it relates to patient safety, professional misconduct, ethical considerations or malpractice.
  - (J) Courses in behavioral sciences, behavior guidance, and patient management in the delivery of care to all populations including special needs, pediatric and sedation patients when oriented specifically to the clinical care of the patient.
  - (K) Courses in the selection, incorporation, and use of current and emerging technologies.
  - (L) Courses in cultural competencies such as bilingual dental terminology, cross-cultural communication, provision of public health dentistry, and the dental professional's role in provision of care in non-traditional settings when oriented specifically to the needs of the dental patient and will serve to enhance the patient experience.
  - (M) Courses in dentistry's role in individual and community health programs.
  - (N) Courses pertaining to the legal and ethical aspects of the insurance industry, to include management of third party payer issues, dental billing practices, patient and provider appeals of payment disputes and patient management of billing matters.
- (3) Courses in the following areas are considered to be primarily of benefit to the licensee and shall be limited to a maximum of 20% of a licensee's total required course unit credits for each license or permit renewal period:
- (A) Courses to improve recall and scheduling systems, production flow, communication systems and data management.
  - (B) Courses in organization and management of the dental practice including business planning and operations, office computerization and design, ergonomics, and the improvement of practice administration and office operations.
  - (C) Courses in leadership development and team development.
  - (D) Coursework in teaching methodology and curricula development.
  - (E) Coursework in peer evaluation and case studies that include reviewing clinical evaluation procedures, reviewing diagnostic methods, studying radiographic data, study models and treatment planning procedures.



- (F) Courses in human resource management and employee benefits.
- (4) Courses considered to be of direct benefit to the licensee or outside the scope of dental practice in California include the following, and shall not be recognized for continuing education credit:
  - (A) Courses in money management, the licensee's personal finances or personal matters such as financial or estate planning, and personal investments.
  - (B) Courses in general physical fitness, weight management or the licensee's personal health.
  - (C) Presentations by political or public figures or other persons that do not deal primarily with dental practice or issues impacting the dental profession.
  - (D) Courses designed to make the licensee a better business person or designed to improve licensee personal profitability, including motivation and marketing.
  - (E) Courses pertaining to the purchase or sale of a dental practice, business or office; courses in transfer of practice ownership, acquisition of partners and associates, practice valuation, practice transitions, or retirement.
  - (F) Courses pertaining to the provision of elective facial cosmetic surgery as defined by the Dental Practice Act in Section 1638.1, unless the licensee has a special permit obtained from the Board to perform such procedures pursuant to Section 1638.1 of the Code.
- (5) Completion of a course does not constitute authorization for the attendee to perform any services that he or she is not legally authorized to perform based on his or her license or permit type.
- (c) Registered Provider Application and Renewal
  - (1) An applicant for registration as a provider shall submit an "Application for Continuing Education Provider (Rev. 05/09)" that is hereby incorporated by reference. The application shall be accompanied by the fee required by section 1021. The applicant or, if the applicant is not an individual but acting on behalf of a business entity, the individual authorized by the business to act on its behalf shall certify that he or she will only offer courses and issue certificates for courses that meet the requirements in this section.
  - (2) To renew its registration, a provider shall submit a "Continuing Education Registered Provider Permit Renewal Application (12/15/08)" that is hereby incorporated by reference. The application shall be accompanied by the fee required by section 1021 and a biennial report listing each of the course titles offered, the 11-digit registration number issued to each course, the number of units issued for each course, the dates of all courses offered, the name and qualifications of each instructor, a summary of the content of each course of study, and a sample of the provider's written certification issued to participants during the last renewal period.

- (d) Standards for Registration as an Approved Provider
- (1) Each course of study shall be conducted on the same educational standards of scholarship and teaching as that required of a true university discipline and shall be supported by those facilities and educational resources necessary to comply with this requirement. Every instructor or presenter of a continuing education course shall possess education or experience for at least two years in the subject area being taught. Each course of study shall clearly state educational objectives that can realistically be accomplished within the framework of the course. Teaching methods for each course of study shall be described (e.g., lecture, seminar, audiovisual, clinical, simulation, etc.) on all provider reports.
  - (2) The topic of instruction and course content shall conform to this section.
  - (3) An opportunity to enroll in such courses of study shall be made available to all dental licensees.
- (e) Enforcement, Provider Records Retention and Availability of Provider Records
- (1) (A) The Board may not grant prior approval to individual courses unless a course is required as a mandatory license renewal course. The minimum course content of all mandatory continuing education courses for all registered providers is set out in subsections (b)(1)(A-D). Providers shall be expected to adhere to these minimum course content requirements or risk registered provider status.
  - (B) All registered providers shall submit their course content outlines for Infection Control and California Dental Practice Act to the Board staff for review and approval. If a provider wishes to make any significant changes which includes altering the course content of a previously approved course in Infection Control and the California Dental Practice Act, the provider shall submit a new course content outline to the Board. A provider may not offer the significantly changed course until the Board approves the new course outline. All new applicants for provider status shall submit course content outlines for courses in Infection Control and California Dental Practice Act to the board staff for review and approval at the time of application and prior to instruction.
  - (2) Providers must possess and maintain the following:
    - (A) Speaker curriculum vitae;
    - (B) Course content outline;
    - (C) Educational objectives or outcomes;
    - (D) Teaching methods utilized;
    - (E) Evidence of registration numbers and units issued to each course;
    - (F) Attendance records and rosters.
  - (3) The Board may randomly audit a provider for any course submitted for credit by a licensee in addition to any course for which a complaint is received. If an audit is conducted, the provider shall submit to the Board the following information and documentation:

- (A) Speaker curriculum vitae;
  - (B) Course content outline;
  - (C) Educational objectives or outcomes;
  - (D) Teaching methods utilized;
  - (E) Evidence of registration numbers and units issued to each course; and
  - (F) Attendance records and rosters.
- (4) All provider records described in this article shall be retained for a period of no less than three provider renewal periods.
- (f) **Withdrawal of Provider Registration**
- (1) The Board retains the right and authority to audit or monitor courses given by any provider. The Board may withdraw or place restrictions on a provider's registration if the provider has disseminated any false or misleading information in connection with the continuing education program, fails to comply with regulations, misrepresents the course offered, makes any false statement on its application or otherwise violates any provision of the Dental Practice Act or the regulations adopted thereunder.
  - (2) Any provider whose registration is withdrawn or restricted shall be granted a hearing before the executive officer or his or her designee prior to the effective date of such action. The provider shall be given at least ten days notice of the grounds for the proposed action and the time and place of such hearing.
- (g) **Provider Issuance of Units of Credit for Attendance**
- One unit of credit shall be granted for every hour of contact instruction and may be issued in half-hour increments. Such increments shall be represented by the use of a decimal point in between the first two numbers of the 11-digit registration number of the course. This credit shall apply to either academic or clinical instruction. Eight units shall be the maximum continuing education credits granted in one day.
- (h) **Additional Provider Responsibilities**
- (1) A provider shall furnish a written certification of course completion to each licensee certifying that the licensee has met the attendance requirements of the course. Such certification shall not be issued until completion of the course and shall contain the following:
    - (A) The licensee's, name and license or permit number, the provider's name, the 11-digit course registration number in the upper left hand corner of the certificate, date or dates attended, the number of units earned, and a place for the licensee to sign and date verifying attendance.
    - (B) An authorizing signature of the provider or the providing entity and a statement that reads: "All of the information contained on this certificate is truthful and accurate."
    - (C) A statement on each certification that reads: "Completion of this course does not constitute authorization for the attendee to perform any services that he or she is not legally authorized to perform based on his or her license or permit type."

- (2) If an individual whose license or permit has been cancelled, revoked, or voluntarily surrendered attends and completes a continuing education course, the provider or attendee may document on the certificate of course completion the license or permit number the individual held before the license or permit was cancelled, revoked, or voluntarily surrendered.
  - (3) When two or more registered providers co-sponsor a course, only one provider number shall be used for that course and that provider must assume full responsibility for compliance with the requirements of this article.
  - (4) Only Board-approved providers whose course content outlines for Infection Control and California Dental Practice Act have been submitted and approved by the Board may issue continuing education certifications to participants of these courses.
  - (5) The instructor of a course who holds a current and active license or permit to practice issued by the Board may receive continuing education credit for up to 20% of their total required units per renewal period for the course or courses they teach for a provider other than themselves.
  - (6) Upon request, a provider shall issue a duplicate certification to a licensee whose name appears on the provider's original roster of course attendees. A provider may not issue a duplicate certification to a licensee whose name is not on the original roster of course attendees. The provider, not the licensee shall clearly mark on the certificate the word "duplicate."
  - (7) Providers shall place the following statement on all certifications, course advertisements, brochures and other publications relating to all course offerings: "This course meets the Dental Board of California's requirements for \_(number of)\_ units of continuing education."
- (i) Out of State Courses and Courses Offered by Other Authorized and Non-Authorized Providers
- (1) Notwithstanding subdivision (b) of Section 1016, licensees who attend continuing education courses given by providers approved by the American Dental Association's Continuing Education Recognition Program (CERP) or the Academy of General Dentistry's Program Approval for Continuing Education (PACE) and who obtain a certification of attendance from the provider or sponsor shall be given credit towards his or her total continuing education requirement for renewal of his or her license with the exception of mandatory continuing education courses, if the course meets the requirements of continuing education set forth in this section.
  - (j) A licensee who attends a course or program that meets all content requirements for continuing education pursuant to these regulations, but was presented outside California by a provider not approved by the Board, may petition the Board for consideration of the course by submitting information on course content, course duration and evidence from the provider of course completion. When the necessary requirements have been fulfilled, the Board may issue a written certificate of course completion for the approved number of units, which the licensee may then use for documentation of continuing education credits.

*NOTE: Authority cited: Sections 1614 and 1645, Business and Professions Code.  
Reference: Section 1645, Business and Professions Code.*

### **§ 1017. Continuing Education Units Required for Renewal of License or Permit.**

- (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).
  - (4) Only dentists shall be required to complete two units of continuing education on the subjects set forth in 1016(b)(1)(D).
- (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.
- (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 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 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 moderate sedation permit shall complete at least once every two years a minimum of 15 total units of coursework related to the administration of moderate sedation and to medical emergencies, as a condition of permit renewal, in continuing education requirements pursuant to Section 1647.5 of the 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 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 Code.
- (g) Notwithstanding any other provisions of this section, 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% of the licensee's total required units.
- (h) In the event that a portion of a licensee's units have been obtained through non-live instruction, as described in subsection (g) above, all remaining units shall be obtained through live interactive course study with the option to obtain 100% 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.
- (i) Licensees who provide direct patient care as an unpaid volunteer at a free public health care event or non-profit community health clinic shall be issued continuing education credit of one unit per hour of providing unpaid volunteer dental services to patients, for up to three units of their total continuing education unit requirements for license renewal. Units of credit may be issued in half hour increments.
- (j) Licensees who participate in the following activities shall be issued continuing education credit for up to 20% 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, moderate sedation or oral conscious sedation permit.
  - (3) Participation in any calibration training and site evaluation training session relating to general anesthesia, moderate 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 subsection (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 permit for general anesthesia, moderate sedation, or oral conscious sedation 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.
- (u) Continuing education for retired dentists in only uncompensated practice shall include mandatory courses described at Section 1016(b)(1) and courses directly related to the delivery of dental services to patients described at Section 1016(b)(2) and shall be no less than 30 units.

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

### **§ 1017.2. Inactive Licenses.**

- (a) A licensee who desires an inactive license shall submit a completed Application to Inactivate/Activate License, LIC-6 (New 12/09) that is incorporated herein by reference.
- (b) In order to restore an inactive license to active status, the licensee shall submit a completed Application to Inactivate/Activate License, LIC-6 (New 12/09) that is incorporated herein by reference, 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 such application. In addition, the licensee shall submit a full set of fingerprints as required by Section 1008.
- (c) The holder of an inactive license shall continue to pay to the board the required biennial renewal fee.
- (d) The board shall inform an applicant who wishes to activate/inactivate his/her license in writing within 30 days whether the application is complete and accepted for filing or is deficient and what specific information is required. The board shall decide within 30 days after the filing of a completed application whether the applicant meets the requirements.

*Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 700-704, 1601.2 and 1629(b), Business and Professions Code.*

## **CHAPTER 3. DENTAL AUXILIARIES**

### **Article 2. Educational Programs**

#### **§ 1074. Extramural Facility.**

- (a) As used in this article “extramural dental facility” means any clinical facility employed by an approved dental hygiene educational program for instruction in dental hygiene which exists outside or beyond the walls, boundaries, or precincts of the primary campus of the approved program and in which dental hygiene services are rendered.



- (b) An approved dental hygiene educational program shall register extramural dental facilities with the board. Such registration shall be accompanied by information supplied by the dental hygiene program pertaining to faculty supervision, scope of treatment to be rendered, name and location of the facility, date operation will commence, discipline of which such instruction is a part, and a brief description of the equipment and facilities available. The foregoing information shall be supplemented with a copy of the agreement between the approved dental hygiene program or parent university, and the affiliated institution establishing the contractual relationship. Any change in the information initially provided to the board shall be communicated to the board.  
*Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1614 and 1758, Business and Professions Code.*

## **Article 4. Examinations**

### **§ 1080. General Procedures for Dental Auxiliary Written and Practical Examinations.**

The following rules, which are in addition to any other examination rules set forth elsewhere in this chapter, are adopted for the uniform conduct of all dental auxiliary written and practical examinations.

- (a) The ability of an examinee to read and interpret instructions and examination material is a part of the examination.
- (b) No person shall be admitted to an examination room or laboratory unless he or she is wearing the appropriate badge.
- (c) An examinee may be dismissed from the entire examination, and a statement of issues may be filed against the examinee, for acts which interfere with the Board's objective of evaluating professional competence. Such acts include, but are not limited to the following:
- (1) Allowing another person to take the examination in the place of, and under the identity of, the examinee.
  - (2) Copying or otherwise obtaining examination answers from other persons during the course of an examination.
  - (3) Bringing any notes, books, pictures, tape recorders, or other unauthorized materials into the examination area.
  - (4) Assisting another examinee during the examination process.
  - (5) Using the equipment, instruments, or materials belonging to another examinee.
  - (6) Copying, photographing or in any way reproducing or recording examination questions or answers.
  - (7) Bringing a previously prepared procedure or any portion thereof into a laboratory examination.
  - (8) Leaving the assigned examination area without the permission of an exam administrator.

- (9) Failing to follow directions relative to the conduct of the examination, including termination of the examination at the scheduled or announced time.

*Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1753, 1756, 1758 and 1761, Business and Professions Code.*

### **§ 1080.1. General Procedures for Dental Auxiliary Clinical Examinations.**

The following rules, which are in addition to any other examination rules set forth elsewhere in this chapter, are adopted for the uniform conduct of all dental auxiliary clinical examinations.

- (a) Each examinee shall furnish patients, instruments, engines and materials necessary to carry the procedures to completion. The board will provide chairs.
- (b) A patient provided by an examinee must be at least 18 years of age and shall be in a health condition acceptable for dental treatment. If conditions indicate a need to consult the patient's physician or for the patient to be premedicated (e.g. high blood pressure, heart murmur, rheumatic fever, heart condition, prosthesis), the examinee must obtain the necessary written medical clearance and/or evidence of premedication before the patient will be accepted. The examiners may, in their discretion, reject a patient who in the opinion of at least two examiners has a condition which interferes with evaluation or which may be hazardous to the patient, other patients, examinees or examiners. A hazardous condition includes, but is not limited to, acute symptomatic hepatitis, active herpetic lesions, acute periodontal or periapical abscesses, or necrotizing ulcerative gingivitis. Whenever a patient is rejected, the reason for such rejection shall be noted on the examination record and shall be signed by both rejecting examiners.
- (c) No person shall be admitted to an examination clinic unless he or she is wearing the appropriate identification badge.
- (d) An examinee may be dismissed from the entire examination, and a statement of issues may be filed against the examinee, for acts which interfere with the Board's objective of evaluating professional competence. Such acts include, but are not limited to the following:
- (1) Allowing another person to take the examination in the place of, and under the identity of, the examinee.
  - (2) Bringing any notes, books, pictures, tape recorders, or other unauthorized materials into the examination area.
  - (3) Assisting another examinee during the examination process.
  - (4) Using the equipment, instruments, or materials belonging to another examinee.
  - (5) Presenting radiographs which have been altered, or contrived to represent other than the patient's true condition, whether or not the misleading radiograph was created by the examinee.
  - (6) Failing to comply with the board's infection control regulations.
  - (7) Failing to use an aspirating syringe for administering local anesthesia.

- (8) Premedicating a patient for purposes of sedation.
  - (9) Dismissing a patient without the approval and signature of an examiner.
  - (10) Leaving the assigned examination area without the permission of an exam administrator.
  - (11) Failing to follow directions relative to the conduct of the examination, including termination of the examination at the scheduled or announced time.
- (e) An examinee may be declared by the board to have failed the entire examination for demonstration of gross incompetence in treating a patient.
- Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1753, 1756, 1758 and 1761, Business and Professions Code.*

### **§ 1080.2. Conduct of Dental Auxiliary Examinations.**

Examinations shall be anonymous. An anonymous examination is one conducted in accordance with procedures, including but not limited to those set forth below, which ensure and preserve anonymity of applicants.

- (a) The board shall randomly assign each applicant a number, and said applicant shall be known by that number throughout the entire examination.
- (b) Grading examiners shall not view examinees during the performance of the examination assignments.
- (c) There shall be no communications between grading examiners and floor examiners except for oral communications conducted in the presence of board staff. There shall be no communication between grading examiners and examinees except written communications on board approved forms.

*Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1753, 1756, 1758 and 1761, Business and Professions Code.*

### **§ 1080.3. Dental Auxiliary Licensure Examination Review Procedures; Appeals.**

- (a) An examinee who has failed an examination shall be provided with notice, upon written request, of those areas in which he/she is deficient in the practical or clinical phases of such examination.
- (b) An unsuccessful examinee who has been informed of the areas of deficiency in his/her performance on the practical or clinical phases of the examination and who has determined that one or more of the following errors was made during the course of his/her examination and grading may appeal to the board within sixty (60) days following receipt of his/her examination results:
  - (1) Significant procedural error in the examination process;
  - (2) Evidence of adverse discrimination;
  - (3) Evidence of substantial disadvantage to the examinee. Such appeal shall be made by means of a written letter specifying the grounds upon which the appeal is based. The Board shall respond to the appeal in writing and may request a personal appearance by the examinee. The Board shall thereafter take such action as it deems appropriate.

*Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1753, 1756, 1758 and 1761, Business and Professions Code.*

### § 1082.1. RDH Clinical Examination Requirements.

- (a) Every applicant shall be given a clinical examination which shall consist of the examination of a patient, complete scaling of one or two quadrants (depending upon patient selection), and root planing. Scaling and root planing includes but is not limited to the complete removal of calculus, soft deposits and plaque, and smoothing of the unattached tooth surfaces. Unattached tooth surface means the portion of the crown and root surface to which no tissue is attached. Ultrasonic, sonic, handpiece or other mechanical scaling devices may be used only at the direction of the Board. If so permitted, an applicant who chooses to use an ultrasonic or sonic scaling device shall bring to the exam and use the services of an assistant to perform high volume evacuation at all times when the ultrasonic or sonic scaling device is being used. Only the services of a dental assistant or registered dental assistant shall be permitted. The clinical examination shall be completed within a two hour period. Such period shall commence with the acceptance or rejection of the initial patient presented by the applicant.
- (b) One patient shall be provided by the applicant. If a patient is deemed unacceptable by the examiners, it is the applicant's responsibility to provide another patient who is acceptable. The applicant's ability to select an appropriate patient is considered part of the examination. An acceptable patient shall meet the criteria set forth in Section 1080.1 and the following additional criteria:
- (1) Does not have extreme tissue or tooth sensitivity which would interfere with proper probing and exploring by examiners.
  - (2) Has at least one quadrant with the following:
    - (A) At least 6 natural teeth which are free of conditions which would interfere with evaluation, including but not limited to probing depths greater than 6mm, class 3 furcation, class 3 mobility, gross decay, faulty restorations, or full or partial veneer crowns. Crowns with smooth margins are acceptable. A patient will not be rejected because he/she has one tooth with a probing depth greater than 6mm.
    - (B) At least 3 of the natural teeth in the quadrant must be posterior teeth with interproximal pocket depths of 4 to 6mm. Two of these posterior teeth must be molars.
    - (C) Demonstrable, explorer-detectable moderate to heavy subgingival calculus must be present on a majority of the subgingival tooth surfaces and there must be some subgingival calculus on every tooth. Explorer-detectable moderate to heavy interproximal ledges must be present.
- (c) If an applicant is unable to find a patient with one quadrant which meets the requirements of subsection (b)(2) above, the applicant may provide a patient in which those requirements can be found in two quadrants. An applicant who presents such a patient shall be required to scale all teeth in both quadrants in the same time allotted for scaling one quadrant.
- (d) The applicant shall provide full mouth radiographs of the patient, which shall consist of 18 radiographs at least 4 of which must be bite-wing and the

radiographs must be of diagnostic quality. All radiographs shall have been taken not more than one year prior to the examination at which they are presented.

- (e) The applicant shall provide the following instruments:
  - (1) Color coded Marquis-type periodontal probe.
  - (2) Sharp explorers.
  - (3) Clear-plane mouth mirror.
  - (4) Saliva ejector.
  - (5) All necessary armamentarium for local anesthesia, including an aspirating syringe.
  - (6) Any other scaling or root planing instruments which he/she intends to use.
- (f) The applicant shall offer to the patient the option of the administration of local anesthetic in the area(s) to be scaled, except that anesthesia shall not be administered to both mandibular quadrants of a patient during the same day.

*Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1614 and 1766, Business and Professions Code.*

### **§ 1082.3. Supplemental Examinations in California Law and Ethics.**

Prior to issuance of a license, an applicant for licensure as a registered dental hygienist shall successfully complete a supplemental written examination in California Law and Ethics.

- (a) The examination on California law shall test the applicant's knowledge of California law as it relates to the practice of dental hygiene.
- (b) The examination on ethics shall test the applicant's ability to recognize and apply ethical principles as they relate to the practice of dental hygiene.
- (c) An examinee shall be deemed to have passed the examination if his/her score is at least 75% in each examination.

*Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1749.1 and 1766, Business and Professions Code.*

## **DIVISION 11. DENTAL HYGIENE BOARD OF CALIFORNIA**

### **Article 1. Definitions**

#### **§ 1100. Definitions.**

For purposes of this division:

- (a) "Administration of local anesthesia" means the administration of local anesthetic agents by infiltration injection or conductive injection.
- (b) "Administration of nitrous oxide and oxygen" means the administration of nitrous oxide and oxygen when used as an analgesic during dental treatment.
- (c) "Basic supportive dental procedures" means fundamental duties or functions as referenced in section 1067(l), title 16, California Code of Regulations.
- (d) "Dental Hygiene Board office" means the Dental Hygiene Board office located in Sacramento, California.
- (e) "Dental assistant" means an unlicensed person as referenced in section 1067(b), title 16, California Code of Regulations.

- (f) “Dental hygiene assessment” means the systematic collection, analysis, and documentation of the oral and general health status and patient needs through a variety of methods, including choice of radiographs, diagnostic tools, and instruments utilized within the scope of dental hygiene practice, for the primary purpose of formulating a dental hygiene care or treatment plan.
- (g) “Dental hygiene care plan” means an organized presentation or list of interventions to promote health or prevent disease of the patient’s oral condition; plan is designed by the dental hygienist and consists of services within the scope of dental hygiene practice.
- (h) “Dental hygiene preventive services” means those services provided by the dental hygienist whose primary purpose is to prevent oral disease or pathology and promote oral health and overall health.
- (i) “Dental hygiene therapeutic interventions” means specific procedure or set of procedures, provided within the scope of dental hygiene practice, designed to intervene in the disease process to produce a therapeutic benefit.
- (j) “Dental hygiene treatment plan” means an organized presentation or list of interventions to promote health or prevent disease of the patient’s oral condition designed by the registered dental hygienist in alternative practice based on assessment data and consists of services within the scope of practice of the registered dental hygienist in alternative practice.
- (k) “Ethics” for the purposes of the examination required by section 1917(d) of the Business and Professions Code, means an act or acts in accordance with the California Dental Hygienists’ Association’s (CDHA’s) Policy Manual, Chapter 2, Code of Ethics for Dental Hygienists (Amended HOD 2015), which is hereby incorporated by reference, or the American Dental Hygienists’ Association’s (ADHA’s) Bylaws and Code of Ethics (Adopted June 23, 2014), which is hereby incorporated by reference, and ADHA Policy Manual, pages 7-12, (Adopted June 22, 2015), which is hereby incorporated by reference.
- (l) “Executive Officer” means the Executive Officer appointed by the Dental Hygiene Board.
- (m) “Gross trauma” means a burn, deep laceration, long laceration and/or puncture to soft tissue, hard tissue, and/or bone.
- (n) “Licentiate” or “Licensee” means any individual licensed or registered by the Comm Dental Hygiene Board ittee.
- (o) “Periodontal debridement” means the process by which hard and soft deposits are removed from the supragingival and subgingival surfaces of the teeth, including the disruption of bacterial cell walls of nonadherent plaque.
- (p) “Periodontal evaluation record” means that part of the dental hygiene assessment document pertaining to the clinical observations of the gingiva, periodontal pocket probe depths, measurement of the location of the free gingival margin/recession, calculation of attachment loss, measurement of keratinized/attached gingiva, detection of marginal and deep bleeding on probing, detection of suppuration, detection of furcation involvement, detection of fremitus and mobility, and assessment of plaque and calculus accumulations.

- (q) “Polishing the coronal surfaces of teeth”, or “coronal polishing” means a procedure limited to the removal of plaque on and stain from exposed tooth surfaces, utilizing an appropriate rotary instrument with rubber cup or brush and a polishing agent.
  - (r) “Refer” means the action taken after determining that services are needed beyond the dental hygienist’s scope of practice to provide and ensure that the patient is directed to a healthcare provider who can provide that care.
  - (s) “Root planing” means the process of instrumentation which removes residual calculus and toxic materials from the root to produce a clean, smooth surface.
  - (t) “Scaling” means the removal of calculus and dental biofilm from the supragingival and subgingival exposed tooth surfaces.
  - (u) “Soft tissue curettage” means the removal of the inflamed soft tissue lateral to the pocket wall, which is not subgingival curettage referring to the procedure that is performed apical to the epithelial attachment, severing the connective tissue attachment down to the osseous crest.
  - (v) “Treatment facility” for purposes of section 1902 of the Business and Professions Code, means any place where oral health services are provided.
- Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1902, 1903, 1905, 1908, 1909, 1910, 1911, 1915, 1917, 1917.3, 1927 and 1929, Business and Professions Code.*

## **Article 2. Administration**

### **§ 1101. Delegation to Dental Hygiene Board’s Executive Officer.**

- (a) Except for those powers reserved exclusively to the “agency itself” under the Administrative Procedure Act, §§ 11500 - 11529 thru as applicable of the Government Code, the Dental Hygiene Board delegates and confers upon the Executive Officer, or his or her designee, all functions necessary to the dispatch of business of the Dental Hygiene Board in connection with investigative and administrative proceedings under the jurisdiction of the Dental Hygiene Board, including issuing an order for medical or mental examination under Section 820 of the Business and Professions Code, and the ability to approve stipulated settlement agreements for the revocation, surrender or interim suspension of a license.
- (b) The power and discretion conferred by law upon the Dental Hygiene Board to initiate review and prosecute accusations and statements of issues pursuant to Sections 11500 through 11529 of the Government Code are hereby delegated to and conferred upon the Dental Hygiene Board’s Executive Officer or in the absence thereof a designee.

*Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1905 and 1950, Business and Professions Code; and Sections 11500, 11501, 11502, 11503, 11504, 11504.5, 11505, 11506, 11507, 11507.3, 11507.5, 11507.6, 11507.7, 11508, 11509, 11511, 11511.5, 11511.7, 11512, 11513, 11514, 11515, 11516, 11517, 11518, 11518.5, 11519, 11519.1, 11520, 11521, 11522, 11523, 11524, 11526, 11527, 11528 and 11529, Government Code.*

## Article 3. Educational Programs

### § 1103. Educational Programs Definitions.

For purposes of this division, the term:

- (a) “Academic year” means a period of education consisting of a minimum of forty-five (45) quarter units or thirty (30) semester units within a twelve-month period or three quarters or two semesters within a 12-month period, or a duration deemed equivalent thereto by the Dental Hygiene Board.
- (b) “Analgesia” means a state of decreased sensibility to pain, such as that produced by using nitrous oxide and oxygen with or without local anesthesia.
- (c) “Approved accreditation standards” means those standards issued by the Commission on Dental Accreditation in Business and Professions Code section 1941.5.
- (d) “Clinical instruction” means instruction in which students receive supervised patient care experiences in performing procedures in a clinical setting to achieve safe and effective clinical outcomes. The instructor to student ratio shall meet approved accreditation standards.
- (e) “Clinical practice” means the planned learning experiences with patients designed for students to apply dental hygiene knowledge and skills to meet course objectives in a variety of Dental Hygiene Board-approved clinical settings. Clinical practice may include learning experiences provided in various settings, including, but not limited to, dental hygiene clinics, extramural clinical facilities, as well as health care agencies.
- (f) “Clinical setting” means a setting that accommodates patient care.
- (g) “Clinical outcome” is the result derived from a specific intervention or treatment.
- (h) “Competencies” means statements describing the abilities needed to practice dental hygiene, including skills, understanding, and professional values that are performed independently in realistic settings.
- (i) “Competent” means possessing the knowledge, skills and values required in the dental hygiene process of care to practice dental hygiene or provide instruction within a dental hygiene educational program.
- (j) “Curriculum” means an organized set of courses of learning which are prerequisite to the award of a degree or diploma.
- (k) “Dental hygiene process of care” means the application of scientific, evidence-based knowledge in the identification and treatment of actual or potential patient health problems as related to oral health.  
The dental hygiene process of care shall meet approved accreditation standards and includes:
  - (1) Comprehensive collection of patient data to identify the physical and oral health status;
  - (2) Analysis of assessment findings and use of critical thinking in order to address the patient’s dental hygiene treatment needs;
  - (3) Establishment of a dental hygiene care plan that reflects the realistic goals and treatment strategies to facilitate optimal oral health;



- (4) Provision of patient-centered treatment and evidence-based care in a manner minimizing risk and optimizing oral health;
  - (5) Measurement of the extent to which goals identified in the dental hygiene care plan are achieved;
  - (6) Complete and accurate recording of all documentation relevant to patient care.
- (l) “Didactic instruction” means instruction through lectures, seminars or demonstrations, as distinguished from clinical or laboratory instruction.
  - (m) “Distance education” means education to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and instructor, either synchronously or asynchronously using one or more of the following technologies:
    - (1) the Internet;
    - (2) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite or wireless communication devices;
    - (3) audio conferencing;
    - (4) video cassettes, DVDs, and CD-ROMS, if the cassettes, DVDs or CD-ROMS are used in a course in conjunction with any of the technologies listed in (l) (1-3).
  - (n) “Educational program” means a progressive or planned system of training, instruction or study.
  - (o) “Goal” means an intention or expectation that requires several tasks to produce the desired result.
  - (p) “Graduate” means a dental hygiene student who has completed all required studies within a dental hygiene educational program and has obtained a degree.
  - (q) “Homebound” means a person who is unable to receive care in a dental office or clinic due to a disabling physical or mental condition.
  - (r) “Laboratory instruction” means instruction designed to perform procedures using instructional materials in which students receive supervised experience performing procedures. The instructor to student ratio shall meet approved accreditation standards.
  - (s) “Learning experience” means those activities planned for students by the faculty that are designed to meet the objectives of the required course of instruction, including the basic standards of competent performance.
  - (t) “Learning outcomes” are statements that clearly state the expected knowledge, skills, values and competencies that students are expected to acquire in both didactic and clinical coursework.
  - (u) “Local anesthesia” is the temporary loss of sensation, such as pain, in the oral cavity, produced by an injected anesthetic agent without inducing loss of consciousness.
  - (v) “Mission” means an institution’s stated educational reasons to exist. The mission shall have all of the following characteristics:

- (1) It shall include the institution's goals concerning the education which students will receive, including the acquisition of the body of knowledge presented in the educational program, the development of intellectual, analytical, and critical abilities, and the fostering of values such as a commitment to pursue lifelong learning;
  - (2) It shall relate to the educational expectations of the institution's students and faculty and the community which the institution serves.
- (w) "Nitrous Oxide-Oxygen" is an inhalation agent used to achieve analgesia.
- (x) "Outcomes assessment" means an ongoing process aimed at improving student learning that includes a profile of measures evaluating the effectiveness of the program in meeting its goals and learning outcomes.
- (y) "Preclinical instruction" means instruction in which students receive supervised experience using instructional materials to prepare them for clinical experiences to achieve safe and effective clinical outcomes. Preclinical instruction may include supervised learning experiences provided in various settings, including, but not limited to, dental hygiene skills labs, and computer labs. The instructor to student ratio shall meet approved accreditation standards.
- (z) "Quarter" means at least ten (10) weeks of instruction.
- (aa) "Quarter unit" means at least ten (10) hours of college or university level instruction during a quarter. Additional time outside of instruction may be required for a student to devote to preparation for planned learning experiences, such as preparation for instruction, study of course material, or completion of educational projects.
- (ab) "Remedial education" means education designed to achieve competency required for initial, continuation, or reinstatement of licensure, and may be required for purposes of discipline. Remedial Education is the act or process of correcting a deficiency and its intent is to restore skills to competency.
- (ac) "Semester" means at least fifteen (15) weeks of instruction.
- (ad) "Semester unit" means at least fifteen (15) hours of college or university level instruction during a semester. Additional time outside of instruction may be required for a student to devote to preparation for planned learning experiences, such as preparation for instruction, study of course material, or completion of educational projects.
- (ae) "Service learning" is a teaching and learning experience that combines community service with academic preparation. Students engaged in service learning learn about their roles as dental professionals through provision of patient care and related services in response to community-based problems.
- (af) "Sponsoring institution" means an institution of higher education approved or who has applied for approval for a dental hygiene educational program. If the sponsoring institution has more than one campus, the campus where the physical location of the educational program exists shall be deemed the sponsoring institution.
- (ag) "Staff" means professional, technical, and clerical employees of the institution to support its educational program.

(ah) “Technology” means equipment, tools, and devices that are used to facilitate and support teaching and learning.

(ai) “Wet laboratory” is a term used to distinguish classical benchtop experiments handling biological material from computer analysis or other theoretical work.

*Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1905 and 1917, Business and Professions Code.*

#### **§ 1104. Approval of New RDH Educational Programs and Continuation of Approval for Approved RDH Educational Programs.**

- (a) A new educational program shall obtain Dental Hygiene Board approval prior to admission of students.
- (b) The Dental Hygiene Board shall review the approval of all approved educational programs in accordance with accreditation renewal standards set by the Commission on Dental Accreditation of the American Dental Association (CODA), or an equivalent accrediting body, as determined by the Dental Hygiene Board. In the event that an equivalent body has not been established by the Dental Hygiene Board, the standards shall be set by CODA.
- (1) All educational programs accredited by CODA, or an equivalent accrediting body, as determined by the Dental Hygiene Board, shall submit to the Dental Hygiene Board after each accreditation site visit an electronic copy of the Self-Study Report prepared for CODA (<https://www.ada.org/en/coda>), or the equivalent accrediting body, as determined by the Dental Hygiene Board, and a copy of the final report of the findings within thirty (30) days of the final report issuance.
  - (2) If the educational program is granted CODA's, or an equivalent accrediting body's, as determined by the Dental Hygiene Board, status of “Approval with Reporting Requirements”, the program shall submit to the Dental Hygiene Board copies of any and all correspondence received from or submitted to CODA, or an equivalent accrediting body, as determined by the Dental Hygiene Board, until such time as the status of “Approval without Reporting Requirements” is granted.
  - (3) If the educational program is granted CODA's, or an equivalent accrediting body's, as determined by the Dental Hygiene Board, status of “Approval with Reporting Requirements with Intent to Withdraw”, the program shall notify the Dental Hygiene Board within ten (10) days, and the Dental Hygiene Board shall withdraw approval until such time as the status of “Approval without Reporting Requirements” is granted. Students enrolled in a program where approval has been withdrawn will not be considered graduates of an approved program and shall be ineligible for licensure. The program shall notify the students of the withdrawal of approval and the potential for ineligibility for licensure on the basis of not having graduated from an approved program. The program shall copy the Dental Hygiene Board on the notification to students and any correspondence submitted to CODA, or an equivalent accrediting body, as determined by the Dental Hygiene Board, regarding accreditation status.

- (4) If the educational program is withdrawn from accredited status by CODA, or an equivalent accrediting body, as determined by the Dental Hygiene Board, the program shall notify the Dental Hygiene Board in writing of such status within 10 days and the Dental Hygiene Board shall withdraw approval. The program shall submit copies of any and all correspondence received from or submitted to CODA, or an equivalent accrediting body, as determined by the Dental Hygiene Board. Students enrolled in a program where accreditation has been withdrawn will not be considered graduates of an accredited program and shall be ineligible for licensure.
- (5) Continuation of approval of all educational programs shall be contingent upon compliance with the requirements described in this Article. Written notification of continuation of approval shall be provided.
- (c) All Dental Hygiene Board-approved programs shall maintain current accreditation by CODA, or an equivalent accrediting body, as determined by the Dental Hygiene Board.
- (d) All Dental Hygiene Board-approved sponsoring and affiliated institutions shall maintain current institutional accreditation pursuant to Business and Professions Code section 1941(c).
- (e) A material misrepresentation of fact by a new educational program or an approved educational program in any information required to be submitted to the Dental Hygiene Board is grounds for denial of approval or revocation of the program's approval.

*Note: Authority cited: Sections 1905 and 1906, Business and Professions Code.  
Reference: Sections 1905 and 1941, Business and Professions Code.*

#### **§ 1104.1. Process for Approval of a New RDH Educational Program.**

- (a) A college or an institution of higher education applying for approval of a new educational program for registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions (collectively RDHs) shall comply with the requirements specified in the Dental Hygiene Board's document entitled, "Instructions for Institutions Seeking Approval of a New RDH Educational Program", (EDP-I-01 Rev 07/2022), ("Instructions"), which is hereby incorporated by reference, including:
  - (1) Notify the Dental Hygiene Board in writing of its intent to offer a new educational program that complies with Dental Hygiene Board requirements;
  - (2) Submit a feasibility study in accordance with the requirements specified in the "Instructions" for approval as referenced in Business and Professions Code (BPC) section 1941(b);
  - (3) The Dental Hygiene Board shall review the feasibility study and approve or deny approval of the study as specified in the "Instructions."
- (b) After approval of the feasibility study by the Dental Hygiene Board, and at least twelve (12) months prior to the proposed date for enrollment of students, the educational program shall submit the Commission on Dental Accreditation's (CODA), or an equivalent accrediting body's, as determined by the Dental Hygiene Board, required documents to the Dental Hygiene Board in accordance

with the requirements specified in the “Instructions.” This includes a Self-Study Report that delineates how the proposed program plans to comply with the CODA accreditation standards as required by section 1104(b)(1).

- (c) The required documents shall be reviewed by the Dental Hygiene Board and site visit shall be scheduled in accordance with the requirements specified in the “Instructions.”
- (d) The Dental Hygiene Board may approve, provisionally approve, or deny approval of the educational program in accordance with the requirements specified in the “Instructions.”
- (e) The educational program shall notify the Dental Hygiene Board in writing of any substantive or major change in information contained in the required approval documents within 10 days of such change. A substantive or major change is one that affects the original submission, where without the submission of the new information the request for approval for a new educational program would be false, misleading, or incomplete.

*Note: Authority cited: Sections 1905 and 1906, Business and Professions Code.  
Reference: Sections 1905, 1941 and 1944, Business and Professions Code.*

#### **§ 1104.2. Appeals Process for New RDH Programs.**

- (a) Any new educational program whose approval is denied may request an informal conference before the Executive Officer or his or her designee. The program shall be given at least ten days’ notice of the time and place of such informal conference.
- (b) The education program may contest the denial of approval by either:
  - (1) Appearing at the informal conference. The Executive Officer shall notify the educational program of the final decision of the Executive Officer within ten days of the informal conference. Based on the outcome of the informal conference, the educational program may then request a hearing to contest the Executive Officer’s final decision. An educational program shall request a hearing by written notice to the Dental Hygiene Board within 30 calendar days of the postmark date of the letter of the Executive Officer’s final decision after informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Or;
  - (2) Notifying the Dental Hygiene Board in writing the educational program election to forego the informal conference and to proceed with a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Such notification shall be made to the Dental Hygiene Board before the date of the informal conference.

*Note: Authority cited: Sections 1905 and 1906, Business and Professions Code.  
Reference: Sections 1905 and 1941, Business and Professions Code.*

### **§ 1104.3. Reviews, Site Visits, Citations and Fines, and Probationary Status for Dental Hygiene Educational Programs.**

#### **(a) Program Reviews and Site Visits**

A dental hygiene educational program for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions (collectively DHEPs) shall provide access during business hours to the DHEP's records and premises to the Dental Hygiene Board of California (Board) or its authorized representative(s) to review the DHEP for compliance with all laws, regulations, and standards applicable to a DHEP including, but not limited to, the Business and Professions Code, the California Code of Regulations (CCR), the Commission on Dental Accreditation Standards of the American Dental Association, Occupational Safety and Health Administration, Health and Safety Code, Centers for Disease Control and Prevention, and the Health Insurance Portability and Accountability Act (HIPAA). For the purpose of this subdivision, "records" shall include, but are not limited to, course records, student records, faculty and staff records, and patient records.

#### **(b) Citations, Fines, and Orders of Abatement**

(1) The Executive Officer of the Board or their designee may issue a citation to a DHEP containing an order to pay a fine not to exceed \$5,000 and an order of abatement against a DHEP for any violation of Division 11 of Title 16 of the California Code of Regulations or any laws governing DHEPs.

(A) A citation may be issued without the assessment of a fine when determined by the Executive Officer or their designee in accordance with the factors set forth in subdivision (b)(3).

(B) Each citation issued pursuant to subdivision (b)(1) of this section shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the law or regulation alleged to have been violated.

(2) If the Board or its authorized representative determines that a DHEP is in violation of any law, regulation, or standard applicable to a DHEP, the DHEP shall correct the violation(s) within the amount of time specified in the order. The DHEP shall furnish the Board written proof of compliance with the order and shall permit a site visit by the Board's authorized representative to confirm compliance.

(3) In the issuance of any citation or fine, the following factors shall be considered:

(A) Nature and severity of the violation;

(B) Length of time that has passed since the date of the violation;

(C) Consequences of the violation, including the potential to harm, or actual patient harm;

(D) History of previous violations of a similar nature;

(E) Evidence that the violation was willful;

(F) Gravity of the violation; and

(G) The extent to which the cited DHEP has remediated the deficiencies.

(4) Compliance with Citation/Order of Abatement

- (A) If a cited DHEP who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond the DHEP's control after the exercise of reasonable diligence, the DHEP cited may request an extension of time from the Executive Officer or their designee in which to complete the correction. The request shall be in writing and shall be made within the time set forth for abatement.
  - (B) When a citation or order of abatement is not contested or if the order is appealed and the DHEP cited does not prevail, failure to abate the violation within the time allowed or pay the fine that was imposed, if one was, shall constitute a violation and a failure to comply with the citation or order of abatement.
  - (C) Failure to timely comply with an order of abatement or pay a fine that is imposed shall result in disciplinary action being taken by the Board in addition to other remedies.
- (5) Contested Citations
- (A) The citation shall inform the cited DHEP if they desire a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the Board within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
  - (B) In addition to or as an alternative to requesting a hearing as provided in subdivision (b)(5)(A), the cited DHEP may, within 14 calendar days after service of the citation, submit a written request to the Board for an informal conference with the Executive Officer.
  - (C) The Executive Officer or their designee shall, within 30 calendar days from receipt of the written request for an informal conference pursuant to subdivision (b)(5)(B), hold an informal conference with the DHEP cited and/or their legal counsel or authorized representative, if any, unless continued for good cause.
  - (D) The Executive Officer or their designee may affirm, modify or dismiss the citation at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited DHEP and their legal counsel, if any, within 14 calendar days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the informal conference procedure.
    - (i) If the citation, including any administrative fine levied or order of abatement pursuant to subdivision (b)(1), is dismissed, the request for a hearing shall be deemed withdrawn.
    - (ii) If the citation, including any administrative fine levied or order of abatement, is affirmed, the cited DHEP may, in its discretion, withdraw the request for a hearing or proceed with the administrative hearing process as set forth in subdivision (b)(5)(A). An additional informal conference shall not be held on affirmed citations.

- (iii) If the citation, including any administrative fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a cited DHEP wishes to contest a modified citation, the cited DHEP shall, within 30 calendar days after issuance of the modified citation, contest it by submitting a written request for an administrative hearing, as provided for in subdivision (b)(5)(A), to the Board. An informal conference shall not be held on modified citations.
- (c) Probationary Status of a DHEP
- (1) If the Board or its authorized representative determines a DHEP is in violation of any law, regulation, or standard applicable to a DHEP, the Board at a noticed Board meeting may, pursuant to Section 1941.5 of the Code, place a DHEP on probation.
  - (2) In the issuance of probation, the Board will consider the factors set forth in subdivision (b)(3) of this section.
  - (3) If the Board places a DHEP on probation, the DHEP is required to provide notice of their probationary status in writing to its students within fifteen (15) business days of being placed on probation. The formal notice shall include, but not be limited to, a notice that the DHEP was placed on probation by the Board, the date of the beginning of the probation, as well as a copy of the Board's order issuing probation to the DHEP which includes the terms of the probation. In addition, the DHEP shall provide notice to each potential student applicant to the DHEP before offering to enroll the applicant. The DHEP shall provide the Board with written proof of compliance with this subdivision as a condition for removal from probationary status.
  - (4) A DHEP on probationary status shall correct the violation(s) within the amount of time specified in the order. The DHEP shall furnish the Board written proof of compliance with the order and shall permit a site visit by the Board's authorized representative to confirm compliance.
    - (A) If the DHEP on probation demonstrates it has corrected the violation(s) and meets all requirements for approval set forth in 16 CCR section 1104, the Board may determine, at a noticed Board meeting, that the DHEP shall be removed from probationary status.
    - (B) If the DHEP on probation fails to demonstrate to the Board by the end of its probationary period the DHEP has corrected all violation(s) and met the requirements for approval set forth in 16 CCR section 1104, the Board shall withdraw approval of the DHEP.
  - (5) Appeals Process for a DHEP on Probationary Status
    - (A) Any DHEP who is placed on probation may request, in writing, to appeal their probationary status by either:
      - (i) Requesting an informal conference.
        - (a) The probationary DHEP may, within 14 calendar days after service of notice of probation, submit a written request to the Board for an informal conference with the Executive Officer.



- (b) The Executive Officer or their designee shall, within 30 calendar days from receipt of the written request for an informal conference pursuant to subdivision (c)(5)(A)(i)(a), hold an informal conference with the DHEP cited and/or their legal counsel or authorized representative, if any, unless continued for good cause.
- (c) The Executive Officer shall notify the DHEP of the final decision of the Executive Officer within ten days of the informal conference. Based on the outcome of the informal conference, the DHEP may request a hearing pursuant to subdivision (c)(5)(A)(ii) to contest the Executive Officer's final decision.
- (d) A DHEP shall request a hearing by written notice to the Board within 30 calendar days of the date of the letter of the Executive Officer's final decision after the informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
  - (ii) Requesting a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Such request shall be made to the Board within 30 calendar days after service of a notice of probation, or before the date of the informal conference, if one was requested.

*NOTE: Authority cited: Sections 125.9, 1905, 1906 and 1941.5, Business and Professions Code. Reference: Sections 125.9 and 1941.5, Business and Professions Code.*

### **§ 1105. Requirements for RDH Educational Programs.**

As of January 1, 2016, educational programs for registered dental hygienists shall comply with the requirements set forth below in order to secure and maintain approval by the Dental Hygiene Board.

- (a) Administration and Organization. There shall be a written program mission statement that serves as a basis for curriculum structure. Such statement shall take into consideration the individual difference of students, including their cultural and ethnic background, learning styles, and support systems. It shall also take into consideration the concepts of dental hygiene, which must include the dental hygiene process of care, environment, health-illness continuum, and relevant knowledge from related disciplines.
- (b) Instruction.
  - (1) Instruction upon all levels shall be conducted upon the premise that dental hygiene education must meet the test of a true university discipline and shall include lectures, laboratory experiments and exercises and clinical practice under supervision by the faculty.

- (2) For purposes of this section, the term “university discipline” is a level of instruction at least equivalent to that level of instruction represented by college courses in the basic sciences commonly offered or accepted in approved California dental schools.
  - (3) The length of instruction in the educational program shall include two academic years of fulltime instruction at the postsecondary college level or its equivalent, and a minimum of 1,600 clock hours.
  - (4) The instructor to student ratio shall meet approved Commission on Dental Accreditation standards referenced in subsection (c) of section 1103 of this article.
  - (5) Instruction involving procedures that require direct supervision shall be supervised by a faculty dentist who possesses an active California license or special permit with no disciplinary actions in any jurisdiction to practice dentistry.
- (c) Standards of Competency. Each educational program shall establish and maintain standards of competency. Such standards shall be available to each student, and shall be used to measure periodic progress or achievement in the curriculum.
  - (d) The policies and procedures by which the educational program is administered shall be in writing, shall reflect the mission and goals of the program, and shall be available to all students.
  - (e) The educational program shall have a written plan for evaluation of all aspects of the program, including admission and selection policy and procedures, attrition and retention of students, curriculum management, patient care competencies, ethics and professionalism, critical thinking, and outcomes assessment, including means of student achievement. If the program has submitted a written plan to the Commission on Dental Accreditation, which includes each of the elements listed above, a copy of such plan may be submitted to the Dental Hygiene Board to meet this requirement.
  - (f) Admission.
    - (1) The minimum basis for admission into an educational program shall be the successful completion of all of the following:
      - (A) A high school diploma or the recognized equivalent, which will permit entrance to a college or university accredited by an agency recognized by the U.S. Department of Education or Council for Higher Education Accreditation; and,
      - (B) College-level general education courses in the topic areas of:
        - (i) Oral Communication
        - (ii) Written Communication\*
        - (iii) Psychology
        - (iv) Sociology
        - (v) Mathematics\*
        - (vi) Cultural Diversity\*\*
        - (vii) Nutrition\*\*

\*Advanced Placement (AP) Exam Score Exemption may be accepted in lieu of this course.

\*\*This course is required prior to graduation and may be waived as an admission requirement if included within the dental hygiene program curriculum.

(C) College-level biomedical science courses, each of which must include a wet laboratory component, in:

(i) Anatomy

(ii) Physiology

(iii) Inorganic Chemistry

(iv) Biochemistry or Organic Chemistry with Biochemistry

(v) Microbiology

(D) If a state of emergency is declared by the Governor pursuant to Government Code section 8625, an educational program may accept prerequisite biomedical science coursework completed during the period of the state of emergency in Anatomy, Physiology, Inorganic Chemistry, Biochemistry, Organic Chemistry with Biochemistry, and Microbiology utilizing alternative instruction including, but not limited to, instructional methods such as online tutorials, webinars, or hybrid combination of online and in-person instruction with faculty, as deemed appropriate by the educational institution.

(2) Admission of students shall be based on specific written criteria, procedures and policies. Previous academic performance and/or performance on standardized national tests of scholastic aptitude or other predictors of scholastic aptitude and ability shall be utilized as criteria in selecting students who have the potential for successfully completing the educational program. Applicants must be informed of the criteria and procedures for selection, goals of the program, curricular content, course transferability and the scope of practice of and employment opportunities for dental hygienists.

(g) The program shall have published student grievance policies.

(h) There shall be an organizational chart that identifies the relationships, lines of authority and channels of communication within the educational program, between the program and other administrative segments of the sponsoring institution, and between the program, the institution and extramural facilities and service learning sites.

(i) The educational program shall have learning resources, including faculty, library, staff and support services, technology and physical space and equipment, including laboratory and clinical facilities, to support the program's stated mission and goals and in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article.

(j) The educational program director shall have the primary responsibility for developing policies and procedures, planning, organizing, implementing and evaluating all aspects of the program.

(k) The number and distribution of faculty and staff shall be sufficient to meet the educational program's stated mission and goals.

- (l) When an individual not employed in the educational program participates in the instruction and supervision of students obtaining educational experience, their name and responsibilities shall be described in writing and kept on file by the dental hygiene program and they shall have twenty-four (24) months of experience providing direct patient care as a registered dental hygienist or dentist.
- (m) As of January 1, 2017, in a two-year college setting, graduates of the educational program shall be awarded an associate degree, and in a four-year college or university, graduates shall be awarded an associate or baccalaureate degree.  
*Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1905, 1906 and 1941, Business and Professions Code; and Section 8625, Government Code.*

### **§ 1105.1. Faculty.**

- (a) “Program Director” or “Interim Program Director” means a registered dental hygienist or dentist who has the authority and responsibility to administer the educational program in accordance with approved accreditation standards referenced in subsection (c) of section 1103 of this article. The educational program may have an Interim Program Director for a maximum of twelve (12) months. The director shall have a full-time appointment as defined by the institution, whose primary responsibility is for the operation, supervision, evaluation and revision of the program. The program director shall meet the following minimum qualifications:
  - (1) Possess an active, current dental or dental hygiene license issued by the Dental Hygiene Board or the Dental Board of California (DBC), with no disciplinary actions;
  - (2) Possess a master’s or higher degree from a college or university accredited by an agency recognized by the U.S. Department of Education or Council for Higher Education Accreditation;
  - (3) Documentation of two (2) years’ experience teaching in pre- or post-licensure registered dental hygiene or dental programs. This requirement may be waived for an Interim Program Director; and
  - (4) Documentation of a minimum of 2,000 hours in direct patient care as a registered dental hygienist, or working with a registered dental hygienist.
- (b) “Program faculty” means an individual having a full-time or part-time agreement with the institution to instruct one or more of the courses in the educational program’s curriculum. The individual shall hold a baccalaureate degree or higher from a college or university accredited by an agency recognized by the U.S. Department of Education or Council for Higher Education Accreditation, and possess the following: an active California dental or dental hygiene license or special permit with no disciplinary actions; or a postsecondary credential generally recognized in the field of instruction; or a degree in the subject being taught or evaluated. All program faculty shall have documented background in educational methodology every two years, consistent with teaching assignments.

- (1) Clinical teaching faculty shall have direct patient care experience within the previous five (5) years in the dental hygiene area to which he or she is assigned, which can be met by either: two (2) years' experience providing direct patient care as a registered dental hygienist or dentist; or one (1) academic year of dental or dental hygienist level clinical teaching experience.
  - (2) Didactic teaching faculty shall possess the following minimum qualifications: Current knowledge of the specific subjects taught, which can be met by either: having completed twelve (12) hours of continuing education in the designated subject area; or two (2) semester units or three (3) quarter units of dental hygiene education related to the designated dental hygiene area; or have national certification in the designated dental hygiene area.
- (c) Faculty Responsibilities.
- (1) Each faculty member shall assume responsibility and accountability for instruction, evaluation of students, and planning and implementing curriculum content as required by the educational program.
  - (2) Each faculty member shall participate in an orientation prior to teaching, including, but not limited to, the educational program's curriculum, policies and procedures, strategies for teaching, and student supervision and evaluation.
  - (3) Each faculty member shall be competent in the area in which he or she teaches.

*Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1905 and 1941, Business and Professions Code.*

## **§ 1105.2. Required Curriculum.**

- (a) The curriculum of an educational program shall meet the requirements of this section.
- (b) The curriculum shall include education in the dental hygiene process of care and shall define the competencies graduates are to possess at graduation, describing
  - (1) the desired combination of foundational knowledge, psychomotor skills, communication skills, and professional behaviors and values required,
  - (2) the standards used to measure the students' independent performance in each area, and
  - (3) the evaluation mechanisms by which competence is determined.
- (c) The organization of the curriculum shall create opportunities for adjustments to and research of, advances in the practice of dental hygiene to ensure that graduates will have the knowledge, skills, and abilities to function within the dental hygiene scope of practice.
- (d) The content of the curriculum shall include biomedical and dental sciences and dental hygiene sciences and practice. This content shall be of sufficient depth, scope, sequence of instruction, quality and emphasis to ensure achievement of the educational program's standard of competency.
  - (1) Biomedical and Dental Sciences Content

- (A) Cariology
  - (B) Dental Materials
  - (C) General and Maxillofacial Pathology and/or Pathophysiology
  - (D) Head, Neck and Oral Anatomy
  - (E) Immunology
  - (F) Oral Embryology and Histology
  - (G) Oral Pathology
  - (H) Pain management
  - (I) Periodontology
  - (J) Pharmacology
  - (K) Radiography
  - (L) Dental Anatomy and Morphology
- (2) Dental Hygiene Sciences and Practice Content
- (A) Community Dental Health
  - (B) Dental Hygiene Leadership
  - (C) Evidence-based Decision Making and Evidence-based Practice
  - (D) Health Informatics
  - (E) Health Promotion
  - (F) Infection and Hazard Control Management
  - (G) Legal and Ethical Aspects of Dental Hygiene Practice
  - (H) Medical and Dental Emergencies
  - (I) Oral Health Education and Preventive Counseling
  - (J) Patient Management
  - (K) Preclinical and Clinical Dental Hygiene
  - (L) Provision of Services for and Management of Patients with Special Needs
  - (M) Research
  - (N) Provision of Oral Health Care Services to Patients with Bloodborne Infectious Diseases
- (3) Approved educational programs shall, at a minimum, specifically include instruction in local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage in accordance with the provisions of this subdivision.
- (A) An educational program shall:
- (i) Provide infection control equipment according to the requirements of California Code of Regulations (CCR), Title 16, Division 10, Chapter 1, Article 1, Section 1005;
  - (ii) Provide faculty to provide instruction to students in accordance with the minimum standards set forth in Section 1941 of the Business and Professions Code; and
  - (iii) Retain staff who have taken a board-approved eight (8) hour course in infection control or possess a current California registered dental assistant (RDA) or registered dental assistant in extended functions (RDAEF) license.

- (B) An educational program shall provide at least one complete nitrous oxide-oxygen unit for each six (6) students enrolled in the course and shall include a fail-safe flowmeter, functional scavenger system and disposable or sterilizable nasal hoods for each laboratory partner or patient. All tubing, hoses and reservoir bags shall be maintained and replaced at regular intervals to prevent leakage of gases. When not attached to a nitrous oxide-oxygen unit, all gas cylinders shall be maintained in an upright position, secured with a chain or in a cart designed for storage of gas cylinders.
- (C) An educational program shall comply with local, state, and federal health and safety laws and regulations.
- (i) All students shall have access to the program's hazardous waste management plan for the disposal of needles, cartridges, medical waste and storage of oxygen and nitrous oxide tanks.
  - (ii) All students shall have access to the program's clinic and radiation hazardous communication plan.
  - (iii) All students shall receive a copy of the program's bloodborne and infectious diseases exposure control plan, which shall include emergency needlestick information.
- (D) General Curriculum Content. Areas of didactic, preclinical and clinical instruction shall include:
- (i) Indications and contraindications for all patients of:
    - 1. periodontal soft tissue curettage;
    - 2. administration and reversal of local anesthetic agents;
    - 3. nitrous oxide-oxygen analgesia agents
  - (ii) Head and neck anatomy;
  - (iii) Physical and psychological evaluation procedures;
  - (iv) Review of body systems related to course topics;
  - (v) Theory and psychological aspects of pain and anxiety control;
  - (vi) Selection of pain control modalities;
  - (vii) Pharmacological considerations such as action of anesthetics and vasoconstrictors, local anesthetic reversal agents and nitrous oxide-oxygen analgesia;
  - (viii) Recovery from and post-procedure evaluation of periodontal soft tissue curettage, local anesthesia and nitrous oxide/oxygen analgesia;
  - (ix) Complications and management of periodontal soft tissue curettage, local anesthesia and nitrous oxide-oxygen analgesia emergencies;
  - (x) Armamentarium required and current technology available for local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage;
  - (xi) Techniques of administration of maxillary and mandibular local infiltrations, field blocks and nerve blocks, nitrous oxide-oxygen analgesia and performance of periodontal soft tissue curettage;

- (xii) Proper infection control procedures according to the provisions of 16 CCR section 1005;
  - (xiii) Patient documentation that meets the standard of care, including, but not limited to, computation of maximum recommended dosages for local anesthetics and the tidal volume, percentage and amount of the gases and duration of administration of nitrous oxide-oxygen analgesia;
  - (xiv) Medical and legal considerations including patient consent, standard of care, and patient privacy.
- (E) Specific Curriculum Content. Curriculum relating to the administration of local anesthetic agents, administration of nitrous oxide-oxygen analgesia, and performance of periodontal soft tissue curettage shall meet the requirements contained in 16 CCR section 1107. Out-of-state dental hygiene programs that are accredited by the Commission on Dental Accreditation or an approved accrediting body and who provide instruction according to this subdivision may be approved by the Board to meet the requirements set forth in Business and Professions Code section 1909 and shall submit:
- (i) An “Application for Approval of an Out-of-State Dental Hygiene Educational Program Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)” DHBC SLN-04 (New 10/2021) hereby incorporated by reference; and
  - (ii) A SLN course syllabus certified by the educational program (to include individual SLN requirements set forth in 16 CCR 1107(b)(9)) for the out-of-state RDH educational program; and
  - (iii) Payment of an application fee of \$500 to the Board.
- Each approved course shall submit a biennial report “Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) Course Provider Biennial Report” (DHBC SLN-03, Rev 03/2021) incorporated by reference at section 1107(a)(5).
- (F) Out-of-State Applicants for Licensure. An out-of-state applicant for dental hygiene licensure may be certified by the Board that they have met current California SLN requirements pursuant to 16 CCR section 1107(b)(9). In addition to all requirements required by the Board to be licensed as a dental hygienist in California, out-of-state applicants shall submit:
- (i) An “Application for Certification of Out-of-State Dental Hygiene Education in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)” DHBC SLN-05 (New 10/2021) hereby incorporated by reference; and
  - (ii) An SLN course syllabus (to include individual SLN requirements set forth in 16 CCR 1107(b)(9)) certified by the educational program for the RDH educational program of which the applicant is a graduate; and



- (iii) A "Certification of Completion of SLN Course Requirements" DHBC SLN-06 (New 10/2021) hereby incorporated by reference, from the RDH educational program of which the applicant is a graduate; and
  - (iv) Payment of an application fee of \$500 to the Board.
- (4) Requirements for Radiation Safety and Radiography Techniques Instruction. Approved educational programs shall, at a minimum, specifically include instruction in radiation safety and radiography techniques and shall comply with the requirements in accordance with the provisions of this subdivision in order to secure and maintain approval by the Board. The course of instruction in radiation safety and radiography techniques offered by a dental hygiene educational program (DHEP) approved by the Board for instruction in dental hygiene shall be deemed to be an approved radiation safety course if the DHEP has submitted evidence satisfactory to the Board that it meets all the requirements set forth below.
  - (A) A DHEP shall provide infection control equipment and follow infection control procedures according to the requirements of 16 CCR section 1005, all federal and state laws, rules, regulations, and all approved national and state accreditation standards established by the Department of Health Care Services (DHCS), Occupational Safety and Health Administration (OSHA), and the Commission on Dental Accreditation (CODA).
  - (B) Facilities.

There shall be a sufficient number of safe, adequate, and educationally conducive lecture classrooms, radiography operatories, developing/processing facilities or digital equipment, and viewing spaces for mounting, viewing and evaluating radiographs. Adequate sterilizing facilities shall be provided, and all disinfection and sterilization procedures shall comply with 16 CCR 1005, all applicable accreditation standards, and state and federal laws, rules, and regulations.

    - (i) A radiographic operatory shall be deemed adequate if it complies with the California Radiation Control Regulations (17 CCR commencing with section 30100), is properly equipped with supplies and equipment for practical work and includes for every five students at least one functioning radiography machine which is adequately filtered and collimated in compliance with 17 CCR 30311 and 17 CCR 30311.1 and which is equipped with the appropriate position-indicating devices for each technique being taught.
    - (ii) The developing or processing facility shall be deemed adequate if it is of sufficient size, based upon the number of students, to accommodate students' needs in learning processing procedures and is properly equipped with supplies and equipment for practical work using manual, automatic, or digital equipment.

- (iii) Radiology areas shall provide protection to patients, students, faculty, and observers in full compliance with all applicable state and federal laws, rules, and regulations.

(C) Program Content.

Sufficient time shall be available for all students to obtain laboratory and clinical experience to achieve minimum competence in the various protocols used in the application of dental radiographic techniques.

- (i) A detailed course outline shall be provided to the students which clearly states curriculum subject matter and specific instructional hours in the individual areas of didactic, laboratory, preclinical, and clinical instruction.
- (ii) General program objectives and specific instructional unit objectives shall be stated in writing and shall include theoretical aspects of each subject as well as practical application. The theoretical aspects of the program shall provide the content necessary for students to make judgments regarding dental radiation exposure. The course shall ensure that students who successfully complete the course can expose, process, and evaluate dental radiographs with minimum competence.
- (iii) Objective evaluation criteria shall be used for measuring student progress toward attainment of specific course objectives. Students shall be provided with specific unit objectives and evaluation criteria that will be used for all aspects of the curriculum including written, practical, and clinical competencies and examinations.
- (iv) Areas of instruction shall include at least the following as they relate to exposure, processing and evaluations of dental radiographs:
  - (1) Radiation physics and biology;
  - (2) Radiation protection and safety;
  - (3) Recognition of normal anatomical landmarks and abnormal conditions of the oral cavity as they relate to dental radiographs;
  - (4) Radiograph exposure and processing techniques using manual, automatic, and computerized digital methods;
  - (5) Radiograph mounting and/or sequencing, and viewing, including anatomical landmarks of the oral cavity;
  - (6) Intraoral techniques and dental radiograph armamentaria, including holding devices;
  - (7) Interproximal examination including principles of exposure, methods of retention and evaluation;
  - (8) Intraoral examination including, principles of exposure, methods of retention and evaluation;
  - (9) Identification and correction of faulty radiographs;
  - (10) Infection control in dental radiographic procedures; and
  - (11) Radiographic record management.

(D) Radiation Safety.

Sufficient hours of didactic and laboratory instruction shall be provided to ensure that a student successfully demonstrates competency in radiation safety. Successful completion of a radiation safety competency must be achieved at a minimum of 75% and shall be required prior to utilization of radiographic techniques in laboratory and clinic.

(E) Laboratory Instruction.

Sufficient hours of laboratory instruction shall be provided to ensure that a student successfully completes on a radiology manikin at a minimum the procedures set forth below. A procedure has been successfully completed only if each radiograph is of diagnostic quality.

- (i) Two (2) full mouth periapical series, consisting of at least eighteen (18) radiographs each, four (4) of which must be bitewings;
- (ii) Two (2) bitewing series, consisting of at least four (4) radiographs each; and
- (iii) Developing or processing and mounting of analog exposed radiographs, or computer digital exposure and sequencing may be utilized.
- (iv) Student and instructor written evaluation of radiographs.

(F) Clinical Experience.

There shall be sufficient clinical experiences as part of an organized program of instruction, to obtain clinical competency in radiographic techniques. Clinical instruction shall include clinical experience on four (4) different patients with one (1) of the four (4) patients to be utilized for clinical competency. Clinical experience shall include:

- (i) Successful completion of a minimum of four (4) full mouth periapical series, consisting of at least eighteen (18) radiographs each, four (4) of which must be bitewings. Such radiographs shall be of diagnostic quality. All exposures made on patients shall only be made for diagnostic purposes and shall in no event exceed three (3) additional exposures per patient. If traditional film packets are utilized, they must be double film.
- (ii) Performance of all clinical procedures on patients under the general supervision of a licensed dentist.
- (iii) Either or both:
  - a. Processing and mounting of analog exposed radiographs;
  - b. Computer digital exposure and sequencing.
- (iv) Student and instructor written evaluation of radiographs.

(G) Clinical Facilities.

Clinical facilities shall have the necessary equipment and accessories appropriate for the procedures to be performed and such equipment and accessories must be in safe operating condition. The clinical facilities shall be subject to the same requirements as those specified in subdivision (d)(4)(B).

(H) Length of Instruction.

Instruction shall be of sufficient duration for the student to develop minimum competence in the radiation safety techniques and shall in no event be less than thirty-two (32) clock hours, including at least eight (8) hours of didactic instruction, at least twelve (12) hours of laboratory instruction, and at least twelve (12) hours of clinical instruction.

- (e) An educational program shall provide for breadth of experience and student competency in patient experiences in all classifications of periodontal disease including mild, moderate, and severe involvement.
- (f) An educational program shall provide for breadth of experience and student competency in providing patient experiences in dental hygiene care for the child, adolescent, adult, geriatric, and special needs patients.

*Note: Authority cited: Sections 1905, 1906, 1909 and 1944, Business and Professions Code. Reference: Sections 1905, 1912, 1914, 1941, 1944 and 1950.5, Business and Professions Code.*

### **§ 1105.3. Changes to an Approved Program.**

- (a) Each dental hygiene program holding a certificate of approval shall:
- (1) File its legal name and current mailing address with the Dental Hygiene Board at its principal office and shall notify the Dental Hygiene Board at said office of any change of name or mailing address within thirty (30) days prior to such change. It shall give both the old and the new name or address.
  - (2) Notify the Dental Hygiene Board within ten (10) days of any:
    - (A) Change in fiscal condition that will or may potentially adversely affect applicants or students enrolled in the dental hygiene program.
    - (B) Change in the organizational structure, administrative responsibility, or accountability in the dental hygiene program, the institution of higher education in which the dental hygiene program is located or with which it is affiliated that will affect the dental hygiene program.
    - (C) Programmatic increase or decrease in program enrollment of more than 10%.
    - (D) Programmatic reduction in program faculty or support staff of more than 10%.
- (b) An approved dental hygiene program shall not make a substantive change without prior Dental Hygiene Board approval. These changes include:
- (1) Change in location, ownership or educational program expansion through an additional campus or distance education.
  - (2) Expansion, reduction or elimination of the program's physical facilities.
  - (3) Any changes that require a report to the Commission on Dental Accreditation or equivalent accrediting body shall require approval from the Dental Hygiene Board.

*NOTE: Authority cited: Section 1905, Business and Professions Code. Reference: Section 1905, Business and Professions Code.*

#### **§ 1105.4. Appeals Process.**

- (a) The Dental Hygiene Board may deny or withdraw its approval of an educational program. If the Dental Hygiene Board denies or withdraws approval of a program, the reasons for withdrawal or denial will be provided in writing within ninety (90) days.
- (b) Any educational program whose approval is denied or withdrawn shall be granted an informal conference before the Executive Officer or his or her designee prior to the effective date of such action. The educational program shall be given at least ten days' notice of the time and place of such informal conference and the specific grounds for the proposed action.
- (c) The educational program may contest the denial or withdrawal of approval by either:
  - (1) Appearing at the informal conference. The Executive Officer shall notify the educational program of the final decision of the Executive Officer within ten days of the informal conference. Based on the outcome of the informal conference, the program may then request a hearing to contest the Executive Officer's final decision. An educational program or program applicant shall request a hearing by written notice to the Dental Hygiene Board within 30 calendar days of the postmark date of the letter of the Executive Officer's final decision after the informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Or;
  - (2) Notifying the Dental Hygiene Board in writing the program's election to forego the informal conference and to proceed with a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Such notification shall be made to the Dental Hygiene Board before the date of the informal conference.

*NOTE: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1905 and 1941, Business and Professions Code.*

#### **§ 1106. Radiation Safety Certificate.**

- (a) Certificates. A certificate may be issued by an approved California dental hygiene program to their dental hygiene student who successfully completes the radiation safety course as part of the student's curriculum. A dental hygiene student shall be deemed to have successfully completed the course if the student has met all the course requirements and has obtained passing scores on both written and clinical examinations that includes theory and clinical application in radiographic techniques.
- (b) A dental hygiene student who has received certification from an educational program approved the Dental Hygiene Board shall be allowed to operate dental radiographic equipment for the purpose of oral radiography.

*NOTE: Authority cited: Sections 1905 and 1950.5(m), Business and Professions Code. Reference: Section 1905, Business and Professions Code; and Section 106975, Health and Safety Code.*

**§ 1107. RDH Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage.**

- (a) Approval of Course. The Board shall approve only those educational courses of instruction in local anesthetic, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage that continuously meet all course requirements. Continuation of approval will be contingent upon compliance with these requirements.
- (1) A course in local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage is a course that provides instruction in the following duties:
    - (A) Administration of local anesthetic agents, infiltration and conductive, limited to the oral cavity;
    - (B) Administration of nitrous oxide and oxygen when used as an analgesic; utilizing fail-safe machines with scavenger systems containing no other general anesthetic agents; and
    - (C) Periodontal soft tissue curettage.
  - (2) An applicant course provider shall submit an “Application for Approval of a Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)” (DHBC SLN-01 (03/2021)) hereby incorporated by reference, accompanied by the appropriate fee, and shall receive approval prior to enrollment of students.
  - (3) All courses shall be at the postsecondary educational level.
  - (4) Each approved course shall be subject to review by the Board at any time.
  - (5) Each approved course shall submit a biennial report “Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) Course Provider Biennial Report” (DHBC SLN-03 (03/2021)) hereby incorporated by reference.
- (b) Requirements for Approval. In order to be approved, a course shall provide the resources necessary to accomplish education as specified in this section. Course providers shall be responsible for informing the Board of any changes to the course content, physical facilities, and faculty, within 10 days of such changes.
- (1) Administration. The course provider shall require course applicants to possess current certification in Basic Life Support for health care providers as required by Title 16, Division 10, Chapter 1, Article 4, Section 1016 (b)(1) (C) of the California Code of Regulations in order to be eligible for admission to the course, and one of the following:
    - (A) Possess a valid active license to practice dental hygiene issued by the Board; or,
    - (B) Have graduated from an educational program for dental hygienists approved by the Commission on Dental Accreditation or an equivalent accrediting body approved by the Board; or
    - (C) Provide a letter of certification from the dean or program director of an educational program accredited by the Commission on Dental Accreditation that the course applicant is in his or her final academic term

- and is expected to meet all educational requirements for graduation. The school seal must be affixed to the letter with the name of the program.
- (2) Faculty. Preclinical and clinical faculty, including course director and supervising dentistry), shall:
    - (A) Possess a valid, active California license to practice dentistry or dental hygiene for at least two (2) years immediately preceding any provision of course instruction;
    - (B) Provide preclinical and clinical instruction only in procedures within the scope of practice of their respective licenses.
    - (C) Complete an educational methodology course immediately preceding any provision of course instruction and every two years thereafter; and,
    - (D) Be calibrated in instruction and grading by the course provider.
    - (E) Submit to the Board a “DHBC Faculty Biosketch” (3/2021), hereby incorporated by reference, prior to providing instructions in SLN duties.
  - (3) Facilities and Equipment. Preclinical and clinical instruction shall be held at a physical facility. Physical facilities and equipment shall be maintained and replaced in a manner designed to provide students with a course designed to meet the educational objectives set forth in this section. A physical facility shall have all of the following:
    - (A) A lecture classroom, a patient clinic area, a sterilization facility and a radiology area for use by the students.
    - (B) Access for all students to equipment necessary to develop dental hygiene skills in these duties.
    - (C) Infection control equipment shall be provided according to the requirements of CCR Title 16, Division 10, Chapter 1, Article 1, Section 1005.
    - (D) At least one complete nitrous oxide-oxygen unit shall be provided for each six (6) students enrolled in the course and shall include a fail-safe flowmeter, functional scavenger system and disposable or sterilizable nasal hoods for each laboratory partner or patient. All tubing, hoses and reservoir bags shall be maintained and replaced at regular intervals to prevent leakage of gases. When not attached to a nitrous oxide-oxygen unit, all gas cylinders shall be maintained in an upright position, secured with a chain or in a cart designed for storage of gas cylinders.
  - (4) Health and Safety. A course provider shall comply with local, state, and federal health and safety laws and regulations.
    - (A) All students shall have access to the course’s hazardous waste management plan for the disposal of needles, cartridges, medical waste and storage of oxygen and nitrous oxide tanks.
    - (B) All students shall have access to the course’s clinic and radiation hazardous communication plan.
    - (C) All students shall receive a copy of the course’s bloodborne and infectious diseases exposure control plan, which shall include emergency needlestick information.
  - (5) Clinical Education. As of January 1, 2016, each course’s clinical training shall be given at a dental or dental hygiene school or facility approved by the

- Board, which has a written contract for such training. Such written contract shall include a description of the settings in which the clinical training may be received and shall provide for direct supervision of such training by faculty designated by the course provider. A facility shall not include a dental office unless such office is an extramural facility of an educational program approved by the Board.
- (6) Recordkeeping. A course provider shall possess and maintain the following for a period of not less than 5 years:
- (A) A copy of each approved curriculum, containing a course syllabus.
  - (B) A copy of completed written examinations, clinic rubrics, and completed competency evaluations.
  - (C) A copy of faculty calibration plan, faculty credentials, licenses, and certifications including documented background in educational methodology immediately preceding any provision of course instruction and every two years thereafter.
  - (D) Individual student records, including those necessary to establish satisfactory completion of the course.
  - (E) A copy of student course evaluations and a summation thereof.
- (7) Curriculum Organization and Learning Resources.
- (A) The organization of the curriculum for the course shall be flexible, creating opportunities for adjustments to and research of advances in the administration of local anesthetic, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage as provided in the section of this article on Requirements for RDH Programs.
  - (B) Curriculum shall provide students with an understanding of these procedures as provided in the section of this article on Requirements for RDH Programs and an ability to perform each procedure with competence and judgment.
  - (C) Curriculum shall prepare the student to assess, plan, implement, and evaluate these procedures as provided and in accordance with the section of this article on Requirements for RDH Programs.
  - (D) Curriculum shall include a remediation policy, and procedures outlining course guidelines for students who fail to successfully complete the course.
  - (E) Students shall be provided a course syllabus that contains:
    - (i) Course learning outcomes,
    - (ii) Titles of references used for course materials,
    - (iii) Content objectives,
    - (iv) Grading criteria which includes competency evaluations and clinic rubrics to include problem solving and critical thinking skills that reflect course learning outcomes, and
    - (v) A remediation policy and procedures.
  - (F) Students shall have reasonable access to dental and medical reference textbooks, current scientific journals, audio visual materials and other relevant resources.



- (8) General Curriculum Content. Areas of didactic, preclinical and clinical instruction shall include:
- (A) Indications and contraindications for all patients of:
    - (i) periodontal soft tissue curettage;
    - (ii) administration and reversal of local anesthetic agents;
    - (iii) nitrous oxide-oxygen analgesia agents
  - (B) Head and neck anatomy;
  - (C) Physical and psychological evaluation procedures;
  - (D) Review of body systems related to course topics;
  - (E) Theory and psychological aspects of pain and anxiety control;
  - (F) Selection of pain control modalities;
  - (G) Pharmacological considerations such as action of anesthetics and vasoconstrictors, local anesthetic reversal agents and nitrous oxide-oxygen analgesia;
  - (H) Recovery from and post-procedure evaluation of periodontal soft tissue curettage, local anesthesia and nitrous oxide/oxygen analgesia;
  - (I) Complications and management of periodontal soft tissue curettage, local anesthesia and nitrous oxide-oxygen analgesia emergencies;
  - (J) Armamentarium required and current technology available for local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage;
  - (K) Techniques of administration of maxillary and mandibular local infiltrations, field blocks and nerve blocks, nitrous oxide-oxygen analgesia and performance of periodontal soft tissue curettage;
  - (L) Proper infection control procedures according to the provisions of Title 16, Division 10, Chapter 1, Article 4, Section 1005 of the California Code of Regulations;
  - (M) Patient documentation that meets the standard of care, including, but not limited to, computation of maximum recommended dosages for local anesthetics and the tidal volume, percentage and amount of the gases and duration of administration of nitrous oxide-oxygen analgesia;
  - (N) Medical and legal considerations including patient consent, standard of care, and patient privacy;
  - (O) Student course evaluation mechanism.
- (9) Specific Curriculum Content.
- (A) Local anesthetic agents curriculum must include at least thirty (30) hours of instruction, including at least fifteen (15) hours of didactic and preclinical instruction and at least fifteen (15) hours of clinical instruction. Preclinical instruction shall include a minimum of two (2) experiences per injection, which may be on another student. Clinical instruction shall include at least four (4) clinical experiences per injection to include two (2) experiences on the right side of a patient and two (2) experiences on the left side of a patient, of which only one (1) may be on another student. Curriculum must include maxillary and mandibular anesthesia techniques for local infiltration, field blocks and nerve blocks to include

anterior superior alveolar (ASA), middle superior alveolar (MSA), anterior middle superior alveolar (AMSA), posterior superior alveolar (PSA), greater palatine, suprapariosteal, inferior alveolar (IA), lingual, and buccal injections. Clinical instruction for the mental and incisive injections shall include at least two (2) clinical experiences per injection to include one (1) experience on the right side of a patient and one (1) experience on the left side of a patient, of which only one (1) may be on another student. Clinical instruction for the nasopalatine injection shall include four (4) clinical experiences, of which only one (1) may be on another student. One clinical experience per injection shall be used to determine clinical competency in the course. The competency evaluation for each injection and technique must be achieved at a minimum of 75%.

<b>Injection Type</b>	<b>Didactic Instruction</b>	<b>Clinical Instruction</b>	<b>Required Preclinical Injections</b>	<b>Required Clinical Injections</b>
	At least 15 hours of instruction required.	At least 15 hours of instruction required.	Injections may be on another student.	
Nasopalatine	Yes	Yes	2	4
Mental	Yes	Yes	2	1. One (1) experience on the right side of a patient
				2. One (1) experience on the left side of a patient
				3. Only one (1) experience may be on another student.
Incisive	Yes	Yes	2	1. One (1) experience on the right side of a patient
				2. One (1) experience on the left side of a patient
				3. Only one (1) experience may be on another student.

Competency evaluation for each injection and technique must be achieved at a minimum of 75%.

<b>Injection Type</b>	<b>Didactic Instruction</b>  (At least 15 hours of instruction required.)	<b>Clinical Instruction</b>  (At least 15 hours of instruction required.)	<b>Required Preclinical Injections</b>  (Injections may be on another student.)	<b>Required Clinical Injections</b>  Injections to include two (2) experiences on the right side of a patient and two (2) experiences on the left side of a patient.  Only one (1) experience may be on another student.
Anterior Superior Alveolar (ASA)	Yes	Yes	2	4
Middle Superior Alveolar (MSA)	Yes	Yes	2	4
Anterior Middle Superior Alveolar (AMSA)	Yes	Yes	2	4
Posterior Superior Alveolar (PSA)	Yes	Yes	2	4
Greater Palatine (GP)	Yes	Yes	2	4
Supraperiosteal	Yes	Yes	2	4
Inferior Alveolar (IA)	Yes	Yes	2	4
Lingual	Yes	Yes	2	4
Buccal	Yes	Yes	2	4

Competency evaluation for each injection and technique must be achieved at a minimum of 75%.

- (B) Nitrous oxide-oxygen analgesia curriculum must include at least eight (8) hours of instruction, including at least four (4) hours of didactic and preclinical instruction and at least four (4) hours of clinical instruction. This includes at least two (2) preclinical experiences on patients, both of which may be on another student, and at least three (3) clinical experiences on patients, of which only one may be on another student and one of which will be used to determine clinical competency in the course. Each clinical experience shall include the performance of a dental hygiene procedure while administering at least twenty (20) minutes of nitrous oxide-oxygen analgesia, from the beginning of titration of nitrous oxide-oxygen to the discontinuation of nitrous oxide and beginning of final oxygenation. The competency evaluation must be achieved at a minimum of 75%.

<b>Nitrous Oxide-Oxygen Sedation Requirements</b>	<b>Didactic and Preclinical Instruction</b>	<b>Clinical Instruction</b>	<b>Required Preclinical Experiences</b>	<b>Required Clinical Experiences</b>
Minimum 8 hours of instruction	Yes Minimum 4 hours instruction	Yes Minimum 4 hours instruction	1. Minimum two experiences	1. Minimum three experiences
			2. Both experiences may be on another student	2. One experience may be on another student
				3. One experience must be used to determine competency
				4. Minimum of 20 minutes of nitrous oxide-oxygen exposure for each experience
				5. Competency evaluation must be achieved at a minimum of 75%.

(C) Periodontal soft tissue curettage curriculum must include at least six (6) hours of instruction, including at least three (3) hours of didactic and preclinical instruction and at least three (3) hours of clinical instruction. Education may include use of a laser approved for soft tissue curettage. This includes at least three (3) clinical experiences on patients, of which only one may be on another student and one of which will be used to determine clinical competency in the course. The competency evaluation for this procedure must be achieved at a minimum of 75%.

(10) Certificate of Completion. A course provider shall issue a certificate of completion “Certification in Administration of Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia” (DHBC SLN-02 (03/2021)), hereby incorporated by reference, only after a student has achieved clinical competency of the three procedures.

(c) Appeals.

(1) The Board may deny or withdraw its approval of a course. If the Board denies or withdraws approval of a course, the reasons for withdrawal or denial will be provided in writing within ninety (90) days.

- (2) Any course provider whose approval is denied or withdrawn shall be granted an informal conference before the Executive Officer or his or her designee prior to the effective date of such action. The course provider shall be given at least ten days' notice of the time and place of such informal conference and the specific grounds for the proposed action.
- (3) The course provider may contest the denial or withdrawal of approval by either:
  - (A) Appearing at the informal conference. The Executive Officer shall notify the course provider of the final decision of the Executive Officer within ten days of the informal conference. Based on the outcome of the informal conference, the course provider may then request a hearing to contest the Executive Officer's final decision. A course provider shall request a hearing by written notice to the Board within 30 calendar days of the postmark date of the letter of the Executive Officer's final decision after informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Or;
  - (B) Notifying the Board in writing the course provider's election to forego the informal conference and to proceed with a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Such notification shall be made to the Board before the date of the informal conference.

*Note: Authority cited: Sections 1905, 1906, 1909 and 1944, Business and Professions Code. Reference: Sections 1905, 1909, 1917 and 1944, Business and Professions Code.*

### **§ 1108. Remedial Education.**

(a) Approval of Remedial Education Course.

The Dental Hygiene Board shall approve only those educational courses for remedial education pursuant to section 1917.3 of the Code that continuously meet all course requirements. Each approved course shall be subject to review by the Dental Hygiene Board at any time. Continuation of approval will be contingent upon compliance with these requirements.

- (1) A remedial course shall offer instruction in the following skills:
  - (A) Dental hygiene assessment and development, planning and implementation of a dental hygiene care plan;
  - (B) Exploration and detection of calculus, and periodontal probing;
  - (C) Hand and sonic or ultrasonic instrumentation to remove plaque biofilm and calculus;
  - (D) Administration of local anesthesia, nitrous oxide oxygen analgesia and performance of soft tissue curettage;
  - (E) Appropriate use of materials and devices used in dental hygiene practice; and

- (F) Process of developing, reviewing and documenting outcomes of treatment and interventions provided to patients.
  - (G) All laws and regulations pertaining to the practice of dental hygiene.
  - (2) An applicant course provider shall submit an "Application for Approval of a Course in Remedial Education," DHCC RE-01(05/2015) hereby incorporated by reference, accompanied by the appropriate fee, for approval of a new course and shall receive approval prior to operation.
  - (3) All courses shall be at the postsecondary educational level in an approved dental hygiene educational program.
  - (4) Each approved course shall consist of a combination of didactic, laboratory, and clinical instruction and provide a minimum of 50 hours of remedial education.
  - (5) Each approved course shall submit a biennial report "Remedial Education Provider Biennial Report" DHCC RE-03 (12/2013) hereby incorporated by reference.
- (b) Requirements for Approval of Course in Remedial Education.
- (1) Administration. In order to be approved, each course shall provide the resources necessary to accomplish education as specified in this section. Course providers shall be responsible for informing the Dental Hygiene Board of any changes to the course content, physical facilities, and faculty, within 10 days of such changes. In order to be eligible for admission to the course, the course provider shall require course applicants to:
    - (A) Provide evidence of failure to pass a clinical examination as set forth in section 1917.3 of the Code or provide a probationary order ordering the student to attend a remedial education course offered under this section;
    - (B) Provide evidence of current certification in Basic Life Support for health care providers as required by section 1016(b)(1)(C) of Article 4 of Chapter 1 of Division 10 of title 16, California Code of Regulations (CCR); and
    - (C) Provide evidence of graduation from an educational program for dental hygienists approved by the Commission on Dental Accreditation or an equivalent accrediting body approved by the Dental Hygiene Board.
  - (2) Faculty. Pre-clinical and clinical faculty, including course director and supervising dentist(s) shall:
    - (A) Possess a valid, active California license with no disciplinary actions at any time in any jurisdiction to practice dentistry or dental hygiene for at least two (2) years immediately preceding any provision of course instruction;
    - (B) Provide pre-clinical and clinical instruction only in procedures within the scope of practice of their respective licenses; and,
    - (C) Complete an educational methodology course within the last two (2) years; and
    - (D) Be calibrated in instruction and grading by the course provider.

- (3) Facilities and Equipment. Pre-clinical and clinical instruction shall be held at a physical facility. Physical facilities and equipment shall be maintained and replaced in a manner designed to provide students with a course designed to meet the educational objectives set forth in this section. A physical facility shall have all of the following for use by the students:
  - (A) A lecture classroom, a patient clinic area, laboratory, and a radiology area.
  - (B) Access to equipment necessary to develop dental hygiene skills.
  - (C) Infection control equipment shall be provided as described in CCR, title 16, Division 10, Chapter 1, Article 1, section 1005.
- (4) Health and Safety. A course provider shall comply with local, state, and federal health and safety laws and regulations.
  - (A) All students shall have access to the course's hazardous waste management plan for the disposal of needles, cartridges, medical waste and storage of oxygen and nitrous oxide tanks.
  - (B) All students shall have access to the course's clinic and radiation hazardous communication plan.
  - (C) All students shall receive a copy of the course's bloodborne and infectious diseases exposure control plan, which shall include emergency needlestick information. Faculty shall review with each student the information listed in (A) - (C).
- (5) Remedial Education. Remedial education shall be given in a dental hygiene program approved by the Dental Hygiene Board. Each course shall provide students the clinical facilities, equipment, and resources necessary to accomplish remedial education as provided in this section.
- (6) Recordkeeping. A course provider shall possess and maintain the following for a period of not less than 5 years:
  - (A) Individual student records, including those necessary to establish satisfactory completion of the course.
  - (B) Copies of individual student remedial education plans.
  - (C) Copies of lab and clinical competency documents.
  - (D) A copy of faculty calibration plan, faculty credentials, licenses, and certifications including documented background in educational methodology within previous two years.
  - (E) Copies of student course evaluations and a summation thereof.
  - (F) Copies of curriculum, including course syllabi, exams, sample test questions and clinic rubrics.
- (7) Curriculum and Learning Resources.
  - (A) The organization of the curriculum for remedial education shall be flexible, creating opportunities for adjustments in instruction in the skills listed in subdivision (a)(1) of this section.
  - (B) Curriculum shall include methods to assess and evaluate students' skills in order to create an individualized plan for remedial education.

- (C) A remedial education plan shall include learning outcomes, results of assessments of student skills to be remediated, methods of remediation, measures to evaluate didactic and clinical competency and criteria for completion.
  - (D) Curriculum shall prepare the student to assess, plan, implement and evaluate procedures as provided in subdivision (a)(1) of this section to perform with competence and judgment.
  - (E) Curriculum shall require adherence to infection control standards as provided in section 1005, title 16, CCR.
  - (F) Students shall be provided a course syllabus that contains:
    - (i) Course learning outcomes;
    - (ii) Titles of references used for course materials;
    - (iii) Content objectives; and
    - (iv) Grading criteria which includes competency evaluations and lab and clinic rubrics to include problem solving and critical thinking skills that reflect course learning outcomes.
  - (G) Successful completion shall require students to achieve competency at a minimum of 75% in each of the skills to be remediated.
- (c) Certificate of Completion. A course provider shall issue and provide the Dental Hygiene Board with an original "Certification of Completion of Remedial Education Course," DHCC RE-02 (12/2013), hereby incorporated by reference, only after a student has successfully completed the requirements of his or her remedial education plan.
- (d) Appeals.
- (1) The Dental Hygiene Board may deny or withdraw its approval of a course. If the Dental Hygiene Board denies or withdraws approval of a course, the reasons for withdrawal or denial will be provided in writing within ninety (90) days.
  - (2) Any course provider or applicant whose approval is denied or withdrawn shall be granted an informal conference before the Executive Officer or his or her designee prior to the effective date of such action. The applicant or course provider shall be given at least ten days' notice of the time and place of such informal conference and the specific grounds for the proposed action.
  - (3) The applicant or course provider may contest the denial or withdrawal of approval by either:
    - (A) Appearing at the informal conference. The Executive Officer shall notify the course provider of the final decision of the Executive Officer within ten days of the informal conference. Based on the outcome of the informal conference, the course provider may then request a hearing to contest the Executive Officer's final decision. A course provider shall request a hearing by written notice to the Dental Hygiene Board within 30 calendar days of the postmark date of the letter of the Executive Officer's final decision after informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Or;



- (B) Notifying the Dental Hygiene Board in writing the course provider's election to forego the informal conference and to proceed with a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Such notification shall be made to the Dental Hygiene Board before the date of the informal conference.

*Note: Authority cited: Sections 1905 and 1906, Business and Professions Code.  
Reference: Sections 1917.3 and 1944, Business and Professions Code.*

**§ 1109. Approval of Curriculum Requirements for Radiographic Decision-Making and Interim Therapeutic Restoration Courses for the Registered Dental Hygienist (RDH), Registered Dental Hygienist in Alternative Practice (RDHAP), and Registered Dental Hygienist in Extended Functions (RDHEF).**

- (a) The Dental Hygiene Board of California (Board) shall approve only those educational courses in Radiographic Decision-Making (RDM) and Interim Therapeutic Restorations (ITR) for the Registered Dental Hygienist (RDH), Registered Dental Hygienist in Alternative Practice (RDHAP), and Registered Dental Hygienist in Extended Functions (RDHEF) pursuant to Sections 1910.5, 1921, and 1926.05 of the Business and Professions Code that continuously meet all course requirements. Continuation of approval will be contingent upon compliance with these requirements, in addition to the requirements set forth by sections 1104 through 1108 of Article 3 regarding Educational Programs. Each approved course shall be subject to Board review at any time for compliance with curriculum requirements. Course providers shall be responsible for notifying the Board in writing of any changes to the course content, physical facilities, and faculty within ten (10) days of such changes.
- (b) Approval of RDM or ITR Educational Courses for the Student Enrolled in a Dental Hygiene Educational Program (DHEP). To be approved, an educational program shall comply with the following requirements:
- (1) DHEP RDM Course Requirements.
    - (A) A California DHEP shall submit to the Board an "Application for Approval of a Course in Radiographic Decision-Making for the Student in a Dental Hygiene Educational Program" DHBC RDM-01 (New 07/21), hereby incorporated by reference;
    - (B) Submit a \$300 application fee to the Board; and
    - (C) The course shall be sufficient in length for the students to develop competency in making decisions regarding which radiographs to expose to facilitate diagnosis and treatment planning by a dentist but shall be, at a minimum, four (4) hours in length and include didactic, laboratory, and simulated clinical experiences.

- (D) New or already approved DHEPs seeking to incorporate or offer a stand-alone permit course in RDM shall submit to the Board an “Application for Approval of a Course in Radiographic Decision-Making for the Student in a Dental Hygiene Educational Program,” DHBC RDM-01 (New 07/21) and a \$300 application fee prior to instruction.
- (2) DHEP ITR Course Requirements.
  - (A) A California DHEP shall submit to the Board an “Application for Approval of a Course in Interim Therapeutic Restorations for the Student in a Dental Hygiene Educational Program” DHBC ITR-03 (New 07/21), hereby incorporated by reference; and
  - (B) Submit a \$300 application fee to the Board; and
  - (C) The course shall be sufficient in length for the students to develop competency in placement of protective restorations but shall be, at a minimum, sixteen (16) hours in length, including four (4) hours of didactic training, four (4) hours of laboratory training, and eight (8) hours of clinical training.
  - (D) New or already approved DHEPs seeking to incorporate or offer a stand-alone permit course in ITR shall submit to the Board an “Application for Approval of a Course in Interim Therapeutic Restorations for the Student in a Dental Hygiene Educational Program” DHBC ITR-03 (New 07/21) and a \$300 application fee prior to instruction.
- (3) In addition to the instructional components described in this subdivision, an RDM or ITR DHEP educational course shall be established at the postsecondary educational level.
- (c) Approval of RDM or ITR Continuing Educational (CE) Courses for the RDH, RDHAP, and RDHEF. All courses must be approved by the Board before offered by the provider. To be approved, an educational program shall comply with the following requirements:
  - (1) RDM CE Course Requirements.
    - (A) An applicant course provider shall submit to the Board an “Application for Approval of a Continuing Educational Course in Radiographic Decision-Making for the RDH, RDHAP, and RDHEF” DHBC RDM-02 (New 07/21), hereby incorporated by reference; and
    - (B) Submit a \$300 application fee to the Board; and
    - (C) The course shall be sufficient in length for the participants to develop competency in making decisions regarding which radiographs to expose to facilitate diagnosis and treatment planning by a dentist but shall be, at a minimum, four (4) hours in length and include didactic, laboratory, and simulated clinical experiences.
  - (2) ITR CE Course Requirements.

- (A) An applicant course provider shall submit to the Board an “Application for Approval of a Continuing Educational Course in Interim Therapeutic Restorations for the RDH, RDHAP, and RDHEF” DHBC ITR-04 (New 07/21), hereby incorporated by reference; and
  - (B) Submit a \$300 application fee to the Board; and
  - (C) The course shall be sufficient in length for the participants to develop competency in placement of protective restorations but shall be, at a minimum, sixteen (16) hours in length, including four (4) hours of didactic training, four (4) hours of laboratory training, and eight (8) hours of clinical training.
- (3) In addition to the instructional components described in subdivisions (c) (1) and (c)(2), a program or course shall be established at a post-graduate educational level.
- (d) Requirements for Approval of DHEP and CE RDM and ITR Courses.
- (1) Administration.  
To be approved, each course shall provide the resources necessary, including, but not limited to, equipment and facilities, to satisfy the educational requirements as specified in this section. Course providers shall be responsible for informing the Board of any changes in writing to the course content, physical facilities, and faculty within ten (10) days of such changes.
  - (2) Admission.
    - (A) To be eligible for admission to an RDM or ITR Course for the Student in a DHEP, students shall:
      - (i) Be a student in good standing in a DHEP; and
      - (ii) Possess current certification in Basic Life Support (BLS) and Cardiopulmonary Resuscitation (CPR) from the American Heart Association (AHA) or the American Red Cross (ARC), or a provider approved by the American Dental Association’s Continuing Education Recognition Program (CERP) or the Academy of General Dentistry’s Program Approval for Continuing Education (PACE).
    - (B) To be eligible for admission to a CE Course in RDM or ITR for the RDH, RDHAP, and RDHEF, participants shall:
      - (i) Possess a valid, active license as an RDH, RDHAP, or RDHEF issued by the Board, and
      - (ii) Possess current certification in Basic Life Support (BLS) and Cardiopulmonary Resuscitation (CPR) from the American Heart Association (AHA) or the American Red Cross (ARC), or a provider approved by the American Dental Association’s Continuing Education Recognition Program (CERP) or the Academy of General Dentistry’s Program Approval for Continuing Education (PACE).

(3) Faculty.

Didactic, laboratory, preclinical, and clinical faculty, including the program or course director and supervising dentist(s), shall:

- (A) Possess a valid, active California RDH, RDHAP, RDHEF license, or Doctor of Dental Surgery (DDS) license, or Doctor of Dental Medicine (DMD) license with no disciplinary actions in any jurisdiction to practice dental hygiene or dentistry;
- (B) Possess current certification in Basic Life Support (BLS) and Cardiopulmonary Resuscitation (CPR) from the American Heart Association (AHA) or American Red Cross (ARC), or a provider approved by the American Dental Association's Continuing Education Recognition Program (CERP) or the Academy of General Dentistry's Program Approval for Continuing Education (PACE);
- (C) RDH, RDHAP, and RDHEF faculty shall possess current licensure in RDM and ITR placement; and
- (D) Be calibrated in instruction and grading of RDM and ITR as provided in 16 CCR section 1105.1(c)(2).

(4) Facilities and Equipment.

(A) RDM and ITR Courses for the Student in a DHEP.

Didactic instruction may take place in an in-person or an online environment. Each course shall have access to adequate equipment and facilities for lectures and testing.

Laboratory and clinical instruction shall be held at a physical facility. Physical facilities and equipment shall be maintained and replaced in a manner designed to provide students with a course that will meet the educational objectives set forth in this section. A physical facility shall have all the following:

- (i) A patient clinic area, laboratory, and a radiology area;
- (ii) Access to equipment necessary to develop dental hygiene skills in RDM and ITR duties; and
- (iii) Infection control equipment shall be provided as described in 16 CCR section 1005.

(B) RDM CE Courses for the RDH, RDHAP, and RDHEF.

Didactic instruction may take place in an in-person or an online environment. Each course shall have access to adequate equipment and facilities for lectures and testing and shall be maintained and replaced in a manner designed to provide participants with a course that will meet the educational objectives set forth in this section.

(C) ITR CE Courses for the RDH, RDHAP, and RDHEF.

Didactic instruction may take place in an in-person or an online environment. Each course shall have access to adequate equipment and facilities for lectures and testing.

Laboratory and clinical instruction shall be held at a physical facility. Physical facilities and equipment shall be maintained and replaced in a manner designed to provide participants with a course designed to meet

the educational objectives set forth in this section. A physical facility shall have all the following:

- (i) A patient clinic area, laboratory, and a radiology area;
- (ii) Access to equipment necessary to develop dental hygiene skills in ITR duties; and
- (iii) Infection control equipment shall be provided as described in 16 CCR section 1005.

(5) Health and Safety.

DHEP and CE course providers shall comply with all local, state, and federal health and safety laws and regulations.

- (A) All students or participants shall have access to the course's hazardous waste management plan for the disposal of needles, cartridges, medical waste, and storage of oxygen and nitrous oxide tanks.
- (B) All students or participants shall have access to the course's clinic and radiation hazardous communication plan.
- (C) All students or participants shall receive a copy of the course's bloodborne and infectious diseases exposure control plan, which shall include emergency needlestick information.
- (D) Faculty shall review with each student or participant all requirements pursuant to this section.

(6) Curriculum and Learning Resources.

(A) RDM didactic instruction shall include:

- (i) Caries Management by Risk Assessment (CAMBRA) concept;
- (ii) Guidelines for RDM to include, but not limited to, the following concepts of:
  - (a) The American Dental Association's Guidelines on the Selection of Patients for Dental Radiographic Examinations and
  - (b) The American Academy of Pediatric Dentistry's Guidelines on Prescribing Dental Radiographs.

(iii) The guidelines developed by Pacific Center for Special Care at the University of the Pacific Arthur A. Dugoni School of Dentistry (Pacific) for use in training for Health Workforce Pilot Project (HWPP) #172. including:

- (a) Instruction on specific decision-making guidelines that incorporate information about the patient's health, radiographic history, time span since previous radiographs were taken, and availability of previous radiographs; and
- (b) Instruction pertaining to the general condition of the mouth, including extent of dental restorations present, and visible signs of abnormalities, including broken teeth, dark stain within the tooth, and visible holes in teeth.

(B) RDM laboratory instruction shall include a review of clinical cases with instructor-led discussion about radiographic decision-making in clinical situations.

- (C) RDM simulated-clinical instruction shall include case-based examination with various clinical situations where trainees make decisions about which radiographs to expose and demonstrate competency to faculty based on these case studies.
- (D) Didactic instruction in ITR placement shall include:
  - (i) Review of pulpal anatomy.
  - (ii) Theory of adhesive restorative materials used in the placement of adhesive protective restorations, including mechanisms of bonding to tooth structure, handling characteristics of the materials, preparation of the tooth prior to material placement, and placement techniques.
  - (iii) Criteria used in clinical dentistry pertaining to the use and placement of adhesive protective restorations, which shall include, but not limited to:
    - (a) Patient factors:
      - (1) According to the American Society of Anesthesiologists Physical Status Classification, the patient is Class III or less;
      - (2) The patient is cooperative enough to have the interim restoration placed without the need for special protocols, including sedation or physical support;
      - (3) The patient, or responsible party, has provided consent for the ITR procedure; and
      - (4) The patient reports that the tooth is asymptomatic, or if there is mild sensitivity which stops within a few seconds of the removal of the offending stimulus.
    - (b) Tooth Factors:
      - (1) The lesion is accessible without the need for creating access using a dental handpiece;
      - (2) The margins of the lesion are accessible so that clean, non-involved margins can be obtained around the entire periphery of the lesion with the use of hand instrumentation;
      - (3) The depth of the lesion is more than two millimeters from the pulp on radiographic examination or is judged by the DDS or DMD to be a shallow lesion such that the treatment does not endanger the pulp or require the use of local anesthetic; and
      - (4) The tooth is restorable and does not have other significant pathology.
  - (iv) Theory of protocols to deal with adverse outcomes used in the placement of adhesive protective restorations, including mechanisms of bonding to tooth structure, handling characteristics of the materials, preparation of the tooth prior to material placement, and placement techniques;

- (v) Criteria for evaluating successful completion of adhesive protective restorations, including, but not limited to, restorative material not in hyper occlusion, no marginal voids, and minimal excess material;
  - (vi) Protocols for adverse outcomes after ITR placement, including, but not limited to; exposed pulp, tooth fracture, gingival tissue injury, high occlusion, open margins, tooth sensitivity, rough surface, complications, or unsuccessful completion of adhesive protective restorations, including situations requiring immediate referral to a dentist; and
  - (vii) Protocols for follow-up of adhesive protective restorations, including, but not limited to, at least two (2) follow-up examinations of the ITR within a twelve (12) month period.
- (E) Laboratory instruction in ITR placement shall include placement of adhesive protective restorations where students and participants demonstrate competency in this technique on typodont teeth.
- (F) Clinical instruction in ITR shall include experiences where students and participants demonstrate placement of ITRs under direct supervision of faculty.
- (G) Minimum ITR Requirements.
- (i) Laboratory instruction shall include placement of ten (10) adhesive protective restorations where students or participants demonstrate competency in this technique on typodont teeth.
  - (ii) Clinical instruction shall include experiences where students or participants demonstrate, at a minimum, the placement of five (5) adhesive therapeutic restorations that shall be evaluated by the program faculty to criteria-referenced standards.
- (H) Curriculum shall require adherence to infection control standards as provided in 16 CCR section 1005.
- (I) Curriculum shall prepare the student or participant to assess, plan, implement, and evaluate procedures as provided in subdivision (c)(6) of this section to perform with competence and judgment.
- (J) Students or participants shall be provided a course syllabus that contains:
- (i) Course learning outcomes;
  - (ii) Titles of references used for course materials;
  - (iii) Content objectives; and
  - (iv) Grading criteria which includes competency evaluations and laboratory, preclinical, and clinical rubrics to include problem solving and critical thinking skills that reflect course learning outcomes.
- (K) Successful completion shall require students or participants to achieve competency at a minimum of 75% in each of the competencies.
- (7) Recordkeeping.
- DHEP and CE course providers shall possess and maintain the following for a period of not less than five (5) years:
- (A) Individual student or participant records, including those necessary to establish satisfactory completion of the course;

- (B) Copies of lab and clinical competency documents;
  - (C) Copies of faculty calibration plans, faculty credentials, licenses, and certifications, including documented background in educational methodology within the previous two years;
  - (D) Copies of student or participant course evaluations and a summation thereof; and
  - (E) Copies of curriculum, including course syllabi, exams, sample test questions, and clinic rubrics.
- (e) Satisfactory completion of courses in RDM and ITR placement shall be determined using criteria-referenced completion standards, where the instructor determines when the student or participant has achieved RDM and ITR placement competency based on these standards, including the duration of time needed to achieve competency. Any student or participant who does not achieve competency in these duties in the specified period of instruction may receive additional education and evaluation, or, in the judgment of the faculty, may be discontinued from the RDM or ITR courses.
- (f) Certificates of Completion. Pursuant to the regulatory requirements set forth by 16 CCR section 1016, subdivision (h)(1), only after a student or participant has successfully completed the requirements of a course in RDM, ITR, or RDM and ITR, may a DHEP or course provider provide the student or participant with an original “Certification of Completion of a Course in Interim Therapeutic Restoration for the RDH, RDHAP, and RDHEF,” “Certification of Completion of a Course in Radiographic Decision-Making for the RDH, RDHAP, and RDHEF,” or “Certification of Completion of a Course in Radiographic Decision-Making and Interim Therapeutic Restorations for the RDH, RDHAP, and RDHEF,” as applicable.
- (g) Appeals.
- (1) The Board may deny or withdraw its approval of a course for noncompliance with this section. If the Board denies or withdraws approval of a course, the reasons for withdrawal or denial will be provided in writing within sixty (60) business days.
  - (2) Any course provider or applicant whose approval is denied or withdrawn shall be granted an informal conference before the Executive Officer or his or her designee prior to the effective date of such action. The applicant or course provider shall be given at least ninety (90) business days’ notice of the time and place of such informal conference and the specific grounds for the proposed action.
  - (3) The applicant or course provider may contest the denial or withdrawal of approval by either:



- (A) Appearing at the informal conference. The Executive Officer shall notify the course provider of the final decision of the Executive Officer within thirty (30) business days of the informal conference. Based on the outcome of the informal conference, the course provider may then request a hearing to contest the Executive Officer's final decision. A course provider shall request a hearing by written notice to the Board within thirty (30) business days of the postmark date of the letter of the Executive Officer's final decision after informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code; or
- (B) Notifying the Board in writing the course provider's election to forego the informal conference and to proceed with a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Such notification shall be made to the Board before the date of the informal conference.

*Note: Authority cited: Sections 1905, 1906, and 1910.5, Business and Professions Code. Reference: Section 1910.5, Business and Professions Code.*

## **Article 4. Licensing**

### **§1117. Reporting Dental Relationships Between Registered Dental Hygienists in Alternative Practice and Licensed Dentists**

- (a) Upon application for a registered dental hygienist in alternative practice (RDHAP) license, the applicant shall provide documentation specified in subdivision (f) to the Dental Hygiene Board of California (Board) of a relationship with at least one licensed dentist located in California for referral, consultation, and emergency services.
- (b) An RDHAP shall provide the documentation specified in subdivision (f) to the Board of a current relationship with at least one licensed dentist for referral, consultation, and emergency services at every biennial license renewal.
- (c) An RDHAP shall report any termination of the existing dentist relationship to the Board within 30 calendar days of the termination and provide the documentation specified in subdivision (f) to the Board for at least one licensed dentist with whom the new relationship has been established for referral, consultation, and emergency services.
- (d) At all times during the relationship between the RDHAP and the dentist, the dentist's license must be current, active, and not under discipline prohibiting practice by the Dental Board of California (DBC).

- (e) If an RDHAP learns that the dentist with whom they have an existing relationship is being placed under discipline prohibiting practice by the DBC, the RDHAP shall terminate the existing dental relationship and notify the Board within 30 calendar days of the termination, and shall provide the documentation specified in subdivision (f) to the Board with at least one licensed dentist with whom the new relationship has been established for referral, consultation, and emergency services.

Documentation required to be reported to the Board shall include a completed and signed “Documentation of Registered Dental Hygienist in Alternative Practice (RDHAP) Relationship with Dentist” (Form RDHAP-01 (New 07-2021), which is hereby incorporated by reference.

*Note: Authority cited: Sections 1905 and 1906, Business and Professions Code.  
Reference cited: Section 1930, Business and Professions Code.*

### **§ 1118. Registered Dental Hygienists in Alternative Practice, Performance of Soft Tissue Curettage and Administration of Local Anesthesia.**

A licensed registered dental hygienist in alternative practice (RDHAP) may perform soft tissue curettage and administer local anesthesia in accordance with the provisions of this section. The RDHAP shall:

- (a) Consult with a California licensed dentist to authorize the use of soft tissue curettage or local anesthesia for each patient to be treated by the RDHAP in local anesthesia or soft tissue curettage. The consultation shall be documented in the patient’s chart and include, without limitation, the date of consultation, name of consulting dentist, and the consulting dentist’s California license number.
- (b) Have the physical presence on the premises of one additional individual trained in basic life support and qualified to administer cardiopulmonary resuscitation during an emergency when soft tissue curettage or local anesthesia administration will take place. For the purpose of section 1926.01(b) “immediately available” means physical presence.
- (c) Have access to portable oxygen administration equipment to assist with administration of basic life support.

*Note: Authority cited: Sections 1905 and 1906, Business and Professions Code.  
Reference: Sections 1926.01 and 1684.5, Business and Professions Code.*

### **§ 1119. Retired Licensure.**

- (a) A retired license shall be issued to a registered dental hygienist (RDH), registered dental hygienist in alternative practice (RDHAP), or registered dental hygienist in extended functions (RDHEF) if the licensee meets the following requirements:
- (1) Holds an active license or an inactive license that was not placed on inactive status as a result of revocation or suspension;

- (2) Submits to the Board a completed "Application for a Retired RDH, RDHAP, or RDHEF License" DHBC RLC-01 (New 11/20), hereby incorporated by reference; and
  - (3) Submits an \$80 fee to the Board.
- (b) Once the Board has issued a retired license, the holder of a retired license shall:
- (1) Be exempt from continuing education requirements;
  - (2) Be exempt from renewal of the retired license; and
  - (3) Utilize his or her professional title only with the unabbreviated word "retired" preceding or after the professional designation.
- (c) The holder of a retired license shall not engage in any activity for which an active RDH, RDHAP, or RDHEF license is required.
- (d) The Board shall not be prevented from investigating violations or taking action against a retired license for violations of laws governing the practice of dental hygiene.
- (e) To restore a license to active status, the holder of a retired license shall comply with the following requirements:
- (1) Submit a completed "Application for Reactivation of a Retired RDH, RDHAP, or RDHEF License" DHBC RLC-02 (New 10/20), hereby incorporated by reference;
  - (2) Payment of a \$160 fee as required by the Board;
  - (3) Submit proof of completion of current continuing education requirements pursuant to 16 CCR sections 1016 and 1017; and
  - (4) Comply with fingerprint submission requirements pursuant to 16 CCR section 1132.
- (f) The holder of a retired license shall be allowed to provide to the public, without supervision, dental hygiene educational services, oral health training programs, oral health screenings, and application of fluoride varnish free of charge in any oral health public health program created by federal, state, or local law or administered by a federal, state, county, or local governmental entity, at a sponsored event by a sponsoring entity. The retired licensee shall refer any screened individuals with possible oral abnormalities to a dentist for a comprehensive examination, diagnosis, and treatment plan. For purposes of this section, the following shall apply:
- (1) "Sponsored event" shall be defined as in paragraph (4) of subdivision (b) of Section 1626.6 of the Code.
  - (2) "Sponsoring entity" shall be defined as in paragraph (6) of subdivision (b) of Section 1626.6 of the Code.

*Note: Authority cited: Sections 464, 1905, 1906 and 1944, Business and Professions Code. Reference: Sections 464, 1906 and 1944, Business and Professions Code.*

## Article 6. Examinations

### § 1121. Dental Hygiene Written Examinations.

Prior to issuance of a license, an applicant for licensure as an RDH, RDHAP or RDHEF shall successfully take and complete a supplemental written examination in California Law and Ethics.

- (a) Each examination shall be specific for the RDH, RDHAP or RDHEF license, and
- (b) shall test the applicant's knowledge of California law as it relates to the specific dental hygiene practice and the applicant's ability to recognize and apply ethical principles.
- (c) An applicant shall be deemed to have passed the examination with a minimum score of seventy-five percent (75%).

*Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1917, 1918 and 1922, Business and Professions Code.*

### § 1122. General Procedures for the Dental Hygiene Board of California Written Examinations.

- (a) An applicant shall be able to read and interpret instructions and examination materials.
- (b) An applicant may be dismissed from the entire examination for engaging in conduct listed in Section 123 of the Business and Professions Code.

*Note: Authority cited: Sections 123, 496, 1905 and 1917, Business and Professions Code. Reference: Sections 123, 496, 1905 and 1917, Business and Professions Code.*

### § 1124. General Procedures for the Dental Hygiene Board of California Clinical Examination.

- (a) Each applicant shall furnish patients, instruments, and materials needed to take and complete the clinical examination.
- (b) A patient provided by an applicant must be at least eighteen (18) years of age and shall be in a health condition acceptable for dental hygiene treatment. If conditions indicate a need to consult the patient's physician or for the patient to be pre-medicated, the applicant must obtain the necessary written medical clearance and/or evidence of premedication before the patient will be accepted. The examiners may, in their discretion, reject a patient who in the opinion of at least two examiners has a condition that interferes with evaluation or that may be hazardous to the patient, other patients, applicants or examiners. A hazardous condition includes, but is not limited to, acute symptomatic hepatitis, active herpetic lesions, acute periodontal or periapical abscesses, or necrotizing ulcerative gingivitis. Whenever a patient is rejected, the reason for such rejection shall be noted on the examination record and shall be signed by both rejecting examiners.

- (c) It is the applicant's responsibility to provide an interpreter, if necessary, to complete the medical history and consent form for non-English speaking patients. An interpreter will be allowed in the grading area only if requested by an examiner.
- (d) No person shall be admitted to an examination clinic unless he or she is wearing an identification badge.
- (e) An applicant may be dismissed from the entire examination for engaging in conduct listed in Section 123 of the Business and Professions Code.

*Note: Authority cited: Sections 123, 1905 and 1917, Business and Professions Code. Reference: Sections 123, 1905 and 1917, Business and Professions Code.*

### **§ 1126. Conduct of Dental Hygiene Board of California Clinical Examinations.**

Examinations shall be anonymous. An anonymous examination is one conducted in accordance with procedures, including but not limited to those set forth below, which ensure and preserve anonymity of applicants.

- (a) The Dental Hygiene Board shall randomly assign each applicant a number for identification purposes throughout the entire examination.
- (b) Grading examiners shall not view applicants during the performance of the examination assignments. To be considered for appointment as a grading examiner, a licensee shall be a California licensed RDH, RDHAP, or RDHEF with an active license for a minimum of five years and has not been subject to discipline within the preceding five years.
- (c) There shall be no communications between grading examiners and clinic supervisors except for oral communications conducted in the presence of Dental Hygiene Board staff. There shall be no communication between grading examiners and applicants except written communications.

*Note: Authority cited: Sections 1905 and 1917, Business and Professions Code. Reference: Sections 1905 and 1917, Business and Professions Code.*

### **§ 1127. Dental Hygiene Board of California Clinical Examination Review Procedures; Appeals.**

- (a) An applicant who has failed an examination shall be provided with notice, upon written request, of those areas in which he or she is deficient.
- (b) An unsuccessful applicant who has been informed of the areas of deficiency in his or her performance on the examination and who has determined that one or more of the following errors was made during the course of his or her examination and grading may appeal to the Dental Hygiene Board within sixty (60) days following receipt of his or her examination results:
  - (1) Significant procedural error in the examination process;
  - (2) Evidence of adverse discrimination;
  - (3) Evidence of substantial disadvantage to the applicant.

- (c) An appeal shall be made by means of a written letter specifying the grounds upon which the appeal is based. The Executive Officer shall respond to the appeal in writing and may request a personal appearance by the applicant. The Dental Hygiene Board shall thereafter take such action as it deems appropriate. *Note: Authority cited: Sections 1905 and 1917, Business and Professions Code. Reference: Sections 1905 and 1917, Business and Professions Code.*

## **Article 7. General Rules Regarding Fingerprint Requirements**

### **§ 1131. Response to Dental Hygiene Board Inquiry.**

If the Dental Hygiene Board or its designee asks a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

*Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 1916 and 1950, Business and Professions Code; and Section 11105, Penal Code.*

### **§ 1132. Fingerprint and Disclosure Requirements for Renewal of License.**

- (a) As a condition of renewal for a license, a licensee who was initially licensed prior to January 1, 1994, or for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of electronic fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.
- (1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.
  - (2) As a condition of renewal, a licensee shall certify whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.
  - (3) This requirement is waived if the licensee has an inactive license or is actively serving in the military outside the country.
  - (4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.
- (b) As a condition of renewal, a licensee shall disclose whether, in the prior renewal cycle, he or she has been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$1000 not involving alcohol, dangerous drugs, or controlled substances. In addition, a licensee shall disclose any disciplinary actions against any other license he or she may hold.

- (c) Failure to comply with the requirements of this section renders any renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

*Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 1916 and 1950, Business and Professions Code; and Section 11105, Penal Code.*

## **Article 8. Minimum Standards for Infection Control**

### **§ 1133. Minimum Standards for Infection Control.**

Licensees shall comply with the Minimum Standards for Infection Control as set forth in section 1005, title 16, California Code of Regulations.

*Note: Authority cited: Section 1905, Business and Professions Code. Reference: Section 1905, Business and Professions Code.*

## **Article 10. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines**

### **§ 1135. Substantial Relationship Criteria.**

- (a) For the purposes of the denial, suspension or revocation of a license pursuant to Section 141, Division 1.5 (commencing with Section 475), or Sections 1950, 1950.5, or 1952 of the Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a dental hygienist, dental hygienist in alternative practice, or a dental hygienist in extended functions if, to a substantial degree, it evidences present or potential unfitness of a person holding a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare.
- (b) In making the substantial relationship determination required under subdivision (a) for a crime, the Dental Hygiene Board of California (Board) shall consider the following criteria:
- (1) The nature and gravity of the offense;
  - (2) The number of years elapsed since the date of the offense; and
  - (3) The nature and duties of a dental hygienist, dental hygienist in alternative practice, or a dental hygienist in extended functions;
- (c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:
- (1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of Chapter 1 of Division 2 (commencing with Section 500) of the Code.
  - (2) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of the Dental Practice Act (Chapter 4 of Division 2, commencing with Section 1600, of the Code) or other state or federal laws governing the practice of dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions.

- (3) Conviction or act involving fiscal dishonesty.
- (4) Conviction or act involving child abuse.
- (5) A conviction requiring a person to register as a sex offender pursuant to Section 290 of the Penal Code.
- (6) Conviction or act involving lewd conduct or sexual impropriety.
- (7) Assaultive or abusive conduct as defined in Penal Code section 11160, subdivision (d).
- (8) Any criminal conviction, professional misconduct, or act involving the use, sale, gift, administration, or furnishing of narcotics, dangerous drugs or dangerous devices (Section 4022 of the Code) to an extent or in a manner dangerous to the individual or the public.
- (9) Conviction for driving under the influence of drugs or alcohol.

*Note: Authority cited: Sections 481, 1905 and 1906, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 493, 1950, 1950.5 and 1952, Business and Professions Code.*

**§ 1136. Rehabilitation Criteria for Denials and Reinstatements.**

- (a) When considering the denial of a license under Section 480 of the Code on the ground that the applicant has been convicted of a crime, the Dental Hygiene Board of California (Board) shall consider whether the applicant made a showing of rehabilitation, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board shall consider the following criteria:
  - (1) The nature and gravity of the crime(s) under consideration.
  - (2) The length(s) of the applicable parole or probation period(s).
  - (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
  - (4) The terms or conditions of parole or probation and the extent to which they bear on the applicant’s rehabilitation.
  - (5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.
- (b) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the denial is based on professional misconduct, or the denial is based on Sections 1943 or 1958.1 of the code, the Board shall apply the following criteria in evaluating an applicant’s rehabilitation:
  - (1) The nature and gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.
  - (2) Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.
  - (3) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subsection (b)(1) or (b)(2).



- (4) Whether the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.
- (c) When considering a petition for reinstatement of a license or a petition for modification or termination of probation under the provisions of section 1957 of the Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in this section, as applicable.  
*Note: Authority cited: Sections 481, 482, 1905 and 1906, Business and Professions Code. Reference: Sections 480, 481, 482, 488, 493, 1943, 1957 and 1958.1, Business and Professions Code.*

**§ 1137. Rehabilitation Criteria for Suspensions and Revocations.**

- (a) When considering the suspension or revocation of a license issued by the Dental Hygiene Board of California (Board) under Section 490 of the Code on the ground that a person holding a license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions has been convicted of a crime, the Board shall consider whether the licensee made a showing of rehabilitation, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board shall consider the following criteria:
  - (1) The nature and gravity of the crime(s) under consideration.
  - (2) The length(s) of the applicable parole or probation period(s).
  - (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
  - (4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.
  - (5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.
- (b) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the suspension or revocation is based on a disciplinary action as described in Section 141 of the Code, or the suspension or revocation is based on one or more of the grounds specified in Sections 1949, 1950, 1952, 1955, or 1958.1 of the Code:
  - (1) The nature and gravity of the act(s), disciplinary action(s), or crime(s) under consideration.
  - (2) The total criminal record.
  - (3) The time that has elapsed since commission of the act(s), disciplinary action(s), or crime(s).
  - (4) Whether the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.

- (5) The criteria in subdivision (a)(1) through (5), as applicable
- (6) If applicable, evidence of dismissal proceedings pursuant to section 1203.4 of the Penal Code.
- (7) Evidence, if any, of rehabilitation submitted by the licensee.

*Note: Authority cited: Sections 481, 482, 1905 and 1906, Business and Professions Code. Reference: Sections 481, 482, 488, 490, 493, 1949, 1950, 1952, 1955 and 1958.1, Business and Professions Code.*

### **§ 1138. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Section 11400 et seq. of the Government Code) the Dental Hygiene Board shall comply with the “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines” dated April 2012 that are hereby incorporated by reference. Deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Dental Hygiene Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation. However, neither the Dental Hygiene Board nor an administrative law judge may impose any conditions or terms of probation that are less restrictive than the Uniform Standards Related to Substance Abuse. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards describe the consequences that apply to a substance abusing licensee. If a licensee has not been identified as a substance abusing licensee, for example, through stipulation, in a case involving drugs or alcohol, a clinical diagnostic evaluation shall be ordered and the remaining provisions of the uniform standards may be made contingent at the discretion of the Dental Hygiene Board (DHBC) upon a clinical diagnostic evaluator’s report that the licensee has a substance abuse problem. The clinical diagnostic evaluation report shall be submitted in its entirety to the Dental Hygiene Board.

*Note: Authority cited: Sections 315, 315.4, 1905 and 1906 of the Business and Professions Code; and Section 11400.20 of the Government Code. Reference: Sections 315, 315.2, 315.4, 1947, 1949, 1950 and 1950.5 of the Business and Professions Code; and Sections 11400.20 and 11425.50(e) of the Government Code.*

#### **§ 1138.1. Unprofessional Conduct.**

In addition to the conduct described in Sections 1950.5 and 1955 of the Code, “unprofessional conduct” also includes, but is not limited to, the following:

- (a) A licensee’s failure to provide to the Dental Hygiene Board of California (Board), as directed, lawfully requested copies of documents within 15 calendar days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subdivision shall not apply to a licensee who does not have access to or control over the documents.

- (b) Failure to cooperate or participate in any Board investigation pending against the licensee. This subdivision shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subdivision shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any valid exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in an administrative or disciplinary proceeding against the licensee.
- (c) Failure to report to the Board in writing, within 30 calendar days, any of the following:
  - (1) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.
  - (2) Any final disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

*Note: Authority cited: Sections 1905 and 1906, Business and Professions Code. Reference: Sections 1950.5 and 1955, Business and Professions Code.*

## **Article 11. Citation and Fines**

### **§ 1139. Issuance of Citation and Fines.**

- (a) The Executive Officer of the Dental Hygiene Board or his or her designee may issue a citation containing an order to pay a fine not to exceed \$5,000 and an order of abatement against a licensee for any violation of Division 11 of Title 16 of the California Code of Regulations or any laws governing the practice of dental hygiene. A citation may be issued without either the assessment of a fine, or an order of abatement when determined by the Executive Officer or his or her designee.
- (b) Each citation issued pursuant to subdivision (a) of this section or pursuant to Section 1141 shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the law or regulation alleged to have been violated.
- (c) The citation issued pursuant to subdivision (a) of this section or pursuant to Section 1141 shall be served upon the cited person either personally or by certified United States mail.

*Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.*

### **§ 1140. Criteria to Be Considered.**

In the issuance of any citation, the following factors shall be considered:

- (a) Nature and severity of the violation.
- (b) Length of time that has passed since the date of the violation.
- (c) Consequences of the violation, including potential or actual patient harm.
- (d) History of previous violations of the same or similar nature.
- (e) Evidence that the violation was willful.
- (f) Gravity of the violation.
- (g) The extent to which the cited person has remediated any knowledge or skill deficiencies, which could have injured a patient.

*Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.*

### **§ 1141. Citations for Unlicensed Practice.**

The Executive Officer or his or her designee may issue a citation against any unlicensed person who is acting in the capacity of a licensee and who is not otherwise exempt from licensure. Each citation may contain an order of abatement fixing a reasonable period of time for an abatement and an order to pay a fine not to exceed \$5,000 per occurrence of a violation. Any sanction authorized for activity under this section shall be separate from and in addition to any other administrative, civil or criminal remedies.

*Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.*

### **§ 1142. Contested Citations.**

- (a) The citation shall inform the cited person that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the Dental Hygiene Board within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) In addition to or as an alternative to requesting a hearing provided for in subdivision (a) of this section, the cited person may, within 14 calendar days after service of the citation, submit a written request to the Dental Hygiene Board for an informal conference with the Executive Officer.
- (c) The Executive Officer or his or her designee shall, within 30 calendar days from receipt of the written request for an informal conference pursuant to subdivision (b) of this section, hold an informal conference with the person cited and or his or her legal counsel or authorized representative, if any, unless continued for good cause.
- (d) The Executive Officer or his or her designee may affirm, modify or dismiss the citation at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited person and his or

her legal counsel, if any, within 14 calendar days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the informal conference procedure.

- (1) If the citation, including any administrative fine levied or order of abatement, is dismissed, the request for a hearing shall be deemed withdrawn.
- (2) If the citation, including any administrative fine levied or order of abatement, is affirmed, the cited person may, in his or her discretion, withdraw the request for a hearing or proceed with the administrative hearing process as set forth in subdivision (a). An informal citation conference shall not be held on affirmed citations.
- (3) If the citation, including any administrative fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a cited person wishes to contest a modified citation, the cited person shall, within 30 calendar days after issuance of the modified citation, contest it by submitting a written request for an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, to the Dental Hygiene Board. An informal citation conference shall not be held on modified citations.

*Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.*

#### **§ 1143. Compliance with Citation/Order of Abatement.**

- (a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time from the Executive Officer or his or her designee in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.
- (b) When a citation or order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation within the time allowed or pay the fine that is imposed, if one was, shall constitute a violation and a failure to comply with the citation or order of abatement.
- (c) Failure to timely comply with an order of abatement or pay a fine that is imposed is unprofessional conduct and may result in disciplinary action being taken by the Dental Hygiene Board in addition to other remedies.

*Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.*

#### **§ 1144. Disclosure.**

The issuance and disposition of a citation shall be public.

*Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.*

# EXCERPTS FROM THE CALIFORNIA CORPORATIONS CODE

## Sections 13401 and 13401.5

### 13401. Definitions

As used in this part:

- (a) “Professional services” means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.
- (b) “Professional corporation” means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the Osteopathic Medical Board of California, the Dental Board of California, the Dental Hygiene Committee of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, or the State Board of Optometry shall not be required to obtain a certificate of registration in order to render those professional services.
- (c) “Foreign professional corporation” means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.
- (d) “Licensed person” means any natural person who is duly licensed under the provisions of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is, or intends to become, an officer, director, shareholder, or employee.

- (e) “Disqualified person” means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

*(Amended by Stats. 2018, Ch. 858, Sec. 61. (SB 1482) Effective January 1, 2019.)*

### **13401.5. Licensees as Shareholders, Officers, Directors, or Employees**

Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation. This section does not limit employment by a professional corporation designated in this section to only those licensed professionals listed under each subdivision. Any person duly licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act may be employed to render professional services by a professional corporation designated in this section.

(a) Medical corporation.

- (1) Licensed doctors of podiatric medicine.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.
- (12) Licensed physical therapists.

(b) Podiatric medical corporation.

- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed optometrists.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (8) Licensed physical therapists.

- (c) Psychological corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Registered nurses.
  - (4) Licensed optometrists.
  - (5) Licensed marriage and family therapists.
  - (6) Licensed clinical social workers.
  - (7) Licensed chiropractors.
  - (8) Licensed acupuncturists.
  - (9) Naturopathic doctors.
  - (10) Licensed professional clinical counselors.
- (d) Speech-language pathology corporation.
  - (1) Licensed audiologists.
- (e) Audiology corporation.
  - (1) Licensed speech-language pathologists.
- (f) Nursing corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed psychologists.
  - (4) Licensed optometrists.
  - (5) Licensed marriage and family therapists.
  - (6) Licensed clinical social workers.
  - (7) Licensed physician assistants.
  - (8) Licensed chiropractors.
  - (9) Licensed acupuncturists.
  - (10) Naturopathic doctors.
  - (11) Licensed professional clinical counselors.
- (g) Marriage and family therapist corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Licensed clinical social workers.
  - (4) Registered nurses.
  - (5) Licensed chiropractors.
  - (6) Licensed acupuncturists.
  - (7) Naturopathic doctors.
  - (8) Licensed professional clinical counselors.
- (h) Licensed clinical social worker corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Licensed marriage and family therapists.
  - (4) Registered nurses.
  - (5) Licensed chiropractors.
  - (6) Licensed acupuncturists.
  - (7) Naturopathic doctors.
  - (8) Licensed professional clinical counselors.



- (i) Physician assistants corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Registered nurses.
  - (3) Licensed acupuncturists.
  - (4) Naturopathic doctors.
- (j) Optometric corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed psychologists.
  - (4) Registered nurses.
  - (5) Licensed chiropractors.
  - (6) Licensed acupuncturists.
  - (7) Naturopathic doctors.
- (k) Chiropractic corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed psychologists.
  - (4) Registered nurses.
  - (5) Licensed optometrists.
  - (6) Licensed marriage and family therapists.
  - (7) Licensed clinical social workers.
  - (8) Licensed acupuncturists.
  - (9) Naturopathic doctors.
  - (10) Licensed professional clinical counselors.
- (l) Acupuncture corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed doctors of podiatric medicine.
  - (3) Licensed psychologists.
  - (4) Registered nurses.
  - (5) Licensed optometrists.
  - (6) Licensed marriage and family therapists.
  - (7) Licensed clinical social workers.
  - (8) Licensed physician assistants.
  - (9) Licensed chiropractors.
  - (10) Naturopathic doctors.
  - (11) Licensed professional clinical counselors.
- (m) Naturopathic doctor corporation.
  - (1) Licensed physicians and surgeons.
  - (2) Licensed psychologists.
  - (3) Registered nurses.
  - (4) Licensed physician assistants.
  - (5) Licensed chiropractors.
  - (6) Licensed acupuncturists.
  - (7) Licensed physical therapists.
  - (8) Licensed doctors of podiatric medicine.

- (9) Licensed marriage and family therapists.
  - (10) Licensed clinical social workers.
  - (11) Licensed optometrists.
  - (12) Licensed professional clinical counselors.
  - (n) Dental corporation.
    - (1) Licensed physicians and surgeons.
    - (2) Dental assistants.
    - (3) Registered dental assistants.
    - (4) Registered dental assistants in extended functions.
    - (5) Registered dental hygienists.
    - (6) Registered dental hygienists in extended functions.
    - (7) Registered dental hygienists in alternative practice.
  - (o) Professional clinical counselor corporation.
    - (1) Licensed physicians and surgeons.
    - (2) Licensed psychologists.
    - (3) Licensed clinical social workers.
    - (4) Licensed marriage and family therapists.
    - (5) Registered nurses.
    - (6) Licensed chiropractors.
    - (7) Licensed acupuncturists.
    - (8) Naturopathic doctors.
  - (p) Physical therapy corporation.
    - (1) Licensed physicians and surgeons.
    - (2) Licensed doctors of podiatric medicine.
    - (3) Licensed acupuncturists.
    - (4) Naturopathic doctors.
    - (5) Licensed occupational therapists.
    - (6) Licensed speech-language therapists.
    - (7) Licensed audiologists.
    - (8) Registered nurses.
    - (9) Licensed psychologists.
    - (10) Licensed physician assistants.
  - (q) Registered dental hygienist in alternative practice corporation.
    - (1) Registered dental assistants.
    - (2) Licensed dentists.
    - (3) Registered dental hygienists.
    - (4) Registered dental hygienists in extended functions.
- (Amended by Stats. 2017, Ch. 775, Sec. 108. (SB 798) Effective January 1, 2018.)*





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