

# OSHA REVIEW



Regulatory  
Compliance  
and  
Employee  
Training  
Information  
for the  
Dental  
Profession

Place this Training Document in Section VIII of your OSHA Review binder and remove the May/June 2022 Training Document.



## Mandatory Biennial California Dental Practice Act Training

### EMPLOYEE TRAINING AGENDA

Format: Staff Meeting & Discussion  
Subject: California Dental Practice Act – A Comprehensive Review  
Objective: To understand the required elements of the California Dental Practice Act

*This course has been updated to include required training information on professional ethics in dentistry, and replaces the May/June 2022 issue.*

### INTRODUCTION

Dental licensees in California are subject to the provisions contained in the California Dental Practice Act (DPA), which consists of regulations in Title 16 of the California Code of Regulations (CCR) as well as statutes found in sections of California's Business and Professions Code (B&P), Government Code, Corporations Code, Penal Code (Penal), and Health and Safety Code (H&S). Additionally, dental licensees have the responsibility to always act in the patient's best interest, to provide the highest standards of clinical care, and to follow the ethical guidelines created by the profession. The Dental Board of California (DBC) and the Dental Hygiene Board of California (DHBC), both under the Department of Consumer Affairs, are charged with overseeing all of the laws and regulations, including administration and enforcement for dentists and dental assistants, and dental hygienists, respectively.

This issue of *OSHA Review* serves as mandatory continuing education (CE) required for license renewal, covering the requirements of the DPA. Note that requirements about dental infection control are not covered in this Training Document, but can be found in the May/June 2021 Training Documents, in Section VIII of your OSHA Review binder. Additionally, this Training Document provides only general information on controlled substances; please refer to the January/February 2023 Training Document, in Section VIII of your OSHA

Review binder, for more detailed information on prescribing controlled substances.

### CALIFORNIA DENTAL PRACTICE ACT – REQUIREMENTS

#### SCOPE OF PRACTICE (B&P 1625)

The DPA defines dentistry as “the diagnosis or treatment, by surgery or other method, of diseases and lesions and the correction of malpositions of the human teeth, alveolar process, gums, jaws, or associated structures; and such diagnosis or treatment may include all necessary related procedures as well as the use of drugs, anesthetic agents, and physical evaluation.” The parameters that define a practicing dentist include:

- Advertises or represents oneself to be a dentist.
- Performs dental examinations, including diagnoses, and dental treatments.
- Manages or conducts a place where dental operations are performed.

All persons engaging in the practice of dentistry in California must have a valid, unexpired license or a special permit from the DBC/DHBC.

#### Vaccine Administration (B&P 1625.6, CCR 1066)

Under Section 1066 of the DPA, *Dentists Initiating and Administering Vaccines*, licensed dentists in California are authorized to prescribe and administer influenza and COVID-19 vaccines approved by the US Food and Drug Administration (FDA) to persons 3 years of age or older, so long as the following compliance conditions are met:

- **Training:** Completion of an immunization training program from an approved provider prior to performing vaccinations, followed by one hour of continuing education every two years thereafter, that includes, at a minimum, training in vaccine administration, prevention and management of adverse reactions, and maintenance of vaccine records.

- **Notifications:** Notification of each patient's primary care provider, and prenatal provider of a pregnant patient, within 14 days of any influenza or COVID-19 vaccine administered to the patient.
- **Immunization Registry:** Reporting in the registry designated by the Immunization Branch of the California Department of Public Health (CDPH) within 14 days of the administration of any influenza vaccine and within 24 hours of the administration of any COVID-19 vaccine.
- **Documentation:** Maintenance of patient vaccine administration records for at least 3 years from the date of administration, and a personal vaccine administration record or card provided to each patient at the time of vaccination.

### **Denture Identification (B&P 1706)**

Every complete upper or lower denture fabricated or ordered by a licensed dentist must be marked with the patient's name, unless the patient objects. The initials of the patient may be shown alone, if use of the name of the patient is not practical. The dentist must inform the patient that the markings are to be used for identification only and that the patient has the option to decide whether or not the dentures shall be marked.

### **DENTAL AUXILIARY DUTIES (B&P 1740-1777, 1900-1966.6, CCR 1085-1090)**

Sections 1740-1777 and Sections 1900-1966.6 of the DPA lists the scopes of practice for dental assistants and dental hygienists, respectively, which includes definitions of the dental auxiliary categories and distinctions of supervision, i.e. general or direct, that is required for each category of licensure.

- Direct supervision means performance of dental procedures based on instructions given by a licensed dentist. A licensed dentist must be physically present in the treatment facility during the performance of those duties, pursuant to the order, control, and full professional responsibility of the supervising dentist. Such procedures must be checked and approved by the dentist prior to patient dismissal from the office.
- General supervision means performance of dental procedures based on instructions given by a licensed dentist, but not requiring the physical presence of the supervising dentist during the performance of those duties.

The categories of dental auxiliary recognized by the DBC/DHBC are: dental assistant (DA), orthodontic assistant (OA), dental sedation assistant (DSA), registered dental assistant (RDA), registered dental assistant in extended function (RDAEF), registered dental hygienist (RDH), registered dental hygienist in extended function (RDHEF), and registered dental hygienist in alternative practice (RDHAP).

Responsibility lies with the supervising dentist to assure compliance of all dental licensees in the practice. Failure to meet compliance standards or allowing individuals to practice outside the scope of practice would subject the licensees to penalties and possible loss of licenses.

### **Posting Requirement (CCR 1068)**

Each dentist utilizing dental auxiliaries must display in the dental office a notice that delineates allowable duties and functions of the dental auxiliary categories. The OSHA Review Poster Set includes two notices to fulfill the posting requirement, one for dental assistants (Poster 13A) and one for dental hygienists (Poster 14A).

### **PROFESSIONAL ETHICS IN DENTISTRY**

In theory, the practice of dentistry should be black and white, with dental healthcare personnel (DHCP) offering the best care to each and every patient. But more and more, the lines blur where ethics play a vital role.

As with any profession that deals with human rights and liberties, dentists have a responsibility to their patients and communities in which they practice. DHCP must be aware of professional ethics in dentistry and must be confident about making good ethical decisions.

### **What is "Professional Ethics"?**

The term "ethics" refers to the moral principles or virtues that govern the character and conduct of an individual or a group. Ethical behavior is a foundational tenet of professionalism and it is the basis for the public trust granted to professionals. Professionalism expands on the basic principles of ethics to include the conduct, aims, and qualities that characterize a professional or a profession.

A principle is a general normative standard of conduct that is derived from morality and traditions. Perhaps one of the most widely known principles of ethics is the "Golden Rule," or the ethic of reciprocity: "Do unto others as you would have them do unto you." Found in the scriptures of nearly every religion, it is often regarded as the most concise and general principle of ethics.

## Ethical Principles in Dentistry

The following core values, adopted by the American College of Dentists, serve as the foundation of professional ethics in dentistry:

- **Autonomy** – Patients have the right to determine what should be done with their own bodies. Respect for patient autonomy affirms this dynamic in the doctor-patient relationship and forms the foundation for informed consent, for protecting patient confidentiality, and for upholding veracity. The dentist must also weigh benefits and harms and inform the patient of standards of oral healthcare.
- **Beneficence** – Beneficence is the obligation to benefit others or to seek their good. While balancing harms and benefits, the dentist seeks to minimize harm and maximize benefits for the patient.
- **Compassion** – Compassion requires caring and the ability to identify with the patient's overall well being. Relieving pain and suffering is a common attribute of dental practice. Acts of kindness and a sympathetic ear for the patient are all qualities of a caring, compassionate dentist.
- **Competence** – The competent dentist is able to diagnose and treat the patient's oral health needs and to refer when it is in the patient's best interest. Maintaining competence requires continual self-assessment about the outcome of patient care and involves a commitment to lifelong learning. Competence is the just expectation of the patient.
- **Integrity** – Integrity requires the dentist to behave with honor and decency. The dentist who practices with a sense of integrity affirms the core values and recognizes when words, actions, or intentions are in conflict with one's values and conscience. Professional integrity commits the dentist to upholding the profession's code of ethics and to safeguarding, influencing, and promoting the highest professional standards.
- **Justice** – Justice is often associated with fairness or giving to each their own due. Issues of fairness are pervasive in dental practice and range from elemental procedural issues such as who shall receive treatment first, to complex questions of who shall receive treatment at all.
- **Professionalism** – Self-governance is a hallmark of a profession, and dentistry will thrive as long as its members are committed

to actively support and promote the profession and its service to the public and toward the collective best interest of society.

- **Tolerance** – Dentists are challenged to practice within an increasingly complex cultural and ethnically diverse community. Conventional attitudes regarding pain, appropriate function, and esthetics may be confounded by these differences. Tolerance to diversity requires dentists to recognize that these differences exist and challenges dentists to understand how these differences may affect patient choices and treatment.
- **Veracity** – Veracity, often known as honesty, is the bedrock of a trusting doctor-patient relationship. The dentist relies on the honesty of the patient to gather the facts necessary to form a proper diagnosis. The patient relies on the dentist to be truthful so that truly informed decision-making can occur.

## Ethical Decision-Making

From the moment a dentist accepts a patient, both the dentist and the patient accept certain obligations pertaining to the patient-dentist relationship. These responsibilities include disclosing relevant information regarding the patient's care, mutual respect, being truthful and trustworthy, and considering the patient's values and personal preferences. The circumstances under which a dentist may make "ethical decisions" are nearly limitless. Whether the decision is regarding manipulation of data on an insurance form to secure better treatment for a patient, warning a patient of potentially unhealthy habits, or determining that another dentist's work may be inferior, it can sometimes be difficult for a dentist to make professional and ethical judgments.

One of the most effective methods for decision-making in the dental treatment process is the ACD Test. It is comprised of three steps, each rooted in ethical guidelines:

1. **Assess** – Is it true, is it fair, is it accurate, and is what I am doing legal?
2. **Communicate** – Have I listened, have I informed the patient, have I explained the outcomes, and have I presented alternatives?
3. **Decide** – Is now the best time, is it within my ability, is it in the best interest of my patient, and is it what I would want for myself?

Thoughtful scrutiny helps dentists, patients, and others balance their responsibilities in the face of conflicting principles and obligations.

## Legal Versus Ethical

Most laws and regulations that govern dental treatment do not normally prompt ethical conflicts. However, some laws, such as those governing discrimination or informed consent, have inherent ethical underpinnings. It is conceivable that a dentist's attempt to act ethically could be contrary to law. In such dilemmas, the dentist must weigh all possibilities before taking conscientious action. When ethics and law seem to be in conflict, one should consider seeking counsel from peers who have responsibility in such matters before taking action that violates legal standards. Actions that violate legal standards may prompt serious consequences.

## Ethical Dilemmas in Dentistry

As in many other healthcare fields, dentistry has undergone many changes in recent years. With new developments in areas such as technology, equipment and materials, policies in managed care, third-party payment issues, and infection control requirements, as well as a rise in litigation, there are many new challenges for the DHCP. It is important to recognize that new issues will constantly arise and it is the responsibility of the DHCP to take the time to educate themselves on how to deal with ethical dilemmas as they arise. The American College of Dentists *Ethics Handbook for Dentists* serves as a useful source for further information on specific ethical issues in dentistry, and can be downloaded from OSHA Review's website – oshareview.com; after logging into your account, under the OSHA Review menu at the top of the page, select Professional Documents. (See cover page with this issue for login instructions.)

## LICENSURE ISSUES

### Registration (B&P 1650, 1650.1)

Every dentist is required to register his/her email address and place(s) of practice with the DBC, or if he/she has no place of practice, within 30 days of licensure. Name or location changes to a licensee's practice must be registered with the DBC/DHBC within 10 days or 30 days, respectively.

### Notice of Licensure (B&P 138, CCR 1065)

California dentists and dental hygienists must notify consumers that they are under the jurisdiction of the DBC and DHBC, respectively, by prominently posting a licensure notice in at least 48-point type font, in a conspicuous location accessible to public view on the premises where the dentist practices dentistry. Sample DBC/DHBC notices can be

downloaded from OSHA Review's website – oshareview.com.

### Use of "D.D.S." (B&P 1700)

Any California-licensed dentist, regardless of his or her specific degree, may use the letters "D.D.S."

## License Renewal

- **Continuing Education (CCR 1015-1017)** – Each dental licensee must obtain, from a DBC-approved registered CE provider, a specific number of CE units during each renewal period, every 2 years. Dentists need 50 units per renewal cycle, while RDAs, OAs, DSAs, and RDHs must complete 25 units. RDHAPs must take 35 units. Up to half of CE units may be acquired through home study programs or correspondence courses.

Licensees must acquire two units in infection control and two units in California Dental Practice Act, as well as maintain current Basic Life Support (BLS) certification. Dentists must also take a 2-unit course covering responsibilities and requirements of prescribing Schedule II opioids.

Employers must ensure that newly hired unlicensed dental assistants complete board-approved courses in California Dental Practice Act (two units) and infection control (eight units), and BLS certification, within a year of initial employment.

The BLS certification course (maximum credit allowed is 4 CE units) must be met by completion of a course sponsored by the American Heart Association, American Red Cross, American Dental Association's Continuing Education Recognition Program (CERP), or the Academy of General Dentistry's Program Approval for Continuing Education (PACE). The DBC will not accept online CPR courses to meet the BLS certification requirement.

All licensees must complete at least 80% of required units for license renewal in core subjects. Core subjects include clinical and scientific topics as well as courses mandated by the DBC, the State of California, or the federal government. Non-core dental courses include a broader scope of topics, such as risk management, employment matters, and dental practice flow. Licensees holding specialized permits such as general anesthesia and/or conscious sedation permits have additional CE obligations for license/permit renewal.

- **Outstanding Tax (B&P 494.5)** – The DBC is required to deny an application for licensure or suspend a license/certificate/registration if a licensee or applicant appears on either the Franchise Tax Board (FTB) or the State Board of Equalization (BOE) certified lists of top 500 tax delinquencies over \$100,000. Any person who fails to come into compliance will have their license denied or suspended until the DBC receives a release from the FTB or BOE.

### **Fingerprinting (B&P 1629, CCR 1008)**

Dental licensees must submit fingerprints to the DBC/DHBC as part of initial licensure and license renewal if the Department of Justice (DOJ) has no record that the licensee was previously fingerprinted by the DBC. This requirement applies to all licensees not previously fingerprinted by the DBC (or for whom a record of fingerprints no longer exists). Licensees do not have to be fingerprinted if they have previously been fingerprinted, they are renewing their license to inactive status, or they are actively serving in the military outside the country.

### **Disclosure of Name/License/Degree (B&P 1700(c), 680, 680.5)**

Dental offices currently have three different name/information disclosure requirements.

1. The name of each and every person employed in the practice of dentistry must be conspicuously displayed in the office. The OSHA Review name display certificate fulfills this requirement.
2. Licensees must wear nametags with their name and license status (in 18-point type), or must prominently display the license certificates in the office.
3. Licensees are required to communicate to patients their name, license type, and highest level of academic degree in writing (in 24-point type) at a patient's initial visit and/or on prominent display in the office. This information must also be posted on the office's website.

### **DECEASED OR INCAPACITATED DENTIST (B&P 1625.4)**

Under specified conditions, upon the death or incapacity of an owner dentist, an authorized representative of the dentist's estate may enter into a contract with one or more dental licensees to continue the operations of the incapacitated or deceased dentist's dental practice for a period of no more than 12 months.

## **PRACTICE PERMITS**

The DBC issues permits to dental licensees under various practice circumstances.

### **Additional Offices (B&P 1658)**

A dentist may maintain more than one dental office in California as long as the dentist assumes legal responsibility and liability for the dental services rendered in each of the offices, ensures that each office is in compliance with supervision requirements, and posts conspicuously a sign with the licensed dentist's name, mailing address, telephone number, and dental license number.

### **Fictitious Name (B&P 1701.5)**

All dentists and RDHAPs using a business name other than their licensed name must obtain a fictitious name permit, to be renewed every two years with their dental license renewal.

### **Dental Corporation (Corp. Code 13401, B&P 1800-1808, CCR 1055-1060)**

The Moscone-Knox Professional Corporation Act allows dentists in California to open a practice as a corporation. To do so, a corporation must register with the DBC and must follow all of the business requirements applicable to corporations, as well as all of the statutes, rules and regulations to practice dentistry.

### **Dental Sedation (B&P 1646, 1647, 1682, CCR 1043-1044)**

The permitting requirements for the different levels of dental sedation include the following:

- **General Anesthesia/Deep Sedation** – “General anesthesia” (GA) means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation, while “deep sedation” (DS) refers to a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. Dentists must have patients under GA/DS continuously monitored during the dental procedure. For patients under age 13, the operating dentist and two additional personnel must be present for the procedure. Of the three personnel, two must be certified in pediatric advanced life support (PALS). A pediatric endorsement is required to administer or order the administration of GA/DS to patients under age 7.
- **Moderate Sedation** – “Moderate sedation” (MS) is a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands,

either alone or accompanied by light tactile stimulation, and which retains the patient's ability to breathe independently and respond to verbal commands. Dentists must have patients under MS continuously monitored during the dental procedure. For patients under age 13, the operating dentist and two additional personnel must be present for the procedure with one staff member trained in PALS. A pediatric endorsement is required to administer or order the administration of MS to patients under age 13.

- **Oral Conscious Sedation** – For adults (patients 13 years or older), “oral conscious sedation” (OCS) means a minimally depressed level of consciousness produced by oral medication that retains the patient's ability to maintain independently and continuously an airway, and respond appropriately to physical stimulation or verbal command. The drugs and techniques used in OCS have a margin of safety wide enough to render unintended loss of consciousness unlikely.
- **Pediatric Minimal Sedation** – For pediatric patients under age 13, “pediatric minimal sedation” (PMS) means a drug-induced state during which patients respond normally to verbal command. Under a PMS permit, dentists may administer a single drug whose primary purpose is sedative via the oral route, not to exceed the manufacturer's maximum recommended dose, plus a mix of nitrous oxide and oxygen and adjunctive agents such that the drugs either singly or in combination are unlikely to produce a state of unintended moderate sedation.

Because complications associated with dental sedation can be profound, no dentist may administer dental sedation without having a current license and a valid permit (GA/DS, MS, PMS) or certificate (OCS) issued by the DBC. Dental facilities where dental sedation is administered must be equipped with specialized equipment and medications in the event of an emergency, and are subject to inspection. Additionally, specific continuing education, preparation, reporting, recordkeeping, and monitoring of all patients are required.

Note that the DPA does not have any special requirements for the administration of nitrous oxide, except with respect to dental auxiliary duties.

### Other Permits

In addition to the permits listed above, dentists

can apply for additional practice permits through the DBC, such as mobile dental clinic operation, extramural dental facility operation, etc.

### PATIENT RELATIONS

The DPA includes requirements on how patients must be professionally managed. Contact your liability insurance carrier for additional, usually stricter, recommendations on patient management.

#### Discrimination (B&P 125.6)

Dental licensees may not refuse to treat, prevent, or restrict dental treatment of a person because of the person's sex, color, race, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, citizenship, primary language, immigration status, or genetic information.

#### Informed Consent (CCR 1043)

The DPA does not specifically require informed consent for dental treatment, except in cases of general anesthesia and sedation. However, through disciplinary actions, the DBC has considered failure to obtain informed consent negligent or grossly negligent in many cases. Dentists are required to obtain written informed consent, which must consist of mandatory language, from a minor patient's parent or guardian prior to administering general anesthesia or sedation. Contact your liability carrier for specific recommendations on informed consent.

#### Patient of Record (B&P 1684.5)

A dentist may not “perform or allow to be performed any treatment on a patient who is not a patient of record of that dentist.” A patient of record is one who has been examined, has had a medical history completed and evaluated, and has had oral conditions diagnosed and a written plan developed by the dentist. These requirements do not apply to dentists providing examinations on a temporary basis in certain settings (such as health fairs and school screenings). Conversely, patient abandonment is considered unlawful. To avoid this situation, contact your liability carrier for specific recommendations on patient abandonment.

#### Identification of Practitioner (B&P 1683)

DHCP who performs a service on a patient must be identified in the patient record with a signature or identification number/initials, and date next to the procedure performed in the record. Managing dentists must ensure compliance with this requirement.

# Employee Training Document

**Cal/OSHA Training Requirement:** When using this training document to meet Cal/OSHA training requirements, employers are required to review this information with employees and provide an opportunity for employees to ask questions on how the training information applies in the office.

Detach Here ↗

The employee training session for  
**Mandatory Biennial California Dental Practice Act Training**

was conducted on \_\_\_\_/\_\_\_\_/\_\_\_\_.  
MM DD YY

**THIS TRAINING SESSION WAS CONDUCTED BY:** \_\_\_\_\_  
PRINT NAME OF TRAINING SUPERVISOR

## PERSONS ATTENDING THIS STAFF TRAINING SEMINAR

I have completed this Employee Training and have been given an opportunity to ask questions on the contents. At the present time, I understand the safety or regulatory concepts that it communicates. If I have questions about this subject in the future, I shall contact my supervisor or employer dentist. By signing below I certify that I have completed the training course.

	Employee Name (Print)	Signature	Date
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____
11.	_____	_____	_____

- \* Attach additional names if necessary.
- \* Keep training documentation for three years.
- \* *This document is NOT a CE certificate.*

\_\_\_\_\_  
SIGNATURE OF TRAINING SUPERVISOR



# OSHA REVIEW

**Regulatory Compliance and Employee Training Information for the Dental Profession**

## **Mandatory Biennial California Dental Practice Act Training**

Circle the best response.

- 1. The Dental Board of California (DBC) and the Dental Hygiene Board of California are part of which California Agency?**
  - a. OSHA
  - b. Department of Industrial Relations
  - c. Department of Justice
  - d. Department of Consumer Affairs
- 2. True or False: As of October 2021, after meeting specified qualifications, licensed dentists in California are authorized to prescribe and administer influenza and COVID-19 vaccines to persons at least 18 years of age or older.**
- 3. With respect to professional ethics, which of the following core values is defined as the obligation to benefit others or to seek their good?**
  - a. Autonomy
  - b. Beneficence
  - c. Compassion
  - d. Competence
- 4. True or False: Orthodontic assistants and dental sedation assistants must obtain at least 35 units of continuing education every two years.**
- 5. What is the minimum required retention time of patient records for a dentist that ceases operation of their dental practice?**
  - a. Seven years
  - b. Ten years
  - c. Fifteen years
  - d. A specific period of time is not required for a dentist that ceases operation.
- 6. True or False: Dental offices currently must display the name of each and every person employed in the practice of dentistry AND must identify dental licensees by full name and type of license, either by posting the licenses or by providing nametags.**
- 7. What is the name given to the DBC's program that assists licensees who may be impaired by substance abuse?**
  - a. Peer Review Program
  - b. Diversion Program
  - c. DEA Program
  - d. Alcoholics Anonymous
- 8. True or False: All dental licensees in California are required to serve as mandatory reporters due to their potential contact with vulnerable populations at risk for abuse and/or neglect.**
- 9. If a dental licensee is convicted of or indicted for a crime, within how many days must the licensee notify the DBC of the event?**
  - a. Five days
  - b. Ten days
  - c. Fifteen days
  - d. Thirty days
- 10. True or False: A dentist whose license is placed on probation must provide each patient with a disclosure explaining he/she is on probation and the reasons for that probation before the patient's first visit following the probationary order.**



**Telehealth (B&P 1683.1)**

Telehealth is the mode of delivering healthcare services through remote communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's healthcare. The DPA states that dental businesses serving dental patients through telehealth are required to provide patients with the name, telephone number, practice address, and California state license number of the treating dentist.

**Patient Access to Records (B&P 1684.1, H&S 123100-123149.5)**

While a dentist owns patient treatment records, they must provide patients with access to their records and/or a summary of their records. If the records are maintained electronically, a patient can request an electronic copy. A patient record includes x-rays, photographs, and models, and can include any written or recorded information regarding a patient's treatment.

Dentists must transmit copies of health records, including x-rays, to the patient or patient's representative, within 15 days upon receipt of a written request from the patient. For a patient who wants to view the records only, a dentist has five working days to make them available for inspection. It is considered unlawful for any healthcare provider to willfully withhold patient records because of an unpaid bill for services.

The dentist can charge a nominal fee to help defray the cost of the document reproduction, but no more than \$.25 per page for standard copies or \$.50 per page for microfilm, plus any additional reasonable clerical costs. Fees for duplicating x-rays should be no more than the cost of the film, solutions, and staff time to process the films. Total fees, not to exceed actual costs, must only include the cost of labor, supplies, and postage, ranging from \$20 to \$30 per patient record. A per-page fee may not be charged for providing information electronically.

**Retention of Patient Records (H&S 123145)**

California law states that the minimum retention time of patient records is seven years only if the dentist ceases operation. Beyond that, state law does not define the period of time for which dentists must maintain patient records after the patient discontinues treatment. Contact your liability carrier for specific recommendations on records retention.

**Adverse-Event Reporting (B&P 1680)**

A licensee must report within seven days to the DBC/DHBC a patient's death during

the performance of any dental procedure; the discovery of the death of a patient which is related to a dental procedure performed by the licensee; or except for a scheduled hospitalization, the removal to a hospital medical treatment of any patient to whom conscious sedation or general anesthesia was administered, or any patient as a result of a licensee's treatment. The report must be submitted on a DBC/DHBC-approved form.

**PRESCRIPTION DRUGS (H&S 11150-11180)**

Physicians, dentists, podiatrists, and veterinarians are the only professionals who may write prescriptions, for legitimate medical purposes only. A prescription must be written specifically for a diagnosed condition, following a dental examination. The following is a listing of some general rules that apply to prescription writing:

- Only the prescribing dentist is allowed to issue a prescription.
- Prescriptions can be written only for patients of record.
- No person is permitted to antedate or postdate a prescription.
- As of January 2022, all healthcare practitioners authorized to issue prescriptions must be able to transmit them electronically for both controlled and non-controlled substances, with a few exceptions.

**Controlled Substances**

Prescribers of controlled substances have additional requirements:

- Dentists who issue prescriptions for controlled substances are required to register with the U.S. Drug Enforcement Administration (DEA) – [www.deadiversion.usdoj.gov/index.html](http://www.deadiversion.usdoj.gov/index.html), as well as California's Controlled Utilization Review and Evaluation System (CURES) 2.0 – [oag.ca.gov/cures](http://oag.ca.gov/cures), and must check CURES 2.0 prior to the first-time prescribing of Schedule II-IV medications and every six months thereafter when the medication remains part of the patient's treatment. Note that if a dentist has more than one location, then the dentist must hold two separate DEA registrations, one for each location.
- Every practitioner who prescribes a Schedule II controlled substance must keep a record of the name and address of the patient, the date, the character, including name and strength, and quantity of controlled

substances involved, the pathology and purpose for which the controlled substance was administered or prescribed.

- Refills are not allowed. A dentist must provide a new prescription for refills of Schedule II controlled substances.
- Written, call-in, or faxed prescriptions are only allowed in emergency situations. The quantity must be limited to an amount adequate to treat the patient during the emergency situation.
- No person shall prescribe, administer, or furnish a controlled substance for him or herself.
- Prior to directly dispensing or issuing an opioid prescription to a minor, a dentist is required to discuss the risks of opioid misuse and contraindications with the minor, the minor's parent or guardian, or other adult authorized to consent to the minor's medical treatment.
- Prescribers who *dispense* Schedule II -IV drugs must meet additional requirements, such as submitting prescription information to CURES 2.0 weekly, providing translated instructions, offering a written prescription alternative, maintaining an inventory, dispensing quantity limitations, drug security, and additional container, labeling, and recordkeeping requirements.

For more detailed information about requirements for prescribing and/or dispensing controlled substances, please refer to January/February 2023 Training Document, in Section VIII of your OSHA Review binder.

### **LIABILITY SETTLEMENT REPORTING (B&P 801-802)**

Within 30 days, liability carriers must report to the DBC any settlement greater than \$10,000 and licensees must report to the DBC any settlement over \$3,000, of a claim for damages for death or personal injury caused by the licensee's negligence, error, or omission in practice, or rendering of unauthorized professional services.

### **ADVERTISING (B&P 650-657, 1680, CCR 1050)**

The DPA stipulates standards for dentists who advertise based on the principle that a dentist's advertising should not be false, misleading, deceptive or fraudulent. The laws provide specific rules regarding online referral services (i.e. Groupop), announcement of fees and

specialization, use of models and "before and after photographs," scientific and superiority claims, guarantees, and refunds.

### **DIVERSION PROGRAM (B&P 1695)**

The DBC recognizes that a dental licensee's abilities may be impaired by alcoholism and other drug dependencies. In an effort to help with this problem, the Dental Diversion Program is a voluntary, confidential program for California dental licensees whose ability to practice may be impaired due to alcohol and/or drug abuse.

### **DMFS (B&P 1648.10)**

The Dental Materials Fact Sheet (DMFS) summarizes information on the most frequently used restorative dental materials, intended to encourage discussion between the patient and dentist regarding the selection of dental materials best suited for the patient's dental needs. The DMFS must be distributed to every patient prior to or at the first restorative treatment visit, with patient acknowledgement in writing kept in the patient's record. The DMFS can be downloaded from OSHA Review's website – [oshareview.com](http://oshareview.com).

### **MANDATORY REPORTING (Penal 11164-11174)**

Mandatory reporting in California is the legal protocol whereby professionals who, in the ordinary course of their work, have regular contact with children, disabled persons, senior citizens, or other identified vulnerable populations, and are required by law to report immediately to the relevant authorities suspected abuse and neglect identified in the course of their duties.

The California Penal Code requires all licensed healthcare providers, including dental licensees, to serve as mandated reporters. This is very important for DHCP because they are often the first line of defense for an abuse victim and can increase the victim's chances of obtaining assistance. A mandatory reporting form provided by the DBC can be downloaded from OSHA Review's website – [oshareview.com](http://oshareview.com). For more detailed information on mandatory reporting requirements for DHCP, please refer to the November/December 2020 Training Document in Section X of your OSHA Review binder.

### **DPA VIOLATIONS**

The types of DPA violations can be classified as unprofessional conduct, incompetent or gross negligence, repeated acts of negligence, and/or criminal conviction substantially related to the qualifications, functions, or duties of a

dental licensee. Other major violations include improper drug/prescription usage, insurance fraud, and improper sexual activity. Dental licensees must notify the DBC/DHBC within thirty days of any convictions, indictments, or charges against the licensee.

### **Unprofessional Conduct (B&P 1680-1682, 1018.05)**

The DBC considers “unprofessional conduct” to be unethical business practices such as patient abandonment, failure to release/return records, or breach of confidentiality. Other examples include:

- False or misleading statement(s) in advertising
- Unsafe, unsanitary conditions
- Performing duties outside the scope of licensure
- Excessive prescribing or treatment
- Use of threats or harassment against patients
- Alteration of patient records

### **DBC ENFORCEMENT**

(This section specifies policies of the DBC. For DHBC enforcement procedures, please contact the DHBC.) The purpose of the DBC’s Enforcement Program is to investigate reported criminal and administrative violations in the dental profession and to refer suspected violators for criminal and/or administrative prosecution. The DBC’s Enforcement Program is composed of five sections:

- **Complaint Intake** – Complaints are received by DBC staff trained to screen incoming complaints for appropriate routing. Initially, complaint files are opened then routed to their appropriate destinations. Some complaints are referred directly to the Investigations Section, the Inspection Section, the Complaint Analysis Section, or to other State agencies. The DBC receives complaints from various parties including patients, law enforcement agencies, insurance companies, healthcare providers, etc.
- **Complaint Analysis Section** – A team of analysts in the Complaint Analysis Section work together to develop comprehensive complaint files. The analysts request documents from the subject of the complaint, other dentists, and/or physicians who may have rendered treatment to the patient. Once completed, the complaint files are forwarded to the DBC’s dental consultants for review. Dental consultants are dentists who review

complaint files to evaluate whether violations of the DPA can be substantiated.

- **Inspection Section** – The DBC’s inspectors respond to complaints alleging unsafe, or unsanitary conditions in dental offices. Inspectors are authorized to inspect dental offices throughout the state and to issue administrative warnings and citations.
- **Investigation Section** – The Investigation Section staff are sworn peace officers responsible for investigating alleged violations of the DPA. Typical investigations include allegations of billing and insurance fraud, drug violations, patient battery, unlawful sexual conduct with patients, and the unlicensed practice of dentistry. Cases that establish unlawful activity are filed with local District Attorney’s offices or the California Office of the Attorney General for prosecution.
- **Probation Section** – The Probation Section monitors dental licensees who have had their licenses placed on a probationary status due to sustained administrative discipline. The DBC’s staff verify that the dental probationers are adhering to the requirements of their probation orders. Dental probationers who violate their probation orders are subject to having their licenses revoked.

Under the DPA, the DBC has the authority to investigate any alleged violation and to discipline the licensee found to be liable. A DBC investigation is generally triggered by a patient complaint, a civil suit outcome, or a criminal conviction. Licensees must allow the DBC to inspect their offices when there is suspicion of any violations of the law.

Once the allegation(s) is confirmed, depending on the alleged violation, the DBC will issue either an administrative citation or a formal accusation, listing the specific code(s) violated and the cause(s) for discipline. Dentists who receive an administrative citation are required to pay a fine and show proof that the cited condition has been corrected. A formal accusation is a formal, written statement of serious charge(s).

The complaint and investigative processes remain confidential and are not available as public record. However, once a formal accusation has been issued, the record becomes part of the public domain.

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This training course is approved for two hours of correspondence C.E. credit toward the license renewal requirement for the Dental Board of California.  
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### Disciplinary Action (B&P 475-494.6, 1670-1687, 1700-1706, CCR 1018, 1023)

Following the issuance of a formal accusation, the case may go to a hearing before an administrative law judge, or it may enter as a settlement agreement. Discipline may consist of any of the following:

- **Public Reprimand** – A reprimand of a licensee that is a matter of public record for conduct in violation of the law.
- **Suspension** – A decision resulting from a disciplinary action whereby the right to practice a profession is temporarily discontinued or withdrawn.
- **Revocation** – The invalidation of an individual's license to practice a profession as a result of an administrative or disciplinary action.
- **Probation** – A conditional license issued to an applicant on probationary terms and conditions due to sustained administrative discipline.

The actual disciplinary action depends on the seriousness of the offense, its frequency, the licensee's cooperation, and any other mitigating factors, and usually always includes a monetary fine.

### Probation Notification (B&P 1673)

As of 2020, a dentist whose license is placed on probation must provide each patient with a disclosure, documented in the patient record, explaining he/she is on probation and the

reasons for that probation before the patient's first visit following the probationary order. The DBC must also provide specified probation information on a licensee's profile on the board's website.

### Recent Cases

**Case #1:** The DBC revoked an RDA's license for conviction of driving under the influence of alcohol.

**Case #2:** An RDA's license was revoked following a DBC accusation for criminal convictions of possession and being under the influence of illegal narcotics, and identity theft, crimes that are substantially related to the practice of dentistry.

**Case #3:** A dentist's license was revoked for gross negligence and fraud. Violations included multiple counts of improper billing, treatment planning, and dental treatment.

### CONCLUSION

The California Dental Practice Act was enacted to protect and promote the health and safety of California consumers by licensing competent dental healthcare professionals, to maintain the high standard of dental care, and to enhance the education of dental licensees and consumers.

Test Answers: 1.d; 2.f; 3.b; 4.f; 5.a; 6.t; 7.b; 8.t; 9.d; 10.t

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