

- 1  **Arthur W. Curley**
  - Bradley, Curley, Asiano, Barrabee, Abel & Kowalski PC
  - San Francisco, Sacramento, Los Angeles, Larkspur
- 2  **Health Care Law Firm**
  - Malpractice Defense
  - Licensure Issues
  - Practice Sale/Purchase
  - Incorporation
  - Employment Issues
- 3  **California Dental Practice Act**
  - The Mandated Course
  - Category 1 (CCR 1016,1017)
  - Nature of the Statutes/Codes
  - Confidentiality – HIPAA
  - 
  - 
  - <http://www.dbc.ca.gov/laws.html>
- 4  **Nature Of The Requirement**
  - WHO: Every DDS, RDA, RDH (CCR 1017)
  - NEW: Regular Full Time DA
  - License Renewal 2 Yr. CYCLES
- 5  **Subject Mandates**
  - Licensure: Renewal, Suspension & Revocation
  - Scope Of Practice
  - Dental Auxiliaries
  - Prescription Of Drugs
  - Dental Practice Act
    - Citations
    - Fines
  - Mandatory Reporter Obligations (New)
- 6  **Significance Of The Subjects**
  - Violation of a Statute
  - *Unprofessional Conduct*
  - Quality of Care
  - Patient Safety
  - Staff Performance
  - License Suspension or Revocation (B&P 1670)
- 7  **Sanction Affect**
  - Managed Care Exclusion
  - Insurance Plan Exclusion
  - MediCal/Care Exclusion
  - Internet Listing
  - Public Perception
- 8  **Common Violations Seen by DBC**
  - DA doing Coronal Polishing
  - DA or RDA doing Propy
  - DDS doing non-dental Cosmetic Treatment
  - Violation of OSHA or Infection Control Mandate
  - Permanent Cementation of Crown by DA
  - Unlicensed DDS doing RDA or RDA treatments
  - Refusing to refer to Specialist upon Request
  - Chemical Dependency Issues

- 9  **Essential Dental Law**
- Standard of Care
    - Reasonable and Prudent
  - Any Injury From Substandard Care
  - Liability for Negligence of Others
- 10  **Current Claims 1 Out of 20**
- Continuing
    - Crown and Bridge
    - Failure to Diagnose Periodontal Disease
  - Dropping
    - Endodontics
    - TMJ
  - Rising
    - Nerve Injury – Extractions, Implants
    - Failure to Diagnose Infections
- 11  **Standards Of Care: Opinion**
- Reasonable and Prudent
  - Expert Witnesses Only
  - Expertise Regarding Issues: DDS, MD, RDH, RDA, PhD
  - NEGLIGENT (B&P 1685)
- 12  **Experts & Code of Ethics**
- CDA Code of Ethics Section 10
    - A dentist may provide expert testimony when that testimony is essential to a just and fair disposition of a judicial or administrative action.
  - 10-A Conflict of Interest
    - It is unethical for a dentist to use information learned as expert witness for personal gain or advantage.
    - 
    - If a dentist accepts a request from an attorney to provide an expert opinion about a person who is not a patient of the dentist, the dentist shall not accept that person as a patient into his or her practice until the litigation or other proceeding, if any, involving that person has concluded.
  - 
  -
- 13  **Standards Of Care: Written**
- Society Guidelines (ASA, AAOMS, ADA)
  - Used by Experts
    - Use Recognized Authoritative Text
- 14  **Standards Of Care: *Informed Consent***
- Known Risk, Serious Injury
  - Alternative Treatments
  - Statutes; Written For GA Or Conscious Sedation (B&P 1682)
  - Reasonable Person Standard
- 15  **Individual Patient Consent Issues**
- Ethnicity
  - Culture
  - Religion
  - Financial
  - Gender
- 16  ***Informed Refusal***
- HCP Must Make Sure Patient Aware of Significant Risks of Refusing Recommendations.
  - Truman v. Thomas 27 C3d 285 (1980)

17  **Informed Refusal**

- Traditional
  - Risks Of Having Treatment
- NEW
  - Risks Of Not Having Treatment
  - Risks Of Having Lesser Treatment
- Alternatives
  - Offered
  - Documented

18  **Documentation**

- Patient advised \_\_\_\_\_
- Risk, Benefits & Alternatives Reviewed
- Including \_(Worst Risk)\_\_\_\_\_
- Patient declines/refuses
- 
- \_\_\_(date)\_\_\_\_\_(signature)\_\_\_\_\_

19  **Controversies as to the Standard of Care**

Implants  
 Alternate Orthodontics  
 3-D Imaging  
 Attorneys Do Not Set Standard  
 Judgment: You Decide  
 Document: Why Your Choice

20  **Specialist/Referral Law**

- Basic Law: What a Reasonable G.P. Should Do
- 
- Predict Complication
- Recognize Complication
- Treat Complication - Timely
- Or Refer Complication – Timely

21  **When the Dental Board Calls**

Time is Critical  
 Call Your Carrier  
 Be sure you have insurance.  
 Don't Respond without Advice  
 Don't Contact the Patient(s)

22  **New Mandates**

- Mandatory Reporter Obligations Set Forth in the Child Abuse and Neglect Reporting Act
- (Penal Code Section 11166 et seq.)
- Elder Abuse and Dependent Adult Civil Protection Act
- (Welfare and Institutions Code 15600 et seq.)
- Know Clinical Signs In Identifying Abuse
  - Neglect, Physical, Sexual, Mental
- Report Immediately

23  **Abuse Reporting**

- *Suspicion* Of Child Abuse – PC 11165.7
- *Suspicion* Of Abuse Of The Disabled
- *Suspicion* Of Elder Abuse
- Reporting Methods – PC 11166
  - OK 1<sup>st</sup> by phone, writing w/in 36 hrs.
    - PC 11166.05 Emotional Damage
  - CPS, PD, Adult Protective Service
    - PC 11165.9

- Knows or Reasonably Suspects
- 24  **Reporting Protections**
  - Immunities PC 11172
    - Good Faith
    - Confidential
  - OK X-rays w/o Consent to Prove Abuse
    - PC 11171.2
- 25  **Failure To Report Abuse**
  - Criminal Penalties
  - Unprofessional Conduct
  - Civil Suits
  - Codes: W&I 15601a Seniors
  - W&I 15616b1 Disabled
  - CPC 11165 Children
  - No MICRA: *David v. Beverly Hospital* 8/05
- 26  **New Laws 7/1/11**
  - CCR: 1007, Must Respond to BD request for Criminal Hx w/n 30 days. Provide Docs
  - CCR 1008, If 1<sup>st</sup> Licensed Before 1-1-99, to Renew after 71/11 Must Provide Full Set of Finger Prints to Dept. of Justice
    - DDS Pays for Prints and Searches
    - Certify Prints have been Provided to DOJ
    - N/A if inactive or while in Military out of USA
    - 3 yrs Keep Rec of Sending Prints to DOJ
- 27  **Criminal History**
  - At Renewal : Must Disclose
    - Any Conviction, no-contest plea or expungement, of any Violation of Law
    - Any Where in the World
    - Except Traffic Less than \$300
    - Include Traffic Involving ETOH, Dangerous Drug, or Controlled Rx
    - Any Disciplinary Action Against Any License
    - Any Investigation of any License
    - Another State? *Maybe*
- 28  **Inactive License**
  - CCR 1017.2
  - Application to be Inactive
  - To Restore, Prove 2 years of CE
  - To Restore Must have Continued to Pay
  - Will be Advised of Status in 30 days.
- 29  **Failure To Pay Taxes**
  - Effective July 1, 2012, the Dental Board of California is required to deny an application for licensure or suspend a license, certificate, or registration if a licensee or applicant has *outstanding tax* obligations due to the Franchise Tax Board (FTB) or the State Board of Equalization (BOE) and appears on either the FTB or BOE's certified lists of top 500 tax delinquencies over \$100,000. (*AB 1424, Perea, Chapter 455, Statutes of 2011*)
- 30 
  - Once it has been determined that an applicant or a licensee is on a certified list, the applicant or licensee has 90 days from the issuance of a "Preliminary Notice of the Intent to Suspend or Withhold Issuance or Renewal of the License" to either satisfy all outstanding tax obligations or enter into a payment installment program with the FTB or BOE. Any such person who fails to come into compliance will have his/her license denied or suspended until the Dental Board of California receives a release from the FTB or BOE. The form for requesting a release will be included with the preliminary notice of suspension or denial.
- 31  **Sales Tax**

- Any item sold, except Dental Appliances
  - For use Outside of the Dental Office
  - Unless Already Paid Taxes
  - Use Tax if at lower rate than California
  - Not Medicines
  - Laboratories Must Pay Tax or Charge it
  - Board of Equalization: Reg 1506, 1591
- 32  • The law prohibits the Dental Board of California from refunding any money paid for the issuance or renewal of a license where the license is denied or suspended as required by AB 1424 for failure to pay taxes.
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- 33  **Licensure**  
*License Display* – the name and license status of each licensee must be on a name tag in at least 18-point type or the person’s License can be prominently displayed
- 34  **Licensure Exam**
- PAST – CAL: Clinical & Written
  - 
  - 1/1/05 Western Regional
    - 13 States
    - Clinical +
    - State Exam: Ethics, Law
    - 
    - Practical Effect Since 2006
- 35  **Out of State License B&P 900-2**
- Limited Practice in California for:
    - Health Fares for Uninsured patients
    - Short Term – Less than 10 days
    - Sponsoring Agency
    - No Charge
    - During Declared State of Emergency
  - Terms
    - Carrier and Present License
    - Application for Authority from DBC
    - No Criminal Convictions
    - Paid Fee
- 36  **Renewal Of License**
- CE Every Two Years (CCR 1015-17)
  - DDS, 50 Units
  - RDA, 25 Units
  - Sedation DA, 25 Units
  - ORTHO DA, 25 Units
  - RDH, 25 Units
  - RDEF, 25 Units
  - RDHAP, 35 Units
  - Instructor
    - Credit For
    - Teaching
- 37  **Notice to Consumer B&P 138, 1611.3**
- Provide Posting of Conspicuous Notice of Licensure being regulated by DBC
  - 49 Point Type  
Notice to Consumers

- 38  **Sample**
- NOTICE TO CONSUMERS
  - Dentists are licensed and Regulated
  - By the Dental Board of California
  - (877) 729-7789
  - www.dbc.ca.gov
- 39  **New – DA B&P 1750(c) 1/1/2010**
- Supervising DDS must assure all DA
  - Hired After 1/1/10
  - Continuous Employ for +120 Days
  - Completed with a year:
    - BLS/CPR
    - Infection Control Course (New 1X 8 hour course)
    - Dental Practice Act Course
    - \*\*\* One time requirement, not every 2 years
    - But must remain BLS training continuously
- 40  **Basic Life Support**
- (a) An American Heart Association (AHA) or American Red Cross (ARC) course in Basic Life Support (BLS) or,
  - (b) 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).
- 41  **CE Specifics (CCR 1016, 1017)**
- Primarily for Patient Benefit – 80% OF ALL CE
    - Mandated Courses
      - Infection Control – 2 Units
      - Dental Practice Act – 2 Units
      - Basic Life Support
  - Units of Instruction
    - 1 Unit = 1 Hour, Max 8 Units/Day, By DBC Approved Providers
  - Delivery
    - Traditional Lecture, Live By Phone/Video
    - Approved by DBC, ADA, CERP and AGD PACE
    - Not Live = Tape Recording, Home Study, Video, Computer
      - Must Be Pre-approved By CDB
      - Max 50% Of Credits
  - Records – 6 (3X Renewals) YRS CCR 1017(f) – Ideal 7 Years IRS
- 42  **Courses In The Actual Delivery Of Dental Services To The Patient Or The Community**
- 43  **Other Non-Mandated for Patient**
- (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.
- 44  **Other Non-Mandated**
- (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*) and 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, 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*, conscious sedation, oral conscious sedation or medical emergencies.

45  **Other Non-Mandated**

- (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*.

46  **Other Non-Mandated**

- (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*.

47  **Primarily for Benefit of the Licensee**

- Other Courses Directly Related To The Practice Of Dentistry
- Limit 20% Of CE Requirements
- Few Courses, Elimination of Others: *Law, Record Keeping, Communication, Alternative Systems, Sociopolitical*

48  **Examples:**

- (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 office computerization and design, ergonomics, and the improvement of practice administration and office operations.
- (C) Courses in leadership development and team development.

49  **Examples:**

- (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.

50  **Other Requirements**

- Conscious Sedation; 15 Units/2yrs
- General Anesthesia; ACLS Course
- Oral Conscious Sedation 7 Hours/2yrs
- *Permit Holders Can Apply For Credit*
- Fees (B&P 1725)
- 30 Grace Period (B&P 1718)
- Re-exam At 5 Years, but 1 Yr for Disabled
- Full Time Course May Get Credit
- N/A for 2 years After 1<sup>st</sup> get License

51  **New RDA & RDAEF**

- 8 Hour Infection Control Course
- 1 Time
- With In 1 year of Employment

- Only Approved Course
  - Effective 1/1/10
- 52  **Outside The Scope Of CE Credit**
- (A) Courses in money management, the licensee's personal finances or personal business matters such as financial planning, 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.
- 53  **Outside The Scope Of CE Credit**
- (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.
- \*\*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.**
- 54  **Required Permits**
- Additional Office
  - Conscious Sedation
  - Extramural Dental Facility – Schools
  - Elective Facial Cosmetic Surgery
  - Fictitious Name
  - General Anesthesia
  - Mobile Dental Clinic
  - Oral Conscious Sedation – Adult and Minors
  - Oral & Maxillofacial Surgery
  - Referral Services – B&P 650
  - Special Permit - Teaching
- 55  **Revocation (B&P 1670)**
- Unprofessional Conduct (B&P 1680-5)
  - Incompetence
  - Gross Negligence
  - Repeated Acts Of Negligence
  - Conviction Of A Crime (B&P 1670.1)
    - Felony, Misdemeanor
    - Mandatory Reporting at Renewal
- 56  **Discipline**
- Guidelines CCR 1018
    - Admissions
    - Revocation - Stayed
    - Probation
    - Suspension
    - Fines/Cost
    - Education
- 57  **Substance Abuse/Sales**



- Abuse Of Controlled Substance
- Criminal Conviction Regard Drugs
  - Selling
  - Distribution

58  **Rehabilitation-diversion (B&P 1695-9)**

- Reporting Immunity
- Registration – License Status
- Confidential Mandate
- Completion: Records Destroyed; Can't Subpoena (B&P 1698)
- Termination Due To Failure To Comply (B&P 1697)
- Program Changing: Posting & Testing

59  **Notice To Board Of Incident (B&P 800-809)**

- Conviction Of A Crime - Unprofessional Conduct By PD/DA/AG
- Payment In Excess Of \$10,000 By Carrier (801)
- Payment In Excess Of \$3,000 By Doctor (802)
- Payment In Excess Of \$10,000 By Clinic
- Judgments In Excess Of \$30,000 By Court (803)
- Report By Carrier Or Plaintiff (801f)

- WRITTEN CONSENT OF DENTIST FOR SETTLEMENT (801)

60  **Unlicensed DDS AS RDA OR RDH**

- Suspended License (B&P1680b)
- Foreign License (B&P1680c)
- Absolutely Prohibited
- Strict Liability
- Defense: Documentation
  - Diploma, Certificate, License, CE

61  **Practical Effect**

- License Sanction
- Refund Of Fees
- Presumption Of Malpractice
- Criminal Penalties

62  **Exemptions B&P 1626**

- Oral Surgery By MD
- Students In School
- Instructors – Licensed Elsewhere
- Demo Lecture If Approved By DBoFC
- Labs – Written Authorization for Shade Taking, Alterations, Repair, or in the Office with the DDS
- Supplies
- During Exam
- Military

63  **Scope Of Practice**

- DENTIST DEFINED (B&P 1625)
- 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.

64  **Scope Of Practice**

- PROHIBITIONS: Posts and *Gore*
- OREGON: The Oregon Board of Dentistry shall adopt rules authorizing a dentist licensed to

practice dentistry in Oregon to administer local anesthesia for the purpose of tattooing human lips by a licensed permanent color technician and tattoo artist under ORS 690.350 to 690.430.

- NEW YORK: OK Split tongue if done by DDS or MD.

65  **Scope Of Practice**

- Dental Manager
  - Controls Other DDS, RDH
  - Diagnosis
- 
- Medications (B&P 1681)
  - Non-Dental
  - Self Rx

66  **Laboratories**

- B&P 1626 Exemption
  - Verification of Shade Guide, Pros Fabrication
  - With Written Authorization from DDS
  - Or, In the office of the DDS

67  **Boxtox Policy – Former Policy**

- *"Botox or any related agents can only be used for the diagnosis and treatment of TMD/myofacial conditions as part of a comprehensive treatment plan. Use for isolated cosmetic purposes is illegal, unless privileged under the Facial Cosmetic Surgery Permit. For further information, please contact our Sacramento Enforcement Unit at 916-274-6326 or our Southern California Enforcement Field Office at 714-247-2100 (please see Business and Professions Code, Sections 1625 and 1638.1)."*
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- Just Removed.

68  **New Notice**

- "A dentist may, therefore, use any legally prescribed drugs to treat patients as long as the treatment is within the aforementioned scope of practice. "
- "A licensed California dentist who has been granted a permit to perform elective facial cosmetic surgery may utilize Botox and similar drugs purely for cosmetic purposes as long as it is legally prescribed and within the scope of practice for their permit (see Business and Professions Code section 1638.1). Please note that some permit holders may not be authorized to perform all cosmetic surgery procedures within the scope of the elective facial cosmetic surgery permit."

69  **General Anesthesia (B&P 1646)**

- Loss Of Protective Reflexes
- Non-pharmacologic
- Hypnosis!
- Permit Required
- ACLS Training: 24hrs CE
- ASA Guidelines - Standard Of Care
- Evaluation And Monitoring
- Exam By DDS 1647.6

70  **Conscious Sedation (B&P 1647)**

- Independent Airway
- Respond To Command
- Non-pharmacologic
- Hypnosis!
- Permit Required
- ASA Guidelines - Standard Of Care
- Evaluation And Monitoring
- Exam By DDS 1647.6

71  **Oral Meds (B&P 1647.10-15)**

- New Law 1/6/00 [B&P 1647.7]
- Certification Required For Use Of Oral MEDS – Minors – Under Age 13  
N/A If Already Have GA/CS Permit
- Document 10 Cases Over 3 Years  
Take 25 Hour Approved Course  
7 Hours CE Oral SED/2YRS
- 72  **Oral Meds (B&P 1647.18-25)**
  - New Adult Rules For OCS 10/05
  - Not Home Use
  - Must Register With DBC
    - Prove Training + 7 HRS
    - 10 CASES - Grandfathered
- 73  **Exceptions**
  - N20
  - MDs
    - Licensed
    - Permit With DBC
    - Post Grad Training
    - On Site Evaluation
- 74  **Evolving Standards of Care**
  - BP and Pulse
  - All Patients for Treatment
    - Local
    - Operative
    - Surgery
  - Not Consults
- 75  **Place of Practice (B&P 1650)**
  - Registration With BDE(1650)
  - Posting Names Of All DDS At Office (1700d)
  - Badges Don't Apply If Names Posted
  - Multiple Offices OK - B&P 1658.1
- 76  **Corporations**
  - Nature Of The Entity
  - Protection For The Conduct Of Others
  - Lack Of Insurance
  - Annual Report (B&P 1803)
  - Name = DDS (B&P 1804)
  - 
  - Unprofessional Conduct - Revocation (B&P 1807)
- 77  **System Solutions**
  - Doctor Isolated From Patient
  - Lack of Office Systems, Too Much Reliance on Staff
  - Failure to Transmit Updates Regarding Health Issues
  - Technology ?
- 78  **Health History Standards**
- 79  **Examples**
  - Next Standard of Care?
  - Past? Fen-Phen
  - Next?
  - Bisphosphonates

- 
- History
- Clearance
- Risk Recognition?

80  **Tip**

- Strict Informed History Protocols
- Document without Exception
- Time Out Before
- Digital Requirement, Check List
- Yet.... Still happening
  - Not Signed
  - Not Completed, Not Dated, Not Updated
  - Took Home, Didn't Bring Back

81  **Photos**

- Charting Without Notes
- Easy to Do
- Easy Storage
- Powerful Tool
- Your Side of the Story
- Hard to Dispute

82  **Dental Auxiliaries**

- Selection
- Management
- B&P 1740-1777

83  **New Rules**

- Gone: COMDA; Effective July 1, 2009, the Dental Board of California is the regulatory board for licensed Dentists, Registered Dental Assistants and Registered Dental Assistants in Extended Functions health care professionals. NOT RDH.

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
- Now: DHCC Regulates
- 1<sup>st</sup> of It's Kind
- 7/1/09

84  **Dental Auxiliary (B&P 1741e)**

- *Perform dental supportive procedures*

85  **New Law – Direct Supervision Change**

- Not Required to See Patient
- 1088 Repealed
- 1067, 1741
- Controversy: Competing Statutes
- Procedure Specific

86  **General Supervision (B&P 1741d)**

- Instructions by DDS not requiring presence

87  **Exam Before Staff Rules**

- No Treatment By Anyone B4 Patient is of Record.
- Defined: Medical/Dental Hx, Examined by DDS, and Diagnosed and Written Treatment Plan. B&P 1684.5
- Exceptions: Only After Preliminary Exam by DDS
  - Emergency X-Rays Ordered by DDS
  - Extra Oral Duties Ordered by DDS
  - Mouth Mirror Inspection, Charting Obvious Lesions, Malocclusions, Existing Restorations, and Missing Teeth

88  **Not Applicable**

- Exams on Temporary Basis

- Outside of Office
- Health Fairs
- School Screenings
- Supplemental Programs Administered in a School or Pre-School Setting
- Fluoride Mouth Rinse

89  **Posting Requirement - Duties (CCR 1068)**

- Posters
- Must Post Dental Auxiliaries
- OSHA - Fines
- Worker's Comp
- *Posting of Dental Auxiliary Duties* – all dentists utilizing the services of dental auxiliaries shall post a notice in a common area of the office which delineates duties and functions deemed by the board as delegable within stipulated settings and/or circumstances. Such notice shall be readily accessible to all individuals under supervision of the dentist.

90  **New Notice Law**

- Section 1065. Notice to Consumers of Licensure by the Dental Board.
- 
- (a) A licensed dentist engaged in the practice of dentistry shall provide notice to each patient of the fact that the dentist is licensed and regulated by the Board. The notice shall include the following statement and information:

91

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

92  **FAQ**

- Post in Waiting Room
- Only Has to be in English (For Now)
- OK other Languages Also
- Applies to Hospitals and Clinics
- Just as the Sign Says, Nothing More
- Still Post Names of DDS, RDA, RDH
- Only in California
- 

93  **Required Posters**

- Polygraph
- Min Wage
- EEOC
- Anti-Harassment
- Pregnancy Disability Leave
- Unemployment
- Pay Day
- Time off to Vote
- Radiation Protection
- Whistleblowers
- 

94  **Table of Permitted Duties**

- 
- [http://www.dbc.ca.gov/formspubs/pub\\_permitted\\_duties.pdf](http://www.dbc.ca.gov/formspubs/pub_permitted_duties.pdf)

- Controversy as to Direct Supervision Definition

95  **Table Of Permitted Duties (Rev. 1/1/10)**

- Following is a table of duties which Dental Assistants (DA), Registered Dental Assistants (RDA), Registered Dental Assistants in Extended Functions (RDAEF), Orthodontic Assistants (OA) and Dental Sedation Assistants (DSA) are allowed to perform in California. This table is intended to provide summary information to interested parties. It is not intended to cover all aspects of applicable laws or provide a substitute for reviewing the laws that are cross-referenced below. It is highly recommended that applicants and licensees review the actual text of the laws cited at the link provided below. If a duty is not listed in the sections of law cited below, assistants are NOT allowed to perform the duty. Under each category of assistant is one of the following notations: "N", "D", "C" or "G".

96  **Table Of Permitted Duties (Rev. 1/1/10)**

- "N" = means that the assistant is NOT permitted to perform the duty.

- "D" = means that the assistant may perform the duty under the Direct supervision of a dentist, which means supervision of dental procedures based on instructions given by a licensed dentist who must be physically present in the treatment facility during the performance of those procedures. The duty must be performed pursuant to the order, control and full professional responsibility of the supervising dentist. Such procedures must be checked and approved by the supervising dentist prior to dismissal of the patient from the office of said dentist.

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- Note: Dental Sedation Assistant permit holders may also perform the listed duty under a licensed health care professional authorized to administer conscious sedation or general anesthesia in the dental office.

97  **Table Of Permitted Duties (Rev. 1/1/10)**

• "C" = means that the assistant may perform the duty in the specified setting under the supervision of a dentist, Registered Dental Hygienist, or Registered Dental Hygienist in Alternative Practice .

• "G" = means that the assistant can perform the duty under the General supervision of a dentist, which means based on instructions given by a licensed dentist, but not requiring the physical presence of the supervising dentist during the performance of those procedures.

• "DD" = The supervising licensed dentist shall be responsible for determining whether each authorized procedure performed by a registered dental assistant should be performed under general or direct supervision, except as provided in Section 1777.

98

99

100  **Treatments Defined (CCR 1067)**

- ORAL PROPHYLAXIS:

- "... complete removal of explorer-detectable calculus, soft deposits, plaque, stains and smoothing..."

-

- CORONAL POLISHING:

- "... removal of plaque and stain from exposed tooth surfaces, utilizing....rubber cup or brush..."

101  **Treatments Continued**

- ROOT PLANING:

- "... unattached surface of the root ... made smooth ... no flap unless RDHEF..."

-

- PERIODONTAL SOFT TISSUE CURETTAGE:

- "... closed removal of tissue ... without flap ..."

102  **Dental Assistant - DA**

- DEFINED: Basic supportive dental procedures - reversible and non-hazardous (B&P 1067m)

- 103  **DA Duties: (CCR 1085)**
- GENERAL SUPERVISION; Extra oral duties, x-rays
  - DIRECT SUPERVISION;
    - Model impressions, topical, remove dressings, elastic separators, remove sutures, oral measurements for ortho, check loose bands, remove arch and ligature wires, limited N2O with DDS present, matrices, rubber dams
- 104  **DA Can Not**
- Diagnose, cut, fit or adjust prosthetics; prescribe; restorations/models; irrigate/medicate canals; injections; oral prophylaxis
- 105  **Registered Dental Assistant - RDA**
- DEFINED: All duties of DA, plus education and training
- 106  **Duties (CCR 1086)**
- GENERAL SUPERVISION;
    - mirror exploration, temporary sedative dressings
  - DIRECT SUPERVISION
    - endo cultures, dry canals, pulp test, place bases/liners, removed excess cement, size and cement temporary crowns, remove ortho bands, ortho separators, arch wires
    - Coronal polishing (special training B&P 1069), remove excess cement with sonic scaler
    - *Such procedures shall be checked and approved by the supervising dentist prior to dismissal of the patient from the office of said dentist.*
- 107  **Required RDA instruction in pit and fissure sealants effective January 1, 2010**
- A registered dental assistant licensed on and after January 1, 2010, shall provide evidence of successful completion of a board-approved course in the application of pit and fissure sealants prior to the first expiration of his or her license that requires the completion of continuing education as a condition of renewal. The license of a registered dental assistant who does not provide evidence of successful completion of that course shall not be renewed until evidence of course completion is provided.
- 108  **RDA Duties beginning January 1, 2010 A registered dental assistant may perform all of the following duties:**
- (1) All duties of DA.
  - (2) Mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, existing restorations, and missing teeth.
  - (3) Apply and activate bleaching agents using a nonlaser light-curing device.
  - (4) Use of automated caries detection devices and materials to gather information for diagnosis by the dentist.
  - (5) Obtain intraoral images for computer-aided design (CAD), milled restorations.
- 109
- (6) Pulp vitality testing and recording of findings.
  - (7) Place bases, liners, and bonding agents.
  - (8) Chemically prepare teeth for bonding.
  - (9) Place, adjust, and finish direct provisional restorations.
  - (10) Fabricate, adjust, cement, and remove indirect provisional restorations, including stainless steel crowns when used as a provisional restoration.
- 110
- (11) Place post-extraction dressings after inspection of the surgical site by DDS.
  - (12) Place periodontal dressings.
  - (13) Dry endodontically treated canals using absorbent paper points.
  - (14) Adjust dentures extra-orally.
- 111  **Registered Dental Assistant, *Extended Functions* - RDAEF**
- - Defined: All duties of DA & RDA, plus education and training ...
- 112  **Duties: (CCR 1087) LIMIT 2 (B&P 1763) \*\*Before 1/1/10**
- GENERAL SUPERVISION; N/A

- DIRECT SUPERVISION
  - Cord retraction, impression for casts restorations, ortho and guards, etching enamel, endo post patterns, trial fit filling points, apply sealants
  - *Such procedures shall be checked and approved by the supervising dentist prior to dismissal of the patient from the office of said dentist.*
- 113  **New Requirements for New Duties**
- Hold a current license as an RDA or complete the requirements for licensure as an RDA.
  - Successfully complete a board-approved course in the application of pit and fissure sealants.
- Successfully complete the following:
    - A board-approved RDAEF course or courses in all of the existing and new procedures. A course approved by the Dental Board must be at least 380 hours long.
    - Pass a written examination given by the Dental Board.
    - Pass a clinical or practical examination given by the Dental Board.
- 114  **RDAEF Duties After 1/1/10 (1753.5)**
- (1) Conduct preliminary evaluation of the patient's oral health, including, but not limited to, charting, intraoral and extra-oral evaluation of soft tissue, classifying occlusion, and myofunctional evaluation.
  - (2) Perform oral health assessments in school-based, community health project settings under the direction of a dentist, registered dental hygienist, or registered dental hygienist in alternative practice.
- 115  **RDAEF 1/1/10 – Limit 3**
- All duties and procedures that a RDA is allowed to perform.
  - Cord retraction of gingiva for impression procedures.
  - Size and fit endodontic master points and accessory points.
  - *Cement endodontic master points and accessory points.*
  - Take final impressions for permanent indirect restorations.
  - *Take final impressions for tooth-borne removable prosthesis.*
  - *Polish and contour existing amalgam restorations.*
  - *Place, contour, finish, and adjust all direct restorations.*
  - *Adjust and cement permanent indirect restorations.*
  -
- 116  **Registered Dental Hygienist - RDH**
- DEFINED: All duties DA and RDA under direct supervision, plus education and training.
- 117  **Duties: (CCR 1088)**
- GENERAL SUPERVISION
    - Root planing, polish and contour, oral exfoliative, sealants, pre-exam for perio charting, soft tissue, lesions, occlusion class, myofunctional evaluation
  - DIRECT SUPERVISION
    - periodontal curettage, local anesthesia, N2O (all with approved training)
- 118  **Registered Dental Hygienist, *Extended Functions* (RDHEF)**
- - 
  - Defined: All duties, DA, RDA & RDH, plus education and training.
- 119  **Duties: (CCR 1089) LIMIT 2 (B&P 1770)**
- General Supervision; N/A
  - Direct Supervision ;
    - cord retraction, impressions for casts, ortho and guards, etch enamel, patterns for endo posts, fit endo filling points
    - *Such procedures shall be checked and approved by the supervising dentist prior to dismissal of the patient from the office of said dentist.*
- 120  **RDHAP B&P 1774**
- Special Registration



- Can Employ Other RDH
- May Have Rx Signed By DDS Or MD For Propphy

121  **Sedation Assistant 1/1/10**

- Dental Sedation Permit (DSAP) B&P 1752.6
  - Allows a DA, RDA, RDAEF to assist a dentist in the administration of sedation to a patient and the monitoring of patient under sedation
- Eligibility Requirements
  - 12 Months experience as DA
  - Attend, DPA, IC and BLS Courses
  - 110 hr. Approved Course
  - Written Examination by State

122  **DSAP Training**

- - 40 Hrs Didactic
  - 
  - 32 Hrs “hands on” Training (simulation)
  - 
  - 38 Hrs Clinical with Patient
  - 
  - Education Sunset: 1/1/11 – Now By Code

123  **DSAP Duties**

- All that DA Can Do
- Monitor Patients before, during and after using non-invasive instruments
- Rx ID, Draw, Ampule and Vial Prep., withdrawing Rx – verified by DDS
- Add Drugs, Meds and Fluids to IV verified by DDS chair side
- IV : Verify Patent line, injection port, insert syringe, occlusion of IV line and blood aspiration, line release and injection – appropriate time interval
- Removal of IVs

124  **Orthodontic Assistant Permits**

- On and after January 1, 2010:
- (1) Completion of at least 12 months as DA
- (2) Successful completion of a DPA & OSHA Courses
- (3) Successful completion of CPR course
- (4) Successful completion of a board-approved orthodontic assistant course, after the completion of six months of work as DA.

125  **Duties**

- (a) All duties of DA
- (b) Prepare teeth for bonding, and select, preposition, and cure orthodontic brackets after their position, approved by DDS.
- (c) Remove only orthodontic brackets and attachments with removal of the bonding material by DDS.
- (d) Size, fit, and cement orthodontic bands.
- (e) Remove orthodontic bands and remove excess cement from supragingival surfaces of teeth with a hand instrument.
- (f) Place and ligate archwires.
- (g) Remove excess cement with an ultrasonic scaler from supragingival surfaces of teeth undergoing orthodontic treatment.

126  **Dental Practice Act**

127  **Standards Of Care: Statute**

- Presumption of Negligence (Ev Code 669)
- Dental Practice Act
- Health and Safety Code
- Insurance Code

- Penal Code
- 128  **Insurance Issues**
  - Excessive Treatment (Not Documented)
  - Discouraging Treatment (B&P 1685)
  - Gag Rule Prohibition (B&P 2056)
  - Patient Ignorance/Apathy
  - *Wickline* Case
  - Appeal Process
- 129  **Abandonment Without Notice (B&P 1680u)**
  - Financial Limitations
    - No Threat, No Withhold Work
  - 30 Days Written Notice
    - Letter
    - Fax – Home Not Work
  - Emergency Only 30 Days
  - Need For Care Elsewhere
  - Managed Care Agreements - Exceptions
- 130  **Records**
  - Statutory Requirements
  - Defined; Hx, Cx, Dx, Tx (H&S 123105)
  - Signature (B&P 1683)
  - Preservation
  - Medications, 3 Years (H&S 11191)
  - Medi-Cal, 3 Years (W&I 14124.1)
  - Recommendation: At Least 10 Years
  - Exception: Implants, Last 30yrs?
- 131  **Non-use OF SS Number**
  - Medi-Cal Submissions
  - No Social Security Number
  - If Beneficiary Has ID Card
    - Number
    - Date Issued
  - W&I CODE: 14045
- 132  **HIPAA Privacy Myths**
  - Office Soundproofing?
  - No Recall Cards?
  - Multi-Page Consent Forms?
  - No Day Sheets?
  - Consent For All Communications?
  - No Computers?
- 133  **Confidentiality (CC 56 ) H&S 123135 & HIPAA**
  - Telephone
  - Reception
  - Placement
  - Office Systems
  - FAX Placement
  - Self Audit
- 134  **Social Media**
  - Not Private
  - Not Secure
  - Never Assume Otherwise
  - Violation of Duty of Confidentiality CC 56
  - Facebook, My Space, Twitter, etc.

- Avoid “Friending” patients.
- *Bright Line Between Personal and Professional*

135  **Records**

- B&P 1683
- Sign Name In Chart Or;
- ID # and Initials
- Next to Service Performed
- Dated
- Owner Must Assure Compliance

136  **Denture ID (B&P 1706)**

- (a) Every complete upper or lower denture fabricated by a licensed dentist, or fabricated pursuant to the dentist's work order, shall be marked with the patient's name, unless the patient objects. The initials of the patient may be shown alone, if use of the name of the patient is not practical. The markings shall be done during fabrication and shall be permanent, legible, and cosmetically acceptable. The exact location of the markings and the methods used to implant or apply them shall be determined by the dentist or dental laboratory fabricating the denture. (b) The dentist shall inform the patient that the markings are to be used for identification only and that the patient shall have the option to decide whether or not the dentures shall be marked. (c) The dentist shall retain the records of those marked dentures and shall not release the records to any person except to enforcement officers, in the event of an emergency requiring personal identification by means of dental records, or to anyone authorized by the patient.

137  **Records: Copies To Patient (H&S 123105-110)**

- Summary If Voluminous (H&S 123130)
- Minors Confidentiality From Parents (H&S 123115)
- Patient ETOH Abuse Confidential (H&S 123125)
- Electronic Records (H&S 123149)
- Can't Limit Due To \$ Owed

138  **Failure To Produce Records**

- Mandate 1684.1(a) W/N 15 Days Of CDB Request
- \$250/Day Fine, Max \$5,000
- Same For Clinic
- \$1,000/Day If Court Ordered
- Also Misdemeanor \$5,000 Fine

139  **Electronic Records (H&S 123149)**

- Back-up, Off Site Storage
- No Alteration
- Electronic Signature
- Confidential; Internet

140  **Digital Privacy Laws**

- EMR Must be encrypted
- If Not, and Lost, Must advise and all Patients
- CC 1789.82, 1789.84 and HIPAA HITECH
- Data Breach: Name + DL, SS, or Ins. ID

141  **Ownership**

- Business Records
- Data To Patient
- X-Rays
- Computer Analogy

142  **Medications**

- Schedule 2; Name, Address, Date
- Character, Quantity, Pathology

- And Purpose (H&S 11190)
- 143  **Practical Requirements**
  - Standards Of Care
  - Style: Soap
  - Content
  - Legibility
  - Forms
  - Educational Material
  - Electronic Future
- 144  **Unprofessional Conduct (B&P 1680-5)**
  - Gross Immorality (1680e)
  - Using Solicitors (1680J)
    - Receiving A Commission (1680G)
  - Deceptive Advertising(1680h)
    - Advertising Guarantee Result Or (1680I)
    - Advertising Painless
- 145  **Unprofessional Conduct**
  - X-Rays w/o License
  - Excessive Medication
  - Excessive Diagnosis Procedures
  - Threat Against Complaining Patient To BDE
  - No N2O Fail Safe Device
- 146  **Unprofessional Conduct**
  - Failure to Report in Writing (B&P 1680Z)
    - Death of Patient During Dental Treatment
      - Copy All RDH to the DHC
    - Discovery of a Death Due to Dental Treatment
    - Removal of Patient to Hospital for Treatment Exceeding 24hours
      - Oral Conscious Sedation
      - Conscious Sedation
      - General Anesthesia
      - Result of Dental or Hygiene Treatment
      - Except Intended Hospital Admissions
    - Upon Report – Office May be Inspected
- 147  **Failure To Use Infection Control CCR 1005**
  - OSHA Sets Standard Of Care
  - Workers Compensation
  - Fear Of Disease
  - For Everyone!
- 148  **OSHA: CCR 1005 (b)**
  - Licensees shall comply with infection control precautions mandated by the California Division of Occupational Safety and Health (Cal-DOSH).
- 149  **OSHA: CCR 1005 (a-c)**
  - 21 Requirements Creating Standard of Care
  - CCR 1005 (c)
  - Terms Defined CCR 1005 (a)
- 150  **Billing**
  - Inappropriate
  - False Claims For Payment (B&P 810)
  - Federal Compliance Law - Revenue Issues
- 151  **"Care Credit Rules"**
  - New Rule on Open Ended Credit Accounts
  - 1/1/10 B&P 654.3 and H&S 1395.7

Written Treatment Plan  
 Written Estimate of Costs  
 Timely Refund Payment  
 Notice of Patient's Legal Rights

152 **Overpayments**

- Refund: 30 Days For Patient Request (B&P 732)
- Refund: Knew Or Should Have;
- 90 Days Notify;
- Refund In 30 Days

153 **Dental Materials; Fact Sheet (B&P 1648.10)**

- Information
- Posting
- Acknowledgement
- 3 Languages
  - English
  - Spanish
  - Mandarin

154 **Mercury Notice – Prop 65**

- Nature Of The Requirement
- Posting – 10 Or More Employees
- Liability Potential
  - Negligence
  - Evidence Code 669 Violation

155 **(Notice)**156 **N2O Use Notice**

- Nitrous Oxide Added To Prop 65 List
- IF 10 Or More Employees, Must So Post In Waiting Room
- AS OF 8-1-09
- H&S Code 25249.6
- 8 1/2 X 11 Size

157 **(Notice)**158 **Intimacy**

- Prohibited Unless Married (B&P 726)
- Ok Domestic Relations
- 
- Exam – Tray, Napkin?
- Psychiatrists, MFT
- Psychologists
- Attorneys?

159 **Risk Recognition**160 **Summary**

- Community - Standard Of Care
- Statutes - Control
- Staff - Education And Communication
- Records - Quality, Content, Forms, Preservation
- Managed Care - Ethics And Obligations
- Entity Protection
- Success - No Attorneys

161 **Arthur Curley**

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- Thank
- You!