

1 CALIFORNIA DENTAL PRACTICE ACT 2019

2 WHY ARE WE HERE?

- It's required for re-licensure
- The DPA regulates & defines dental practice limits, dedicated to protecting public
- Updates

What we will cover:

- Licensure / renewal
- The Dental Board, how to communicate
- DPA
- Committees
- Violations

3 DENTAL BOARD OF CALIFORNIA

- Previously: Board of Dental Examiners
- Operates as Bureau under Dept. of Consumer Affairs
- Regulatory Board for licensed: DDS, RDA, RDAEF
- Highest priority of the Board = protection of the public

4 DENTAL PRACTICE ACT INCLUDES:

- Definition of dentistry, specialties
- Foreign dental schools, dentists
- Education, qualifications, exams
- Special permits
- Restorative materials (give fact sheet)
 - http://www.dbc.ca.gov/formspubs/pub_dmfs_english_webview.pdf
- Radiation safety
- Diversion (addiction recovery without losing license)

5 DENTAL PRACTICE ACT INCLUDES:

- Health & safety codes, infection control
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- Illegal acts, unprofessional conduct, gross negligence
- Prescriptions / drugs
- Criminal act reporting

6 RULES & UPDATES.....

7 DEADLINES

Dental practices must comply with new [laws and regulations](#) on the following dates:

Amalgam Rules:

- July 14, 2017: Newly built facilities: must install amalgam separators
- July 14, 2020: Existing facilities must install amalgam separators
- June 14, 2027: facilities with separators:
 - Replace amalgam separators

** Amalgam separators must meet ANSI, ADA& ISO specs & achieve 95% removal efficiency

8 **DEADLINES**

- Jan. 1, 2019: Enroll or opt-out of Medicare
- Jan. 1, 2019: AB 1753: New serial number required on controlled-substances prescription forms
 - Tamper-resistant prescription forms must have unique serial #s
 - #s are linked to CURES records
 - DOJ implementing immediately – but waiting for fully compliant forms to become available! CDA.org
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9 **DEADLINES**

- Oct. 2, 2018, prescribers must check a patient's prescription history in CURES 2.0 before prescribing a Schedule II-IV substance, with some specific exceptions.

10 **DEADLINES PAST**

- July 1, 2017: if ≥ 25 employees, provide notice of protected leave for domestic violence, sexual assault, stalking to new employees (& other employees by request) AB 2337
- May 2, 2017: Update Wage Order 4-2001 to 2017-2018 minimum wage (not updated on current required poster set) Cal Dept. of Industrial Relations: www.dir.ca.gov
 - CDA provides chart by location
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11 **REMINDER: PAST DEADLINES**

Dec. 2016 All employees required to have two 10-min. Work-free breaks / 8 hr. day

12 **REMINDER: PAST DEADLINES**

- Jan. 24, 2018: FDA banned 24 antiseptic product ingredients for health care "due to insufficient data" (triclosan)
- January 1, 2019: New infection control standard for procedures that expose dental pulp: irrigation must be "sterile or contain recognized disinfecting or antibacterial properties." Post & comply with: CCR Title 16, sect §1005, CDC & OSHA rules (b) (1-3)

- Jan, 2017: FDA banned use of powdered gloves in healthcare

13 **REMINDER: PAST DEADLINES**

- June, 2016: Global Harmonized System – Hazard Warning (SDS, labels)

14 **REMINDER: PAST DEADLINES**

- Jan. 1 2018: Display new mandatory poster on transgender rights “Transgender Rights in the Workplace” SB 396
- March 1 2017: Single-stall restrooms – universally accessible and “all gender” sign.

15 **REMINDER: PAST DEADLINES**

- July 1, 2017: if ≥ 25 employees, provide notice of protected leave for domestic violence, sexual assault, stalking to new employees (& other employees by request) AB 2337
- January 1, 2019: Updated Lactation Accommodation location requirements
Section 1031 of the Labor Code has now been updated to specify that employers should provide a location other than a bathroom.

16 **PATIENT’S PERCEPTION DETERMINES LITIGATION**

17 **DUTIES OF THE BOARD**

- General duties:
 - Enforce DPA with “Seal”
 - Examine license applicants
 - Apply & collect fees (permits, licenses, fines, exams)
- Compensation: per diem & expenses
- Employs assistants, attorneys, investigators
- Collect information

18 **DUTIES OF THE BOARD**

- Regulatory authority
 - Inspect books, records, premises after complaint (failure to allow inspection = grounds for fines, license suspension, revocation) unless “good cause”
 - Keeps records of licenses, actions
 - Makes & enforces rules of DPA
 - Mandatory inspections of general & medical anesthesia & conscious sedation permit holders
 - Random audits of CE records

19 **CDB EXECUTIVE OFFICER**

- Board’s Exec. Officer is authorized to adopt, amend, or repeal rules & regs necessary to enforce DPA.

- Exec. Officer can approve settlements for revocation, surrender, or interim suspension of licenses without Board vote.
- Title 16, Sec. 1001

20 **IS THIS “STRICTLY DENTISTRY”?**

21 **SUPREME COURT RULING**

- Fed. Trade Commission vs. N. Carolina Dental Board
- Dental Board issued cease & desist orders against non-dentist teeth whitening providers & product manufacturers
- Businesses stopped
- Board was sued by FTC:
 - “Board = price-fixing cartel”

22 **SUPREME COURT RULING**

- FTC claimed Board’s actions = anticompetitive
- With a majority # of dentists on Board = “conflict of interest”
 - Protecting public vs. protecting dentists businesses?
- Court ruled that Board must have State oversight or fewer practicing dentists.

23 **PROP. 65: SAFE DRINKING WATER & TOXIC ENFORCEMENT ACT**

Must post (update annually):

- Use of chemicals that cause CA or reproductive toxicity
- Bisphenol A (BPA) in composites, sealants (reproductive toxicity)
- Restorative materials
- Nitrous Oxide

List available: oehha.ca.gov/proposition-65

24 **SUBMIT EMAIL ADDRESS TO BOARD**

- If licensed by DBC or DHCC
- Subject: “Electronic Mail Address Requirement”
- Name, license type, License #, email
- Send to: dentalboard@dca.ca.gov
- Privacy protected

25 **DO I NEED AN AMALGAM SEPARATOR?**

- I don’t place new amalgams!
- I remove old ones.
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-

26 **DO I NEED AN AMALGAM SEPARATOR?**

- Yes.

- New offices: NOW
- Install in existing offices by July 14, 2020
- Replace existing separators by June 14, 2027
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- EPA Clean Water Act
-
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27 **BOARD COMMITTEES**

28 **FCS CREDENTIALING COMMITTEE**

Elective Facial Cosmetic Surgery

- 3 oral & maxillofacial surgeons
- 2 physician / surgeons
 - Category 1 permit: facial bone & cartilage structures
 - Category 11 permit: soft-tissue contouring, rejuvenation
 - 26 DDSs have permits
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29 **DENTAL ASSISTING COUNCIL OF THE DENTAL BOARD OF CALIFORNIA § 1742**

- Considers all Dental assistant issues, advises Board on:
 - Requirements for licensure, exams, permits, renewal
 - Duties, settings, supervision
 - Standards of conduct, enforcement
 - Infection control requirements
- Appointed by Board:
 - Dental Assistant/board member, other Board member, 5 assistants

30 **DENTAL HYGIENE COMMITTEE OF CALIFORNIA (DHCC) § 1900-1966.6**

- Represents RDH's, RDH EF's (Extended Functions), RDH AP's (Alternative Practice)
- 1st of its kind in U.S.
- 9 members, appointed by Governor
 - 4 public
 - 1 practicing DDS
 - 4 RDH's: 1 educator, 1 RDHAP
- Contact DHCC: (916) 263-1978

31 **DENTAL HYGIENE COMMITTEE OF CALIFORNIA (DHCC) § 1900-1966.6**

- Issue, review, revoke licenses
- Develop & administer exams
- Adopts regulations
- Determines DH fees & CE regs

- Only DH Committee with complete control over school accreditation
 - New DH Schools must show need & feasibility to DHCC B4 CODA
- 32 **DH LICENSING: CAL ACCEPTS:**
- Western Regional Examination Board (WREB) exam
 - Central Regional Dental Testing Services (CRDTS)
- 33 **REMIEDIATION FOR FAILED DH LICENSE EXAMINEE**
- If applicant fails clinical exam 3 times or fails after a single incident of causing gross trauma to patient; must complete approved program of remediation.
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 - CCR Title 16, Section 1108
- 34 **DH'S TRAINED IN BOTOX & FILLERS....**
- CE is offered to DH's in botox & dermal fillers
 - Is the administration of botox & fillers legal?
- 35 **NO**
- 36 **DH LAWS**
- License denied / suspended if fail to pay taxes
 - RDH must be employed by DDS
 - RDHAP may be:
 - self-employed as sole proprietor of alternative hygiene practice in areas certified as having dental healthcare shortage
 - employed by another RDHAP as independent contractor
- 37 **CURRENT RDHAP ISSUES**
- Now: if location no longer meets dental care shortage criteria, RDHAP must close business - abandons pts.
 - RDHAP's seek to improve collection for services
 - equal pay, insurance processes
 -
 -
 - DHCC needs more employees
- 38 **WHAT IS ITR?**
INTERIM THERAPEUTIC RESTORATIONS
- Removal of caries with hand instruments
 - Local anes. "shall not be needed"
 - Direct provisional adhesive restoration (self-setting or resin-modified glass ionomer cement)
 - Follow-up care (OH, fluoride....)
 - Must be part of comprehensive dental plan in a dental home
- 39 **INTERIM THERAPEUTIC RESTORATIONS (ITRS)**

BECOMES OPERATIVE 1/1/2018 AB 1174

- RDHs, RDHAPs, RDHEFs, RDAEFs may place ITRs (gen supervision)
- With dx & tx plan of licensed DDS
 - Private & public settings
 - Virtual dental home (telehealth)
- Requires formal training by DHCC / CDB approved course
- DH schools MUST qualify students (CODA Standard 2.18)

40 **ITR SELECTION CRITERIA**

- To prevent further decalcification of carious lesions
- Young, uncooperative or special needs pts
- When traditional tx must be postponed or is not feasible
- As part of step-wise carious excavation prior to definitive tx.
 - Lowers oral bacteria
 - CDT code for 2018: D1354 interim caries- arresting medicament application.
 - AAPD, Oral Health Policies ref. manual V32/NO6 10/11
 -
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41 **DH BOARD ISSUES**

- DHCC considering “measure of continued competency” for license renewal
- Should level of supervision change for:
 - local anesthesia?
 - Nitrous oxide-oxygen analgesia?
 - Soft tissue curettage?
- Submit your inquiries: dhccinfo@dca.ca.gov

42 **ARMS CLASPED BEHIND BACK**43 **ALL CLINICIANS: I.D. YOURSELF!**

- Must display (on name tag or in office):
 - Educ. Degree
 - Graduate / postgraduate educ. In specialty
 - License type & status
 - Board certification
 - For supervising physicians & surgeons; hours in facility

44 **SHOW YOUR QUALIFICATIONS****...IF YOU DO THESE:**

- Top 5 minimally invasive cosmetic procedures being done:
 - Botox
 - Hyaluronic acid fillers
 - Chemical peel
 - Laser hair removal
 - Microdermabrasion

- Must post degree/ qualifications
- Must be licensed (check insurance!)

45 **NOTICE TO PATIENTS OF LICENSURE BY DENTAL BOARD**

Every DDS MUST provide notice to each patient:

“Dentists are licensed and regulated by the Dental Board of California
(877) 729- 7789
<http://www.dbc.ca.gov>”
16 CCR 1065

46 **NOTICE TO CONSUMERS OF LICENSURE BY DENTAL BOARD**

Every DH MUST provide notice to each patient:

“Dental Hygienists are licensed and regulated by the Dental Hygiene Committee of California
Business and Professions Code
Division 2, Ch. 4, Article 9
Sections 1900 - 1966.6”

47 **CONTENT OF DPA**

- The practice of Dentistry defined:
 - § 1625. Dentistry is the diagnosis or treatment, by surgery or other method, of diseases and lesions and the correction of malpositions of the human teeth, alveolar process, gums, jaws, or associated structures; and such diagnosis or treatment may include all necessary related procedures as well as the use of drugs, anesthetic agents, and physical evaluation.

48 **THE RULES APPLY TO DENTISTS WHO:**

- Identify themselves in writing as a DDS
- Perform (or offer to) tx or diagnose any oral structures
- Indicate they will alter, construct, repair, or sell any appliance or restoration
- Examine (or offer to) oral structures with intent to treat
- Manage, lease, run any dental facility

49 **EXEMPTIONS**

- Legal executor of deceased DDS estate may operate practice 1 yr. if all legal notification and practice limits are observed
 - Students in approved programs
 - Emergency services rendered in good faith at scene away from office
 - Treatment of an emergency arising from prior tx by another DDS: (not liable for any civil damages)
 - DDS not liable for failure to inform if:
 - Pt unconscious
 - DDS thinks immediate tx necessary: no time
 - Pt incapable of giving consent, no time to seek from authorized person
- §1627

–Unicode: U+00A7, UTF-8: C2 A7

50 **VIRTUAL DENTAL HOME**

- Teledentistry requires documented verbal or written consent from pt.
- Expands VDH to service locations of greatest need – general supervision

51 **LICENSURE BY PORTFOLIO**

- Dental students graduate with “portfolio” model exam process over the final year of dental school
- Not a requirement, but allowed
- First licensure-by-portfolio-examination:
UOP

52 **RDA LICENSING EXAM**

- Clinical exam no longer required
- Assembly Bill 1707 (Chapter 174, Statutes of 2017)
-

53 **WHO CAN TURN US IN?
....AND HOW?**

- Patients: not anonymous, public record created, other DDS's brought in
- Staff: can be anonymous

54 **CAN A PATIENT TURN YOU IN FOR REQUIRING X-RAYS?**

55 **YES, BUT YOU WILL WIN!**

- X-ray info = standard of practice for assessment & tx

56 **CASE: DDS SUES PATIENT FOR NEGATIVE YELP REVIEW**

- Pt. gave DDS Poor yelp review for long wait and “no diagnosis”
- DDS sued pt. for defamation and loss of income
- * Pts. have 1st amendment right to post comments on yelp
 - (Dayani vs. Rohs)
-

57 **HOW SHOULD YOU RESPOND TO NEGATIVE ONLINE REVIEW?**

- Ignore it! Or.....
- “By responding to this post, I am neither confirming or denying that you are a patient in my practice. If you would like to discuss, please call my office at.....”
-

CDA Practice support

58 **STRETCH BACK OF NECK**

- Turn head away from tight side
- Look down, feel stretch
- Hold chair on tight side
- Pull head forward with other hand

- Repeat, looking up

59 **OSHA COMPLIANCE = BOARD COMPLIANCE**

- Written program
- Employee safety conditions
 - IC, physical & chemical safety
- Training / communication
 - Includes unlicensed DA IC training
- Facility, equipment, supplies
- Compliance by EVERYONE!
- OSHA & Board & police share info

60 **CASE: PATIENT REPORTED DDS NOT CHANGING GLOVES BETWEEN PATIENTS**

61 **LICENSE RENEWAL**

- Ea. 2 years, end of birthday month
- No grace period; “practicing without a license”
- Fee assessed 30 days after lapsed
- Receive notice 60 days ahead, still your responsibility if no notice
- By mail: 6-8 weeks to update, 6-8 more weeks to get pocket lic.
- On line: 48 hrs., 2 -3 weeks (pocket license)

62 **LICENSE RENEWAL**

- Disciplinary cases:
 - “practicing with expired licenses”
 - Some for up to 20 years!
- Employer: responsible for (must check) licensure status of staff
- Increased DDS renewal fees: \$650.00 (\$12.00 CURES fee)

63 **CASE: UNLICENSED DENTISTRY IN FILTHY GARAGE**

- S. Amer Dentist, unlicensed in US
- Officers noted “health risks associated with practicing out of home”
- Sub-standard asepsis, wine for pain, birds, household drill
- Neighbors support suspect, love him, want him to practice
- He speaks their language

64 **CASE: ILLEGAL OPERATION OF DENTAL CLINIC OUT OF DOUBLE-WIDE TRAILER**

- Woman goes to emergency room – tooth broken by dentist while trying to extract it
- Arrested: found antiquated instruments caked with blood, wine for anesthetic

65 **CASE: UNLICENSED PRACTICE OF ORTHODONTICS**

- Police raided trailer, found “orthodontist”, blood-stained equipment, appliances,

instruments.

- Illegally attained prescription meds, alcohol for pain
- No sterilization
- No license
- Dr "licensed in Ecuador"

66 **THE CHALLENGES**

- Chasing unlicensed "dentists"
- Keeping them from re-surfacing
- Protecting public

67 **CE REQUIREMENTS**

- Dentists – 50 units
- ADHP's – 25 units (RDHAP – 35)
- Must include Infection Control (2 hrs.), CDPA (2 hrs.) & CPR (mandated content)
- Special permit holders (GA, CS): subject- specific CE required for permit renewal
- DA's must pass (once):
 - IC (8 hours) & radiation safety
 - coronal polishing
 - Comprehensive infection control (Jan, 2010)

68 **MANDATORY CE**

- 80% must be scientifically oriented courses directly related to dental practice, benefiting patients
- 20% may primarily benefit DHCW, but must also benefit pt.
- 50/50 (live vs. remote) rule still applies
 - Clearly defined "live" course work
 - Clearly defined "home study" (\leq 25 hrs.)
 - On-line / computer courses = home-study
- Increased provider responsibility for data on CE verification slips

69 **NON-ELIGIBLE CE SUBJECTS**

- Personal money management, "marketing"
- Basic subjects not related to dental practice
- General physical fitness, licensee's personal health;
- Basic skills - memory training & speed reading
- Courses where dentist is the primary beneficiary.
-

70 **ADVERTISING**

71 **Q:**

- Do we have to wear a name tag?

72 **A:**

- Yes, 18 pt. Type or larger
- Unless license is in public view

73 **PATIENT TREATMENT RECORDS:
CAN YOU INITIAL YOUR ENTRY?**

74 **YES BUT....**

- May initial PLUS ID #
- Or sign
- Must date entry

75 **CAN YOU CHARGE FOR PROVIDING PATIENT RECORD COPIES?**

- Yes.
- "Reasonable cost-based fees"
- For supplies, time
- Both paper & electronic files

76 **STRETCH BACK OF NECK**

- Turn head away from tight side
- Look down, feel stretch
- Hold chair on tight side
- Pull head forward with other hand
- Repeat, looking up

77 **HIPAA
HEALTH INFORMATION PORTABILITY & ACCOUNTABILITY
ACT**

78 **2 HIPAA STANDARDS**

- Privacy
 - Control of PHI disclosures
- Security
 - Safeguard PHI specifically in electronic form (ePHI)

79 **OMNIBUS RULE - 2013**

- Non-compliance = civil offense
- Civil penalties: \$100 - \$50,000 / offense
- Under DOJ (Dept. of Justice): Unauthorized disclosure or misuse of protected health info. = criminal. Fines - \$250,000 & 10 years prison
- Applies to all covered entities: Medical, insurance, financial, government bodies

80 **BE CAREFUL ABOUT PAPER**

81

82

83 **RECENT BREACHES**

- Michigan: patients' SS#s, diagnostic codes, employment info, birth dates placed on

internet

84 **ELECTRONIC TRANSACTIONS**

- Should be standardized (forms, terms, rules)
- More efficient, less costly
- Results in fewer mistakes such as:
 - Wrong referrals
 - Missing authorizations
 - “Leaked information”
 - Costly delays
- Learn medical & dental codes
- Use unique identifiers (name vs. SS#)

85 **HIPAA**

- Must have written agreements with ANY entity that sees pt. Info.
 - File copy services
 - When electronic files / images used
 - Testimonials, social media, marketing
- Encrypt data & physically protect

86 **CASE: OFFICE FINED FOR LOSING NON-ENCRYPTED THUMB DRIVE**

- Fined \$150,000!
- So:
 - Cloud back-up
 - Buy “data compromise” insurance
- (HIPAA audits & info: hhs.gov)

87 **MANDATED REPORTING**

- 65% of physical child abuse = visible in head / neck region
- 75% of physical injuries from domestic violence are to head, face, mouth & neck
- Dentists, Hygienists, assistants = responsible to report suspected child, elder, domestic & disabled: abuse & neglect.
- \$1000 fine & jail for NOT Reporting (liable for civil or criminal prosecution)

88 **WHAT IS ABUSE?**

- Spectrum of repetitive behavior
- Non-accidental physical injury by another person
 - Physical abuse & neglect
 - Sexual abuse
 - Emotional abuse
- Fatal abuse is often preceded by minor maltreatment
 - (Pen. Code 11165.6)

89 **REPORTABLE ABUSE**

1 CHILD, ELDER & DEPENDENT ADULT, DOMESTIC VIOLENCE

- 2 • Child = through 18 yrs.,
 • Elder = 65 yrs. + older
 • Special disabilities – any age
 •
 • (Pen. Code 11165.6)
 •
 •

90

- Provider/patient privilege does NOT apply
- Must report if patient / caregiver confides, you suspect abuse / neglect

91 **REPORT CHILD / ELDER ABUSE:
CALL, THEN WRITTEN REPORT**

- Must report suspected abuse to a county child protective agency or police
- Must report elder or dependent adult abuse to county
- Domestic (physical) violence: to local police
- What do you look for???

92 **CLINICAL SIGNS OF ABUSE**

- Bruises, burns, lacerations, abrasions, head injuries, skeletal injuries (head, neck, limbs, etc.)
- Fractured, abscessed teeth
- Healing or healed bones (X-rays)
- Bite marks
- Hair loss
- Strangulation marks

93 94 **STRANGULATION**

- 10% of violent deaths in US each year = strangulation
- Victims = 6 X more females than males

95 **STRANGULATION**

- Defined as: asphyxia due to closure of blood vessels &/or airway
- Only 11 lbs. of pressure on both carotids for 10 sec. → unconsciousness
- 33 lbs. of pressure closes trachea

96 **STRANGULATION: LOOK FOR:**

- Visible neck scratches, abrasions, bruises, scrapes
 - Defensive & attack wounds
- Voice changes: hoarseness, complete loss of voice
- Swallowing / breathing difficulty, pain: may progress to death up to 36 hours after

injury

97

98 **DENTAL NEGLECT**

- Failure of fully informed parent / caregiver to seek or follow through with dental tx essential for adequate function & freedom from pain & infection

99

100

Condyloma acuminatum - generally transmitted by sexual contact

Most commonly found in the anogenital region;

Intraorally - frequently on labial mucosa.

Benign, papillary lesion (human papillomavirus)

Oral lesions are generally a result of oral-genital contact.

The identification of condyloma acumenatum in a child would require reporting of possible child abuse.

101 **ELDER ABUSE**

WHAT SHOULD YOU LOOK FOR?

- Bruises, physical injuries
- Fear, anger,
- Inappropriate behavior
- Depression
- Notice interaction between caregivers & elder or child

102 **DOCUMENTATION / REPORTING**

- Objective observations, descriptions
- Quote pt. comments
"My husband whacked me hard this time!"
- **Patient / Provider privilege does NOT apply: MUST REPORT
- Observe demeanor, behavior
"pt. ducked when husband raised arm to make a point"

103 **DOCUMENTATION / REPORTING**

- Child abuse: call, then send written report within 36 hours
- Elder & dependent adults: call, send written report within 2 working days of phone call
- Domestic (physical) violence: call, send written report within 2 days

104

105 **CALL, THEN WRITE A REPORT**

- If immediate danger: 911!!!
- Child Protective Services
- Childhelp USA National Child Abuse Hotline: 800-422-4453
- County Adult Protective Services

- Elder & Dependent Adult Abuse / Neglect Hotline: 888-436-3600
- National Domestic Violence Hotline: 800-799-7233

106 **EMPLOYEE ACKNOWLEDGEMENT REQUIRED**

- Employees must be trained and sign a statement of understanding, training and willingness to comply with law (C.P.C. 11166.5[a])
- Sign, date & witness forms
- Place in personnel file & give copies to employee
- *The Reporter Responsibility and Sample Employee Form* – supplied by Cal. Dept. of Social Services Office of Child Abuse Prevention

107

108 **SHOULD YOU TREAT AN INTOXICATED PATIENT?**

- Patient “self medicates” for dental anxiety
- Rule out medical conditions (diabetic shock)
- Liabilities:
 - Adverse event during tx
 - After tx: DUI risk - Record proof of efforts made to secure safe travel
- Report to police if they refuse! Mandated reporter of anyone who is at risk to harm self or others TDIC – Risk Management Advice Line

109 **AUXILIARY SCOPE OF PRACTICE**

**DPA LEGALLY DEFINES
(UPDATES @ 7 YEARS)**

- Education, qualifications
- Allowable duties
- Level of supervision
- Allowable settings
- Illegal practices result in:
 - Criminal offenses
 - License discipline for person & anyone aiding & abetting

110 **RDA DUTIES, SETTINGS**

- Allowed duties specifically listed
- All other duties = NOT allowed & are illegal
 - Such duties represent dentistry; require knowledge, skill, training of licensed dentist)
- All auxiliary duties & settings (supervision), must be posted in office, visible to all employees

111 **SPECIAL PERMITS**

- 2 Dental Assistant categories
 - Orthodontic Assistant (OA)
 - Dental Sedation Assistant (DSA)
 - RDA license required

112 **SUPERVISION**

- Direct supervision:
 - Procedures based on instructions given by licensed dentist
 - Dentist must be physically present in tx facility during performance of those procedures
- General supervision:
 - Procedures based on instructions given by licensed dentist
 - Dentist's physical presence not required during procedure

113 **SUPERVISION**

- N: Not permitted
- C: Allowed in specified setting, under supervision of DDS, RDH, RDHAP
- DD: Dentist decides (G or D)
- G: General
- D: Direct
- WS: Without supervision

114 **WHAT IS ALLOWED?**

- DA: unlicensed, May perform:
 - specified dental supportive procedures under supervision of licensed dentist:
 - technically elementary, completely reversible, will not cause possible harm
- RDA: licensed,
 - may perform: DA duties + other specified procedures, under varying supervision
- RDAEF: licensed + completed post-licensure clinical & didactic approved training & testing, may perform: RDA duties + others

115 **SELECTED RDA ALLOWED DUTIES § 1752.4****SECTION SIGN****UNICODE: U+00A7, UTF-8: C2 A7**

- Mouth mirror inspection, charting
- Apply, activate bleaching agents: nonlaser light-curing device
- Automated caries detection devices
 - for dentist to diagnose

116 **RDA ALLOWED DUTIES § 1752.4****SECTION SIGN****UNICODE: U+00A7, UTF-8: C2 A7**

- Imaging for CAD milled restorations
- Pulp testing, recording
- Place bases, liners, bonding agents
- Chemically prep teeth for bonding

117 **RDA ALLOWED DUTIES § 1752.4**

- Place, adjust, finish direct temps

- Fabricate, adjust, cement, remove indirect temps, including stainless steel crowns IF PROVISIONAL

-

118 **WHO IS RESPONSIBLE IF PATIENT DOESN'T RETURN FOR FINAL RESTORATIONS?**

119 **YOU**

- Follow up
- Keep records
- Document!

120 **RDA MUST HAVE APPROVED TRAINING FOR: § 1752.4**

- Removing excess supra-gingival ortho cement using ultrasonic scaler
- Applying pit & fissure sealants
- Orthodontic permitted duties
- Dental sedation assistant permitted duties
- DD except if working with RDHAP § 1777

121 **STRETCH BACK OF NECK**

- Turn head away from tight side
- Look down, feel stretch
- Hold chair on tight side
- Pull head forward with other hand
- Repeat, looking up

122 **RDAEF (EXTENDED FUNCTIONS) DUTIES, SETTINGS § 1753.5**

123 **RDAEF DUTIES, SETTINGS § 1753.6**

- RDAEF: Licensed before Jan. 1, 2010, completed post licensure approved training & exam;
- All RDA duties plus: (supervision – D or DD):
 - Cord retraction for impressions
 - Final impressions for permanent indirect restorations
 - Formulate indirect patterns for endo post & core castings
 - Fit trial endo filling points
 - Pit & fissure sealants
 - Remove excess subgingival cement with hand instrument
- Must demonstrate additional approved training to do more

124 **RDAEF DUTIES, SETTINGS (2) § 1753.5**

- All RDA duties plus: (supervision – D or DD):

- Preliminary eval: oral health (not limited to: charting, intraoral & extraoral soft tissue, occlusion classification, myofunctional eval.
- Assess oral health in community health settings supervised by DDS, RDH, RDHAP
- Place retraction cord for impressions
- Take final impressions for permanent restorations & tooth-borne removable prosthesis

125 **RDAEF DUTIES, SETTINGS**

§ 1753.5

- Polish & contour existing amalgams
- Size, fit & cement endo master & accessory points
- Place, contour, adjust all direct restorations
- Adjust & cement permanent indirect restorations
- Remove excess subgingival cement – hand instrument
- Settings: under jurisdiction & control of dentist in approved facility
- DDS May use no more than 3 RDAEF's or RDHEF's § 1753.7

126 **RDH WHAT IS ALLOWED?**

- RDH: licensed,
 - May perform all specified DH duties & DA & RDA duties under specified supervision
 - RDH licensed after 1/1/2006 must also have RDA license to perform RDA duties!
- RDHEF: same as RDAEF - operative duties under supervision, with training, same settings
- RDHAP: Same RDH scope, practice independently;
 - without supervision
 - but with prescription from dentist or physician & surgeon

127 **WHAT RDH DUTIES REQUIRE DIRECT SUPERVISION?**

128 **A:**

- Perio soft tissue curettage (pre-certification required)
- Local anesthesia limited to oral cavity (pre-certification required)
- Nitrous oxide & oxygen using fail-safe machines, no general anes. (pre-cert required)

129 **IS THIS OK?**

- RDH takes laser training but does not have an official certificate.
- She uses the laser for sulcular "sterilization" after scaling.
- Dr. did not specifically prescribe use of the laser, and has left.

130 **YES § 19120-1914**

- A DH may use any material or device approved for use in the performance of a service or procedure within his/her scope of practice under appropriate supervision if he/she has the appropriate education and training required.

- Duties not requiring D supervision are GS

131 **RDH SCOPE § 1911**

- Includes assessment, development, planning & implementation of DH care plan.
- Oral health educ, training, screenings
- Pts with abnormalities will be referred to dentist

132 **RDH SCOPE DOES NOT INCLUDE:**

- Diagnosis, comprehensive tx plan
- Placing, condensing, carving, or removal of permanent restorations
- Surgery or cutting of hard and soft tissue including (not limited to) removal of teeth & cutting & suturing of soft tissues

133 **RDH SCOPE DOES NOT INCLUDE:**

- Prescribing medication
- Admin gen anes, oral / parenteral conscious sedation

134 **DIRECT OR GENERAL SUPERVISION?**

- Dr is coming back from lunch, RDH needs to administer anesthesia.
- Dr. calls when she is in the parking lot.
- Can RDH anesthetize before Dr. arrives?

135 **NO**

136 **IS THIS OK?**

- A dental hygiene patient needs subgingival irrigation with liquid antibiotic.
- The Dr. Left for a meeting.
- The DH irrigates, records it and dismisses the patient.

137 **YES**

- RDH & RDHEF: General
–BUT.... Must be prescribed by DDS
- RDHAP: WS

138 **IS THIS OK?**

- The hygienist notices an atypical lesion on the lateral border of the tongue.
- The DDS is not in the office and has not seen the lesion.
- The hygienist takes a sample using an oral exfoliative cytology kit and dismisses the patient.

139 **NO**

- This is general supervision:
- DDS must prescribe
- EXCEPT for RDHAP (WS)

140 **RDHAP (ALTERNATIVE PRACTICE) DUTIES, SETTINGS**

- Licensed, completed approved AP post-licensure training
- May treat a pt. for up to 18 mos. without proof of DDS visit.

- Then, must have prescription from DDS or MD & surgeon: required to include:
 - Date services prescribed
 - Expiration date (up to 2 years)
 - DH services, special instructions

141 **RDHAP LAWS**

-
- RDHAP's can apply for mobile DH clinic permit
- RDHAP's must apply for additional office permit before opening more offices
- Prop AB 502: eliminate requirement for DDS's prescription to continue tx of pt. after 18 months

142 **RDHAP**

- RDHAP must document relationship with dentist for referrals, emergencies
 - 1 or more dentist, with active licenses, not under discipline by board

143 **CAN A DDS HIRE 4 RDAEF'S & 4 RDHEF'S?**

144 **NO**

- DDS can simultaneously utilize no more than 3:
- RDAEF's OR RDHEF's

145 **Q:**

- Can RDA's bleach teeth?

146 **A:**

- Since 2000, RDA's may apply agent, activate with non-laser light (DD)
- (DA's, OA's, DSA's may not)

147 **Q:**

- Who may place fluoride varnishes?

148 **A:**

- Considered non-toxic
- All auxiliaries may place

149 **Q:**

- Can RDA's use ultrasonic scalers?

150 **A:**

- Only if completed approved training
- Only supragingivally
- Only to remove ortho cement
- What are the risks?

151 **STRETCH CHEST AND SHOULDERS**

- Place hands behind hips
- Inhale slowly, bringing elbows back

- Exhale slowly, bring elbows forward, bend head forward
- Stretch shoulders across your chest

152 **DOC, CAN YOU DO THIS?**

153

154 **CAN A DDS USE BOTOX?**

- Therapeutic use: yes, if within scope of practice & if trained
- Cosmetic use: yes, if have Elective Facial Cosmetic Surgery permit (from DBC) & within scope of practice (only 26 DDSs have permits)
- Category 1 permit: facial bone & cartilage structures
- Category 11 permit: soft-tissue contouring, rejuvenation
-
-

155 **CAN DENTISTS OFFER ORAL PIERCING?**

156 **ORAL PIERCING IS NOT PRACTICING DENTISTRY**

157 **CAN YOU REMOVE TATTOOS?**

158 **LASER TATTOO REMOVAL IS NOT PRACTICING DENTISTRY**

159

160 **THIS IS SERIOUS**

- In 2016: 24,000 deaths in U.S. From opioid abuse
- It usually takes a war
- This is a war

161 **OKLAHOMA VIOLATIONS**

- No written or practiced IC policy
- Dental assistants performing IV sedation illegally, unsupervised
 - Insert IV's
 - Determine drugs & doses (before Dr. checks)
 - No drug logs
 - Drugs unlocked, unorganized, scattered
 - Outdated meds

162 **CASE: DDS - IMPROPER PRESCRIBING OF DRUGS
LICENSE REVOKED**

- Prescribed several drugs to his step sons who were not his pts.
- Prescribed for non-dental related problems.
 - Ear infections
 - Sinus infections
 - Refilled asthma meds.
- Prescribed antibiotic Azithromycin several times over 2 year period
- Convicted of insurance fraud & unlawful practice of medicine

163 **PRESCRIBING ABUSES**

- Over prescribing to both patients and non-patients
 - Must show doctor-patient relationship
 - Must show relationship between drugs & dental treatment
 - Dr. must see pt. first,
 - ONLY Dr. may prescribe
- Lack of documentation
- Records: must be kept in 3 places: pt. Chart, separate in log & out log

164 **CAN YOU SELF-PRESCRIBE?
(CONTROLLED DRUGS)**165 **NO**166 **TAMPER-RESISTANT PRESCRIPTION FORMS: MUST BE PRE-PRINTED &
NUMBERED**

- For controlled substance prescriptions
- Use only DOJ Security printers
- Forms MUST include 14 elements
- Pharmacies will reject non-compliant forms (ex: check boxes for refills)
- MUST REPORT theft / loss of forms within 3 days
- Ordering & receiving forms = strictly mandated § 11164, 11162.1(a)(10)

167 **PRESCRIPTION DISPENSING**

- Labeling requirements (dispensing in coin envelope or container):
 - Patients name
 - Doctor's office name
 - Date dispensed
 - Name of drug
 - Dosage
 - Quantity
 - Exp. Date
 - Directions for use
- Meet State & Local laws for storage – at ALL locations drugs are kept

168 **E-PRESCRIBING CONTROLLED DRUGS**

- Avoid paper forms, improve security
- CDA.org
-

169 **PRESCRIPTION DRUG MONITORING PROGRAM**

- = State database of patients with controlled-substance abuse history
- Dr.'s may access only for pt. care
- HIPAA & state health info. privacy laws apply.
- Dr.'s with DEA #'s apply online for access to the program at: oag.ca.gov/cur-es-pdmp

- Need updated browser

170 **CURES 2.0**

“Controlled Substance Utilization Review & Evaluation /System”

- DOJ (Dept. Of Justice) training videos
 - Employee & prescriber rules of use
 - How to access & use info
- DOJ Cal. Info. Practices Act
- (Civ: 1798-1798.1)

171 **CAN YOU “CALL IN” PRESCRIPTIONS?
(FOR CONTROLLED DRUGS)**

172 **YES**

- In emergencies
- Pharmacist creates paper script, signs it
- DDS confirms in writing - 72 hours if high abuse potential drugs
- Pharmacist notifies DoJ within 7 days
- Include all required info and license #'s in accessible records
-
- Exceptions?

173 **DEA RECLASSIFICATION OF HYDROCODONE-CONTAINING MEDS**

- Examples: Norco, Percocet, morphine, Demerol, Vicodin
- Now = Schedule II drug
- Requires Sched. II authority to prescribe
- Visit DEA website - confirm your registration is up-to-date (pharmacists will check)

174 **HYDROCODONE DRUGS**

- Emergency prescriptions may be denied if called in
- No renewals allowed

175 **WHAT DO YOU DO WITH OUT-OF-DATE, DAMAGED, UNWANTED
CONTROLLED SUBSTANCES?**

- Transfer to “reverse distributors”
- Local DEA office has authorized list
- Use official forms, keep records 2 years

176 **UNPROFESSIONAL CONDUCT**

- Concerns both patients & employees:
 - Lack of informed consent
 - Negligence
 - Sexual misconduct
- B & P Code 1680 “the committing of any act / acts of gross immorality substantially related to the practice of dentistry is considered unprofessional conduct.”

177 **UNPROFESSIONAL CONDUCT**

- Past felony convictions may affect licensure
- New convictions if substantially related to RDA, RDH, or DDS qualifications, functions or duties must be reported to the DBC, may be grounds for license revocation

178 **UNPROFESSIONAL CONDUCT****FAILURE TO:**

- Tx plan
- Show consistency in tx planning – below standard of care
- Do or record periodontal charting
- Inform of conditions, financial obligations, gather consent for tx, review history prior to tx

179 **CONSENT**

- 2 types: simple (when risks = commonly understood & remote)
 - Cleanings, simple fillings
- Informed: required for surgery, extensive tx, or large number of simple procedures
- Must explain: Nature of tx, risks, complications, likelihood of success, expected benefits & alternatives (including NO tx & those risks)
- NOT getting consent & tx beyond consent = Battery

180 **JAN. 2017 CONSENT FORM UPDATE:**

- “The administration and monitoring of general anesthesia may vary depending on the type of procedure, the type of practitioner, the age and health of the patient, and the setting in which anesthesia is provided. Risks may vary with each specific situation. You are encouraged to explore all the options available for your child’s anesthesia for his or her dental treatment, and consult with your dentist or pediatrician as needed.”

181 **CONSENT TO TREAT MINORS**

- Under age of 18 = minor
- Minors cannot legally consent to tx or financially commit
- Dr.’s must not treat without clearly documented parental consent (potential liability)
- ONLY EXCEPTION: ortho maintenance, all consents documented fully prior

182 183 **CAN BIO PARENTS GIVE CONSENT?**

- Married: yes, unless disagree
- Unmarried moms: yes, always
- Unmarried dads: yes, if no question of paternity & mom agrees
- Divorced:
 - Yes either parent can consent if both have joint custody & they agree!
 - No, if court orders 1 parent has medical/dental decision rights

184 **MINOR CONSENT**

- Adoptive parents: yes, same as bio parents

- Step parents: NO, never unless adopted child
- Older sibling?
- Teen mother?
- Aunt, other family, not legal guardian?

185 **UNPROFESSIONAL CONDUCT**

- Failure to refer to a specialist
- Not practicing within the standard of care provisions

186 **CASE: DDS - UNPROFESSIONAL CONDUCT, ABANDONMENT**

- License Revoked
- Closed office - no notice to pts
- 5 pts left in active tx
- Failed to attend to pt. emergencies & transfer records
- Failed to inform pts in writing that tx = discontinued
- Did not provide ample opportunity for pts to secure other dental services
– Rancho Cordova, CA

187 **APPLY DENTAL LAWS & DPA REGULATIONS DAILY**

- Protect yourself & staff
- Protect your patients
- Improve public image
- How?
 - Good will, “patients first”
 - Listen! Communicate!
 - Follow up (post-op calls...)

188 **COMMUNICATING WITH THE BOARD**

- <http://www.dbc.ca.gov/>
- 877-729-7789 (Toll Free)
916-263-2300 (Direct)
714-247-2100 (Tustin Field Office)
- Cal DPA with Related Statutes & Regs, 2008
– 800-223-1940, www.lexisnexis.com
- DHCC: dhccinfo@dca.ca.gov
- TDIC Risk Management Advice Line 800.733.0633
- CDA practice support
- CDA Legal Reference Guide

189 **GO AHEAD.... LET HIM IN!**

190 **RDA ALLOWED DUTIES § 1752.4**

- Place post-ext. dressings (after Dr. inspects site)
- Place perio dressings
- Dry endo canals (with paper points)

191 **RDA ALLOWED DUTIES § 1752.4**

- Adjust dentures extra-orally
- Remove excess cement from teeth using hand instrument
- Polish coronal surfaces
- Place ligature ties & archwires
- Remove ortho bands

192 **NEW HYDROCODONE DRUG**

- FDA approved Hysingla ER
- Reduces, (does not totally prevent) drug abuse
- Not approved for (should NOT be used for) "as-needed" pain relief
- Fatal overdose potential

193 **2015 MYCOBACTERIUM ABSCESSUS INFECTIONS - GEORGIA**

- 9 pediatric infections confirmed after pulpotomies, linked to DUWLs
 - 11 more probable cases
- July – Sept, 2015, One dental office
-

194 **2015 MYCOBACTERIUM ABSCESSUS INFECTIONS - GEORGIA**

- Dept. of Health notified Atlanta Dentists:
 - Follow DUWL disinfection protocol
 - Meet DUWL potable & surgical standards
 - Monitor DUWL
 - Promptly report suspected outbreaks

195 **2016 MYCOBACTERIUM ABSCESSUS INFECTIONS - CALIFORNIA**

- 30 pediatric infections confirmed after pulpotomies, children hospitalized
 - Symptoms start 15 – 85 days after tx.
 - TX = long term hospitalization, IV antibiotics
 - >500 patients notified
 - May – Sept, 2016, Children's Dental Clinic, OC
- *M. abscessus* = waterborne
- Dentist ordered to stop using water (9/15/16)
-
-

196 **N. A. MORALES, AFTER 1 MO. HOSPITALIZATION**197 **N. A. MORALES POST-PULPOTOMY MYCOBACTERIUM ABSCESSUS**198 **2016 MYCOBACTERIUM ABSCESSUS**

INFECTIONS - CALIFORNIA

- Children developed cellulitis
- Pulpotomies are surgical procedures!
- Sterile standard
- Symptoms: persistent fever, swelling – does not respond to tx.
- Health Dept. ordered office to cease use of & replace on-site water system
- All DUWL must be tested
 - www.ochealthinfo.com/dentaloutbreak
-

199 **2 STANDARDS FOR WATER SAFETY**

- Sterile - for surgery, (cutting bone, normally sterile tissue)
 - 0 CFU/mL of heterotrophic water bacteria
 - CDC special update, OSAP, Dental Board law
- Potable - for non-surgical procedures -
 - 500 CFU/mL of heterotrophic water bacteria (meets EPA safe drinking water standards)
 - CDC, OSAP, EPA, Dental Board

200 **CASE: DDS - AIDING & ABETTING UNLICENSED PERSON, GROSS NEGLIGENCE RESULTING IN PATIENT DEATH**

- Mentally Ill pt. lived in group home
- During 3rd molar ext. under gen. anesthesia, pt.'s tongue swelled, had labored breathing.
- Dr. failed to call 911
- Administered Naloxene & Benadryl.
- Held tongue down, tried to force breathing tube down throat
- Caused emesis & substantial throat damage.

201 **CASE: DDS - AIDING & ABETTING UNLICENSED PERSON, GROSS NEGLIGENCE RESULTING IN PATIENT DEATH**

- Dr. called 911 after 20 min.
- EMT's arrived in 5 min.
- Pt. was cyanotic
- EMT's found surgical sponge lodged in victim's throat
- Pt was resuscitated in hospital, placed on respirator, admitted to ICU.
- Never regained consciousness
- Declared brain dead & extubated after 5 days.

202 **CASE: DDS - AIDING & ABETTING UNLICENSED PERSON, GROSS NEGLIGENCE RESULTING IN PATIENT DEATH**

- Sited for:

- Multiple examples of gross misconduct
- Failure to verify pt.'s 6 hour pre-procedural fast
- Failure to administer muscle relaxant to facilitate pressure ventilation & intubation
- Failure to remove loose / retained sponge from mouth
- Failure to administer an emergency trans tracheal O2 mask in order to provide emergency O2
- Dr. voluntarily surrendered license
 - Orange, CA

203 **PEDIATRIC DEATHS
RELATED TO DENTISTRY (U.S.)**

- 46 confirmed deaths since 1974
- Greatly under-estimated stats
- Most are related to:
 - Anesthetics / drugs
 - Airway obstruction

204 **CASE (1): "HOUSE OF HORRORS MEDICAID PEDO CLINIC**

205 **CASE (2) >100 PTS CLAIM: UNNECESSARY TX, MEDICAID FRAUD**

- Pts scheduled for single ext.
 - Parent not informed, multiple (4-7) "healthy" teeth extracted
- Single tooth restoration scheduled, up to 13 teeth treated without consent
- Pts. Report physical abuse by DDS
 - Hitting, strangling, no anesthesia
- Dr. received \$3,947,305.02 from Medicaid (2010-2014)

206 **CASE (3)**

- Dr. Schneider arrested, released
- Charged with 11 counts of Medicaid fraud & malpractice
- Settled 104 of 131 charges without admitting wrongdoing
- Trial set for Nov. 2016
- Local ongoing battle (Florida)
-

207 **ADA RECOMMENDS PARENTS ASK:**

- Who will provide preoperative evaluation (including pt. history)?
- How long should child be without food & drink?
- What is the pre-op med & how is it monitored?
- What training & experience does the anesthesia provider have?
- Do assistants have current emergency resuscitation training?

208 **ADA RECOMMENDS PARENTS ASK:**

- Does State require special licensure for the level of sedation provided?

- Does Dr. & staff have this licensure?
- In addition to local anesthesia what level of sedation will be given?
 - minimal: relaxed / awake
 - moderate: sleepy / awake
 - deep sedation: barely awake
 - general anesthesia: unconscious

209 **ADA RECOMMENDS PARENTS ASK:**

- How will the child be monitored before, during & after the procedure until released to go home?
- Are appropriate emergency medications & equipment immediately available if needed?
- After the procedure:
 - Will the provider give instructions and emergency contact information after child is released?

210 **IS THIS OK?**

- RDHAP runs a mobile clinic.
- She hires an RDH and an assistant to perform within their licensure.

211 **NO**

- RDHAP's can not hire and supervise RDH's
- RDHAP's can hire other RDHAP's
- They can hire & supervise dental assistants for intraoral retraction and suction