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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 2. HEALING ARTS [500 - 4999.129] (*Division 2 enacted by Stats. 1937, Ch. 399.*)

CHAPTER 4. Dentistry [1600 - 1976] (*Chapter 4 added by Stats. 1937, Ch. 415.*)

ARTICLE 4. Suspension and Revocation of Licenses [1670 - 1687] (*Article 4 added by Stats. 1937, Ch. 415.*)

1670. Any licentiate may have his license revoked or suspended or be reprimanded or be placed on probation by the board for unprofessional conduct, or incompetence, or gross negligence, or repeated acts of negligence in his or her profession, or for the issuance of a license by mistake, or for any other cause applicable to the licentiate provided in this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(Amended by Stats. 1979, Ch. 1007.)

1670.1. (a) Any licentiate under this chapter may have his or her license revoked or suspended or be reprimanded or be placed on probation by the board for conviction of a crime substantially related to the qualifications, functions, or duties of a dentist or dental assistant licensed under this chapter, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(b) The board shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the qualifications, functions, or duties of a dentist or dental assistant licensed under this chapter is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(Amended by Stats. 2008, Ch. 31, Sec. 8. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)

1670.2. (a) Except as otherwise provided in this section, any proceeding initiated by the board against a licensee for the violation of any provision of this chapter shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within seven years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.

(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging fraud or willful misrepresentation is not subject to the limitation in subdivision (a).

(c) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging unprofessional conduct based on incompetence, gross negligence, or repeated negligent acts of the licensee is not subject to the limitation in subdivision (a) upon proof that the licensee intentionally concealed from discovery his or her incompetence, gross negligence, or repeated negligent acts.

(d) If an alleged act or omission involves any conduct described in subdivision (e) of Section 1680 committed on a minor, the seven-year limitations period in subdivision (a) and the 10-year limitations period in subdivision (e) shall be tolled until the minor reaches the age of majority.

(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging conduct described in subdivision (e) of Section 1680 not committed on a minor shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging conduct received by the board on and after January 1, 2005.

(f) In any allegation, accusation, or proceeding described in this section, the limitations period in subdivision (a) shall be tolled for the period during which material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

(Added by Stats. 2004, Ch. 447, Sec. 1. Effective January 1, 2005.)

1671. The board may discipline a licentiate by placing him or her on probation under various terms and conditions, which may include, but are not limited to, the following:

- (a) Requiring the licentiate to obtain additional training or pass an examination upon completion of training, or both. The examination may be written, oral, or both, and may be a practical or clinical examination or both, at the option of the board.
- (b) Requiring the licentiate to submit to a complete diagnostic examination by one or more physicians appointed by the board, if warranted by the physical or mental condition of the licentiate. If the board requires the licentiate to submit to such an examination, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licentiate's choice.
- (c) Restricting or limiting the extent, scope or type of practice of the licentiate.
- (d) Requiring restitution of fees to the licentiate's patients or payers of services unless such restitution has already been made.
- (e) Providing the option of alternative community service in lieu of all or part of a period of suspension in cases other than violations relating to quality of care.

(Added by Stats. 1979, Ch. 1007.)

1672. (a) When the board disciplines a licensee by placing him or her on probation, the board may, in addition to the terms and conditions described in Section 1671, require the licensee to pay the monetary costs associated with monitoring the licensee's probation.

(b) The board shall not renew the license of a licensee who fails to pay all of the costs he or she is ordered to pay pursuant to this section once the licensee has served his or her term of probation.

(c) The board shall not reinstate a license if the petitioner has failed to pay any costs he or she was ordered to pay pursuant to this section.

(Added by Stats. 2007, Ch. 588, Sec. 3. Effective January 1, 2008.)

1673. (a) On and after July 1, 2020, except as otherwise provided in subdivision (c), the board shall require a licensee to provide to a patient or the patient's guardian or health care surrogate a separate disclosure that includes the licensee's probation status, the length of the probation, the probation end date, all practice restrictions placed on the licensee by the board, the board's telephone number, and an explanation of how the patient can find further information on the licensee's probation on the licensee's profile page on the board's online license information internet website. The disclosure shall be provided before the patient's first visit following the probationary order while the licensee is on probation pursuant to a probationary order made on and after July 1, 2020, in any of the following circumstances:

(1) A final adjudication by the board following an administrative hearing or admitted findings or prima facie showing in a stipulated settlement establishing any of the following:

(A) The commission of any act of sexual abuse, misconduct, or relations with a patient or client as defined in Section 726 or 729.

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent that such use impairs the ability of the licensee to practice safely.

(C) Criminal conviction directly involving harm to patient health.

(D) Inappropriate prescribing resulting in harm to patients and a probationary period of five years or more.

(2) An accusation or statement of issues alleged that the licensee committed any of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a stipulated settlement based upon a nolo contendere or other similar compromise that does not include any prima facie showing or admission of guilt or fact, but does include an express acknowledgment that the disclosure requirements of this section would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall obtain from the patient, or the patient's guardian or health care surrogate, a separate, signed copy of that disclosure.

(c) A licensee shall not be required to provide a disclosure pursuant to subdivision (a) if any of the following apply:

- (1) The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a guardian or health care surrogate is unavailable to comprehend the disclosure and sign the copy.
- (2) The visit occurs in an emergency room or an urgent care facility or the visit is unscheduled, including consultations in inpatient facilities.
- (3) The licensee who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.
- (4) The licensee does not have a direct treatment relationship with the patient.

(d) On and after July 1, 2020, the board shall provide the following information, with respect to licensees on probation and licensees practicing under probationary licenses, in plain view on the licensee's profile page on the board's license information internet website.

- (1) For probation imposed pursuant to a stipulated settlement, the causes alleged in the operative accusation, along with a designation identifying those causes by which the licensee has expressly admitted guilt and a statement that acceptance of the settlement is not an admission of guilt.
- (2) For probation imposed by an adjudicated decision of the board, the causes for probation stated in the final probationary order.
- (3) For a licensee granted a probationary license, the causes by which the probationary license was imposed.
- (4) The length of the probation and the probation end date.
- (5) All practice restrictions placed on the license by the board.

(Added by Stats. 2019, Ch. 865, Sec. 41. (AB 1519) Effective January 1, 2020.)

1678. Upon the revocation of any license, the fact shall be noted upon the records of the board and the license shall be marked as canceled upon the date of its revocation.

(Amended by Stats. 1970, Ch. 122.)

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, any one of the following:

- (a) The obtaining of any fee by fraud or misrepresentation.
- (b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.
- (c) The aiding or abetting of any unlicensed person to practice dentistry.
- (d) The aiding or abetting of a licensed person to practice dentistry unlawfully.
- (e) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dentistry.
- (f) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which the person is licensed to practice, in advertising or in any other manner indicating that the person is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.
- (g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions, or other services or articles supplied to patients.
- (h) The making use by the licensee or any agent of the licensee of any advertising statements of a character tending to deceive or mislead the public.
- (i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.
- (j) The employing or the making use of solicitors.
- (k) The advertising in violation of Section 651.
- (l) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.
- (m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Chapter 9 (commencing with Section 4000) or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.

(q) The use of threats or harassment against any patient or licensee for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds that would be the basis of discipline in this state.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions and provided the health of the patient is not jeopardized.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licensee.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct that would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist, dental assistant, registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permitholder, orthodontic assistant permitholder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to practice dentistry in a negligent or incompetent manner.

(z) (1) The failure to report to the board in writing within seven days any of the following: (A) the death of the licensee's patient during the performance of any dental or dental hygiene procedure; (B) the discovery of the death of a patient whose death is related to a dental or dental hygiene procedure performed by the licensee; or (C) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment of any patient to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, or any patient as a result of dental or dental hygiene treatment. With the exception of patients to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, removal to a hospital or emergency center that is the normal or expected treatment for the underlying dental condition is not required to be reported. Upon receipt of a report pursuant to this subdivision the board may conduct an inspection of the dental office if the board finds that it is necessary. A dentist shall report to the board all deaths occurring in the licensee's practice with a copy sent to the Dental Hygiene Board of California if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions. A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions shall report to the Dental Hygiene Board of California all deaths occurring as the result of dental hygiene treatment, and a copy of the notification shall be sent to the board.

(2) The report required by this subdivision shall be on a form or forms approved by the board. The form or forms approved by the board shall require the licensee to include, but not be limited to, the following information for cases in which patients received anesthesia: the date of the procedure; the patient's age in years and months, weight, and sex; the patient's American Society of Anesthesiologists (ASA) physical status; the patient's primary diagnosis; the patient's coexisting diagnoses; the procedures performed; the sedation setting; the medications used; the monitoring equipment used; the category of the provider responsible for sedation oversight; the category of the provider delivering sedation; the category of the provider monitoring the patient during sedation; whether the person supervising the sedation performed one or more of the procedures; the planned airway management; the planned depth of sedation; the complications that occurred; a description of what was unexpected about the airway management; whether there was transportation of the patient during sedation; the category of the provider conducting resuscitation measures; and the resuscitation equipment utilized. Disclosure of individually identifiable patient information shall be consistent with applicable law. A report required by this subdivision shall not be admissible in any action brought by a patient of the licensee providing the report.

(3) For the purposes of paragraph (2), categories of provider are: General Dentist, Pediatric Dentist, Oral Surgeon, Dentist Anesthesiologist, Physician Anesthesiologist, Dental Assistant, Registered Dental Assistant, Dental Sedation Assistant, Registered Nurse, Certified Registered Nurse Anesthetist, or Other.

(4) The form shall state that this information shall not be considered an admission of guilt, but is for educational, data, or investigative purposes.

(5) The board may assess a penalty on any licensee who fails to report an instance of an adverse event as required by this subdivision. The licensee may dispute the failure to file within 10 days of receiving notice that the board had assessed a penalty against the licensee.

(aa) Participating in or operating any group advertising and referral services that are in violation of Section 650.2.

(ab) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall, by regulation, define what constitutes a fail-safe machine.

(ac) Engaging in the practice of dentistry with an expired license.

(ad) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from dentist, dental assistant, registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permitholder, orthodontic assistant permitholder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to patient, from patient to patient, and from patient to dentist, dental assistant, registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permitholder, orthodontic assistant permitholder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. The board shall review infection control guidelines, if necessary, on an annual basis and proposed changes shall be reviewed by the Dental Hygiene Board of California to establish a consensus. The hygiene board shall submit any recommended changes to the infection control guidelines for review to establish a consensus. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that all appropriate dental personnel are informed of the responsibility to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of bloodborne infectious diseases.

(ae) The utilization by a licensed dentist of any person to perform the functions of any registered dental assistant, registered dental assistant in extended functions, dental sedation assistant permitholder, orthodontic assistant permitholder, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions who, at the time of initial employment, does not possess a current, valid license or permit to perform those functions.

(af) The prescribing, dispensing, or furnishing of dangerous drugs or devices, as defined in Section 4022, in violation of Section 2242.1.

(ag) Using water, or other methods used for irrigation, that are not sterile or that do not contain recognized disinfecting or antibacterial properties when performing dental procedures on exposed dental pulp.

(ah) The failure by the treating dentist, prior to the initial diagnosis and correction of malpositions of human teeth or initial use of orthodontic appliances, to perform an examination pursuant to subdivision (b) of Section 1684.5, including the review of the patient's most recent diagnostic digital or conventional radiographs or other equivalent bone imaging suitable for orthodontia. New radiographs or other equivalent bone imaging shall be ordered if deemed appropriate by the treating dentist.

(Amended by Stats. 2019, Ch. 865, Sec. 42. (AB 1519) Effective January 1, 2020.)

1681. In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, administer to himself, any controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4211) of Chapter 9.

(b) Use any controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4211) of Chapter 9, or alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or injurious to himself, to any person, or the public to the extent that such use impairs his ability to conduct with safety to the public the practice authorized by his license.

(c) The conviction of a charge of violating any federal statute or rules, or any statute or rule of this state, regulating controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug, as defined in Article 8 (commencing with Section 4211) of Chapter 9, or the conviction of more than one misdemeanor, or any felony,

involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice authorized by his license. The record of conviction or certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section; a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section; the board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(Added by Stats. 1979, Ch. 1007.)

1682. In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for:

(a) Any dentist performing dental procedures to have more than one patient undergoing moderate sedation, deep sedation, or general anesthesia on an outpatient basis at any given time unless each patient is being continuously monitored on a one-to-one ratio while sedated by either the dentist or another licensed health professional authorized by law to administer moderate sedation, deep sedation, or general anesthesia.

(b) Any dentist with patients recovering from moderate sedation, deep sedation, or general anesthesia to fail to have the patients closely monitored by licensed health professionals experienced in the care and resuscitation of patients recovering from moderate sedation, deep sedation, or general anesthesia. If one licensed professional is responsible for the recovery care of more than one patient at a time, all of the patients shall be physically in the same room to allow continuous visual contact with all patients and the patient to recovery staff ratio should not exceed three to one.

(c) Any dentist with patients who are undergoing deep sedation, general anesthesia, or moderate sedation to fail to have these patients continuously monitored during the dental procedure with a pulse oximeter or similar or superior monitoring equipment and ventilation continuously monitored using at least two of the three following methods:

(1) Auscultation of breath sounds using a precordial stethoscope.

(2) Monitoring for the presence of exhaled carbon dioxide with capnography.

(3) Verbal communication with a patient under moderate sedation. This method shall not be used for a patient under deep sedation or general anesthesia.

(d) Any dentist with patients who are undergoing moderate sedation to have dental office personnel directly involved with the care of those patients who are not certified in basic cardiac life support (CPR) and recertified biennially.

(e) (1) Any dentist to fail to obtain the written informed consent of a patient prior to administering moderate sedation, deep sedation, or general anesthesia. In the case of a minor, the consent shall be obtained from the child's parent or guardian.

(2) The written informed consent for general anesthesia, in the case of a minor, shall include, but not be limited to, the following information:

"The administration and monitoring of deep sedation or 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 their dental treatment, and consult with your dentist, family physician, or pediatrician as needed."

(3) Nothing in this subdivision shall be construed to establish the reasonable standard of care for administering or monitoring adult oral conscious sedation, pediatric minimal sedation, moderate sedation, deep sedation, or general anesthesia.

(Amended by Stats. 2024, Ch. 483, Sec. 34. (SB 1453) Effective January 1, 2025.)

1683. (a) Every dentist, dental health professional, or other licensed health professional who performs a service on a patient in a dental office shall identify himself or herself in the patient record by signing his or her name, or an identification number and initials, next to the service performed and shall date those treatment entries in the record. Any person licensed under this chapter who owns, operates, or manages a dental office shall ensure compliance with this requirement.

(b) Repeated violations of this section constitutes unprofessional conduct.

(Added by Stats. 1991, Ch. 596, Sec. 1.)

1683.1. (a) Any individual, partnership, corporation, or other entity that provides dental services through telehealth shall make available the name, telephone number, practice address, and California state license number of any dentist who will be involved in

the provision of services to a patient prior to the rendering of services and when requested by a patient.

(b) A violation of this section shall constitute unprofessional conduct.

(Added by Stats. 2019, Ch. 865, Sec. 43. (AB 1519) Effective January 1, 2020.)

1683.2. A provider of dental services shall not require a patient to sign an agreement that limits the patient's ability to file a complaint with the board.

(Added by Stats. 2019, Ch. 865, Sec. 44. (AB 1519) Effective January 1, 2020.)

1684. In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for a person licensed under this chapter to perform, or hold himself or herself out as able to perform, professional services beyond the scope of his or her license and field or fields of competence as established by his or her education, experience, training, or any combination thereof. This includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the dental profession.

This section shall not apply to research conducted by accredited dental schools or colleges, or to research conducted pursuant to an investigational device exemption issued by the United States Food and Drug Administration.

(Added by Stats. 1994, Ch. 365, Sec. 1. Effective January 1, 1995.)

1684.1. (a) (1) A licensee who fails or refuses to comply with a request for the dental records of a patient, that is accompanied by written authorization of the patient or the patient's representative, as defined in subdivision (e) of Section 123105 of the Health and Safety Code, for release of record to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 15th day, up to a maximum of five thousand dollars (\$5,000) unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the dental records of a patient that is accompanied by that patient's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the patient's dental records to the board within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars (\$5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable cost of copying the dental records.

(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) Any licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars (\$5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced, up to ten thousand dollars (\$10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars (\$5,000). Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) and shall be reported to the State Department of Health Care Services and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

(d) A failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board constitutes unprofessional conduct and is grounds for suspension or revocation of the licensee's license.

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For the purposes of this section, a "health care facility" means a clinic or health care facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(Amended by Stats. 2024, Ch. 483, Sec. 35. (SB 1453) Effective January 1, 2025.)

1684.5. (a) In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for any dentist to perform or allow to be performed any treatment on a patient who is not a patient of record of that dentist. A dentist may, however, after conducting a preliminary oral examination, require or permit any dental auxiliary to perform procedures necessary for diagnostic purposes, provided that the procedures are permitted under the auxiliary's authorized scope of practice. Additionally, a dentist may require or permit a dental auxiliary to perform all of the following duties prior to any examination of the patient by the dentist, provided that the duties are authorized for the particular classification of dental auxiliary pursuant to Article 7 (commencing with Section 1740):

(1) Expose emergency radiographs upon direction of the dentist.

(2) If the dental auxiliary is a registered dental assistant in extended functions, a registered dental hygienist, or a registered dental hygienist in alternative practice, determine and perform radiographs for the specific purpose of aiding a dentist in completing a comprehensive diagnosis and treatment plan for a patient using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist pursuant to Sections 1753.55, 1910.5, and 1926.05. A dentist is not required to review patient records or make a diagnosis using telehealth.

(3) Perform extra-oral duties or functions specified by the dentist.

(4) Perform mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, malocclusions, existing restorations, and missing teeth.

(b) For purposes of this section, "patient of record" refers to a patient who has been examined, has had a medical and dental history completed and evaluated, and has had oral conditions diagnosed and a written plan developed by the licensed dentist.

(c) For purposes of this section, if dental treatment is provided to a patient by a registered dental assistant in extended functions, a registered dental hygienist, or a registered dental hygienist in alternative practice pursuant to the diagnosis and treatment plan authorized by a supervising dentist, at a location other than the dentist's practice location, it is the responsibility of the authorizing dentist that the patient or the patient's representative receive written notification that the care was provided at the direction of the authorizing dentist and that the notification include the authorizing dentist's name, practice location address, and telephone number. This provision shall not require patient notification for dental hygiene preventive services provided in public health programs as specified and authorized in Section 1911, or for dental hygiene care when provided as specified and authorized in Section 1926.

(d) A dentist shall not concurrently supervise more than a total of five registered dental assistants in extended functions, registered dental hygienists, or registered dental hygienists in alternative practice providing services pursuant to Sections 1753.55, 1910.5, and 1926.05.

(e) This section shall not apply to dentists providing examinations on a temporary basis outside of a dental office in settings including, but not limited to, health fairs and school screenings.

(f) This section shall not apply to fluoride mouth rinse or supplement programs administered in a school or preschool setting.

(Amended by Stats. 2014, Ch. 662, Sec. 1. (AB 1174) Effective January 1, 2015.)

1685. In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for a person licensed under this chapter to require, either directly or through an office policy, or knowingly permit the delivery of dental care that discourages necessary treatment or permits clearly excessive treatment, incompetent treatment, grossly negligent treatment, repeated negligent acts, or unnecessary treatment, as determined by the standard of practice in the community.

(Added by Stats. 1993, Ch. 464, Sec. 2. Effective January 1, 1994.)

1686. A person whose license, certificate, or permit has been revoked or suspended, who has been placed on probation, or whose license, certificate, or permit was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

(a) At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.

(b) At least two years for early termination, or modification of a condition, of a probation of three years or more.

(c) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination, or modification of a condition, of a probation of less than three years.

The petition shall state any fact required by the board.

The petition may be heard by the board, or the board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.

In considering reinstatement or modification of penalty, the board or the administrative law judge hearing the petition may consider (1) all activities of the petitioner since the disciplinary action was taken, (2) the offense for which the petitioner was disciplined, (3) the petitioner's activities during the time the license, certificate, or permit was in good standing, and (4) the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.

The board or the administrative law judge may impose necessary terms and conditions on the licensee in reinstating a license, certificate, or permit or modifying a penalty.

A petition under this section shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. A petition shall not be considered while there is an accusation or petition to revoke probation pending against the person. The board may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

This section shall not be deemed to alter Sections 822 and 823.

(Amended by Stats. 2019, Ch. 497, Sec. 1. (AB 991) Effective January 1, 2020.)

1687. (a) Notwithstanding any other provision of law, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, or under federal law, the board shall be subject to the following requirements:

(1) The board shall deny an application by the individual for licensure pursuant to this chapter.

(2) If the individual is licensed under this chapter, the board shall revoke the license of the individual. The board shall not stay the revocation and place the license on probation.

(3) The board shall not reinstate or reissue the individual's licensure under this chapter. The board shall not issue a stay of license denial and place the license on probation.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under other provisions of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

