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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 4.7. Diversion Program [1695 - 1699] (*Article 4.7 added by Stats. 1982, Ch. 1261, Sec. 1.*)

1695. It is the intent of the Legislature that the Dental Board of California seek ways and means to identify and rehabilitate licentiates whose competency may be impaired due to abuse of dangerous drugs or alcohol, so that licentiates so afflicted may be treated and returned to the practice of dentistry in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the Dental Board of California shall implement this legislation in part by establishing a diversion program as a voluntary alternative approach to traditional disciplinary actions.

(Amended by Stats. 2015, Ch. 426, Sec. 11. (SB 800) Effective January 1, 2016.)

1695.1. As used in this article:

(a) "Board" means the Dental Board of California.

(b) "Committee" means a diversion evaluation committee created by this article.

(c) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

(Amended by Stats. 2015, Ch. 426, Sec. 12. (SB 800) Effective January 1, 2016.)

1695.2. One or more diversion evaluation committees is hereby created in the state to be established by the board. The board shall establish criteria for the selection of the committee. No board member shall serve on any committee.

(Added by Stats. 1982, Ch. 1261, Sec. 1.)

1695.3. Each member of a committee shall receive per diem and expenses as provided in Section 103.

(Added by Stats. 1982, Ch. 1261, Sec. 1.)

1695.4. The board shall administer the provisions of this article.

(Added by Stats. 1982, Ch. 1261, Sec. 1.)

1695.5. (a) The board shall establish criteria for the acceptance, denial, or termination of licentiates in a diversion program. Unless ordered by the board as a condition of licentiate disciplinary probation, only those licentiates who have voluntarily requested diversion treatment and supervision by a committee shall participate in a diversion program.

(b) A licentiate who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).

(c) A licentiate under current investigation by the board may also request entry into the diversion program by contacting the board's Diversion Program Manager. The Diversion Program Manager may refer the licentiate requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licentiate to enter into the diversion program, the Diversion Program Manager may require the licentiate, while under current investigation for any violations of the Dental Practice Act or other violations, to execute a statement of understanding that states that the licentiate understands that his or her violations of the Dental Practice Act or other statutes that would otherwise be the basis for discipline, may still be investigated and the subject of disciplinary action.

(d) If the reasons for a current investigation of a licentiate are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 1681, or the illegal possession, prescription, or nonviolent procurement of any

controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the board shall close the investigation without further action if the licensee is accepted into the board's diversion program and successfully completes the requirements of the program. If the licensee withdraws or is terminated from the program by a diversion evaluation committee, and the termination is approved by the program manager, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the board.

(e) Neither acceptance nor participation in the diversion program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any licensee for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) If a licensee withdraws or is terminated from the diversion program for failure to comply or is determined to be a threat to the public or his or her own health and safety, all diversion records for that licensee shall be provided to the board's enforcement program and may be used in any disciplinary proceeding. If a licensee in a diversion program tests positive for any banned substance, the board's diversion program manager shall immediately notify the board's enforcement program and provide the documentation evidencing the positive test result to the enforcement program. This documentation may be used in a disciplinary proceeding.

(g) Any licensee terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the diversion program. A licensee who has been under investigation by the board and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the board.

(Amended by Stats. 2011, Ch. 385, Sec. 11. (SB 540) Effective January 1, 2012.)

1695.6. A committee created under this article operates under the direction of the program manager. The program manager has the primary responsibility to review and evaluate recommendations of the committee. Each committee shall have the following duties and responsibilities:

(a) To evaluate those licensees who request to participate in the diversion program according to the guidelines prescribed by the board and to make recommendations. In making the recommendations, a committee shall consider the recommendations of any licensees designated by the board to serve as consultants on the admission of the licensee to the diversion program.

(b) To review and designate those treatment facilities to which licensees in a diversion program may be referred.

(c) To receive and review information concerning a licensee participating in the program.

(d) To consider in the case of each licensee participating in a program whether he or she may with safety continue or resume the practice of dentistry.

(e) To perform such other related duties, under the direction of the board or program manager, as the board may by regulation require.

(Amended by Stats. 2008, Ch. 548, Sec. 6. Effective January 1, 2009.)

1696. Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a committee may convene in closed session to consider reports pertaining to any licensee requesting or participating in a diversion program. A committee shall only convene in closed session to the extent that it is necessary to protect the privacy of such a licensee.

(Amended by Stats. 1993, Ch. 589, Sec. 2. Effective January 1, 1994.)

1697. Each licensee who requests participation in a diversion program shall agree to cooperate with the treatment program designed by the committee and approved by the program manager and to bear all costs related to the program, unless the cost is waived by the board. Any failure to comply with the provisions of a treatment program may result in termination of the licensee's participation in a program.

(Amended by Stats. 2008, Ch. 548, Sec. 7. Effective January 1, 2009.)

1698. (a) After the committee and the program manager in their discretion have determined that a licensee has been rehabilitated and the diversion program is completed, the committee shall purge and destroy all records pertaining to the licensee's participation in a diversion program.

(b) Except as authorized by subdivision (f) of Section 1695.5, all board and committee records and records of proceedings pertaining to the treatment of a licensee in a program shall be kept confidential and are not subject to discovery or subpoena.

(Amended by Stats. 2008, Ch. 548, Sec. 8. Effective January 1, 2009.)

1699. The board shall provide for the representation of any person making reports to a committee or the board under this article in any action for defamation for reports or information given to the committee or the board regarding a licentiate's participation in the diversion program.

(Added by Stats. 1982, Ch. 1261, Sec. 1.)