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SB-501 Dentistry: anesthesia and sedation: report. (2017-2018)

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Senate Bill No. 501

CHAPTER 929

An act to amend Sections 1601.4 and 2827 of, to amend, repeal, and add Sections 1682, 1724, and 1750.5 of, to add Sections 1601.8, 1646.10, 1647.9.5, and 1647.17.5 to, to add Article 2.75 (commencing with Section 1646), Article 2.84 (commencing with Section 1647), and Article 2.87 (commencing with Section 1647.30) to Chapter 4 of Division 2 of, to add and repeal Section 1601.7 of, and to repeal Article 2.7 (commencing with Section 1646), Article 2.85 (commencing with Section 1647.10), and Article 2.8 (commencing with Section 1647) of Chapter 4 of Division 2 of, the Business and Professions Code, relating to dentistry.

[Approved by Governor September 29, 2018. Filed with Secretary of State September 29, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 501, Glazer. Dentistry: anesthesia and sedation: report.

Existing law imposes various functions and duties on the State Department of Public Health with respect to the administration and oversight of various health programs and facilities relating to the prevention of disease and the promotion of health.

This bill, on or before January 1, 2022, and upon appropriation from the Legislature, would require the Office of Oral Health in the State Department of Public Health to provide to the Legislature a report analyzing the effects on access to care for pediatric dental patients, as specified.

The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California within the Department of Consumer Affairs. The act governs the use of general anesthesia, conscious sedation, and oral conscious sedation for pediatric and adult patients. The act makes it unprofessional conduct for a dentist to engage in certain conduct, including failing to obtain written consent prior to administering general anesthesia or conscious sedation. The act also makes a willful violation of its provisions, including practicing without a valid certificate or license, a crime, and defines various terms relating to anesthesia and sedation.

This bill would require the board to review available data on all adverse events related to general anesthesia and deep sedation, moderate sedation, and minimal sedation in dentistry and relevant professional guidelines, recommendations, or best practices for the provision of dental anesthesia and sedation care in dentistry. By January 1, 2022, the bill would require the board to provide a report to the Legislature regarding any findings relevant to inform standards of dental anesthesia and sedation. The bill would also require the board to retain available data on all adverse events related to general anesthesia and deep sedation, moderate sedation, and minimal sedation in dentistry for not less than 15 years.

This bill, beginning January 1, 2022, would establish new provisions governing the use of deep sedation and general anesthesia for dental patients. Among other requirements, the bill would require a dentist to possess either a current license in good standing and a general anesthesia permit, or other specified credentials in order to administer or order the administration of deep sedation

or general anesthesia on an outpatient basis. The bill would require dentists to possess a pediatric endorsement of their general anesthesia permit to administer or order the administration of deep sedation or general anesthesia to patients under 7 years of age and would require dentists to be present within the dental office during the ordering and administration of general anesthesia or deep sedation. The bill would also require the presence of the operating dentist and at least 2 additional personnel for patients under 13 years of age for procedures involving deep sedation or general anesthesia and would require that certain personnel be present throughout the procedure and to maintain current certification in pediatric life support and airway management, as specified. The bill would require a dentist applying for a pediatric endorsement for the general anesthesia permit to provide proof of successful completion of an accredited or equivalent residency training program, and a certain number of cases of deep sedation or general anesthesia for patients under 7 years of age, along with current certification in specific life support training. Additionally, the bill would permit the board to require onsite inspections and evaluations of licensees and to contract with organizations or individuals to perform onsite inspections and evaluations. The bill would make a violation of these provisions unprofessional conduct and grounds for revocation or suspension of a dentist's permit or license, or both. The bill would also authorize a licensed physician and surgeon to administer deep sedation or general anesthesia if that physician and surgeon meets certain requirements, including holding a valid general anesthesia permit.

The Dental Practice Act prohibits a dentist from administering or ordering the administration of conscious sedation, as defined, on an outpatient basis unless the dentist meets certain licensing criteria.

This bill, effective January 1, 2022, would repeal existing provisions relating to the use of conscious sedation. The bill would replace the term "conscious sedation" with "moderate sedation," meaning a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands and meets other criteria. The bill would authorize a dentist to administer or order the administration of moderate sedation on an outpatient basis to a dental patient if the dentist meets specified licensing criteria and has applied to the board, submitted an application fee, and shown successful completion of training in moderate sedation. The bill would require a dentist who orders the administration of moderate sedation to be physically present in the treatment facility while the patient is sedated and would require the presence of additional specified personnel for sedation of patients 13 years of age or younger. The bill would specify that training in the administration of moderate sedation is acceptable if it consists of a certain number of instructional hours and completion of cases and complies with certain guidelines for teaching pain control and sedation. The bill would require a dentist to obtain a pediatric endorsement on the moderate sedation permit prior to administering moderate sedation to a patient under 13 years of age, except as specified, and would require a dentist to obtain specified training to receive a pediatric endorsement. The bill also would require for patients under 13 years of age that there be at least 2 support personnel in addition to the operating dentist present at all times during the procedure, that the operating dentist and one of the additional personnel maintain certification in pediatric life support and airway management, as specified, and that one additional personnel with the certification in pediatric life support and airway management be dedicated to monitoring the patient during the procedure.

The bill, beginning January 1, 2022, also would establish new requirements for dentists administering or ordering the administration of minimal sedation, defined as a drug-induced state during which patients respond normally to verbal commands. The bill would authorize a dentist to administer or order the administration of minimal sedation on pediatric patients under 13 years of age if the dentist possesses specified licensing credentials and follows certain procedures. The bill would require any dentist who desires to administer or order the administration of minimal sedation to apply to the board, as specified, and to submit an application fee. The bill would make a violation of these provisions governing minimal sedation unprofessional conduct, constituting grounds for the revocation or suspension of the dentist's permit, or both. Additionally, by expanding the scope of an existing crime for violations of the Dental Practice Act, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1601.4 of the Business and Professions Code is amended to read:

1601.4. (a) (1) The board shall review both of the following:

(A) Available data on all adverse events related to general anesthesia and deep sedation, moderate sedation, and minimal sedation in dentistry.

(B) Relevant professional guidelines, recommendations, or best practices for the provision of dental anesthesia and sedation care.

(2) By January 1, 2022, the board shall report to the Legislature any findings pursuant to this subdivision that are relevant to inform dental anesthesia and sedation standards.

(3) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(b) The board shall provide a report on pediatric deaths related to general anesthesia and deep sedation in dentistry at the time of its sunset review pursuant to subdivision (d) of Section 1601.1.

(c) The board shall retain available data on all adverse events related to general anesthesia and deep sedation, moderate sedation, and minimal sedation in dentistry for not less than 15 years.

SEC. 2. Section 1601.7 is added to the Business and Professions Code, to read:

1601.7. (a) On or before January 1, 2022, and upon appropriation from the Legislature, the Office of Oral Health in the State Department of Public Health shall provide to the Legislature a report and analysis that addresses all of the following issues related to access to dental anesthesia care:

(1) An analysis of the costs of anesthesia and a discussion of payer sources for anesthesia services, including, but not limited to, an analysis of any difference in patient charges, patient payments, and public and private third-party reimbursement between both of the following:

(A) Dental anesthesia provided by a single dentist or anesthesia provider.

(B) Dental anesthesia provided by a dentist and a separate anesthesia provider.

(2) An analysis of the overall capacity of the state's dental anesthesia delivery systems, including, but not limited to, a separate analysis of capacity for care provided by a single dental surgeon or anesthesia provider and dental anesthesia provided by a dental surgeon and a separate anesthesia provider.

(3) An analysis of barriers to access of needed dental anesthesia care including, but not limited to, cost, delivery system capacity, and any other barriers identified in the current system. The analysis shall also include information regarding if provider requirements were to change and, if appropriate, recommendations to address such barriers to improve access.

(4) To the extent data is available, an analysis of disparities to access of needed dental anesthesia care by racial or ethnic background, insurance status, geographic area, or other relevant categories.

(5) The role of pediatric dental anesthesia in meeting the state's overall dental health goals as expressed in the California Oral Health Plan created by the State Department of Public Health.

(b) The Office of Oral Health may use a contract, grant, or other means to engage an agency appropriate for the type of analysis needed to create the report in subdivision (a), and public or private funds, upon appropriation, may be used. The report shall be made public on the State Department of Public Health's Internet Web site.

(c) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2025.

SEC. 3. Section 1601.8 is added to the Business and Professions Code, to read:

1601.8. For purposes of training standards for general anesthesia, deep sedation, and moderate sedation, the board may approve a training standard in lieu of Pediatric Advanced Life Support (PALS) certification if the training standard is an equivalent or higher level of training for pediatric dental anesthesia-related emergencies than PALS certification that includes, but is not limited to, pediatric life support and airway management.

SEC. 4. Article 2.75 (commencing with Section 1646) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

Article 2.75. Use of Deep Sedation and General Anesthesia

1646. As used in this article, the following definitions apply:

(a) "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be

impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(b) "General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

1646.1. (a) A dentist shall possess either a current license in good standing and a general anesthesia permit issued by the board or a permit under Section 1638 or 1640 and a general anesthesia permit issued by the board in order to administer or order the administration of deep sedation or general anesthesia on an outpatient basis for dental patients.

(b) A dentist shall possess a pediatric endorsement of their general anesthesia permit to administer or order the administration of deep sedation or general anesthesia to patients under seven years of age.

(c) A dentist shall be physically within the dental office at the time of ordering, and during the administration of, general anesthesia or deep sedation.

(d) For patients under 13 years of age, all of the following shall apply:

(1) The operating dentist and at least two additional personnel shall be present throughout the procedure involving deep sedation or general anesthesia.

(2) If the operating dentist is the permitted anesthesia provider, then both of the following shall apply:

(A) The operating dentist and at least one of the additional personnel shall maintain current certification in Pediatric Advanced Life Support (PALS) or other board-approved training in pediatric life support and airway management, adopted pursuant to Section 1601.8. The additional personnel who is certified in Pediatric Advanced Life Support (PALS) and airway management or other board-approved training in pediatric life support and airway management shall be solely dedicated to monitoring the patient and shall be trained to read and respond to monitoring equipment including, but not limited to, pulse oximeter, cardiac monitor, blood pressure, pulse, capnograph, and respiration monitoring devices.

(B) The operating dentist shall be responsible for initiating and administering any necessary emergency response.

(3) If a dedicated permitted anesthesia provider is monitoring the patient and administering deep sedation or general anesthesia, both of the following shall apply:

(A) The anesthesia provider and the operating dentist, or one other trained personnel, shall be present throughout the procedure and shall maintain current certification in Pediatric Advanced Life Support (PALS) and airway management or other board-approved training in pediatric life support and airway management, adopted pursuant to Section 1601.8.

(B) The anesthesia provider shall be responsible for initiating and administering any necessary emergency response and the operating dentist, or other trained and designated personnel, shall assist the anesthesia provider in emergency response.

(e) This article does not apply to the administration of local anesthesia, minimal sedation, or moderate sedation.

1646.2. (a) A dentist who desires to administer or order the administration of deep sedation or general anesthesia shall apply to the board on an application form prescribed by the board. The dentist must submit an application fee and produce evidence showing that he or she has successfully completed a minimum of one year of advanced training in anesthesiology and related academic subjects approved by the board, or equivalent training or experience approved by the board, beyond the undergraduate school level.

(b) The application for a permit shall include documentation that equipment and drugs required by the board are on the premises.

(c) A dentist may apply for a pediatric endorsement for the general anesthesia permit by providing proof of successful completion of all of the following:

(1) A Commission on Dental Accreditation (CODA)-accredited or equivalent residency training program that provides competency in the administration of deep sedation and general anesthesia on pediatric patients.

(2) At least 20 cases of deep sedation or general anesthesia to patients under seven years of age in the 24-month time period directly preceding application for a pediatric endorsement to establish competency, both at the time of initial application and at

renewal. The applicant or permit holder shall maintain and be able to provide proof of these cases upon request by the board for up to three permit renewal periods.

(3) Current certification in Advanced Cardiac Life Support (ACLS) and Pediatric Advanced Life Support (PALS) or other board-approved training in pediatric life support and airway management, pursuant to Section 1601.8, for the duration of the permit.

(d) Applicants for a pediatric endorsement who otherwise qualify for the pediatric endorsement but lack sufficient cases of pediatric sedation to patients under seven years of age may administer deep sedation and general anesthesia to patients under seven years of age under the direct supervision of a general anesthesia permit holder with a pediatric endorsement. The applicant may count these cases toward the 20 cases required to qualify for the applicant's pediatric endorsement.

1646.3. (a) A physical evaluation and medical history shall be taken before the administration of deep sedation or general anesthesia.

(b) Any dentist holding a permit shall maintain medical history, physical evaluation, deep sedation, and general anesthesia records as required by board regulations.

1646.4. (a) Prior to the issuance or renewal of a permit for the use of deep sedation or general anesthesia, the board may, at its discretion, require an onsite inspection and evaluation of the licensee and the facility, equipment, personnel, and procedures utilized by the licensee. The permit of any dentist who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the board notifies the dentist of the failure, unless within that time period the dentist has retaken and passed an onsite inspection and evaluation. Every dentist issued a permit under this article shall have an onsite inspection and evaluation at least once every five years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit.

(b) The board may contract with public or private organizations or individuals expert in dental outpatient general anesthesia to perform onsite inspections and evaluations. The board may not, however, delegate its authority to issue permits or to determine the persons or facilities to be inspected.

(c) It is the intent of the Legislature that the board hire sufficient staff to administer the program and that the fees established pursuant to this section be equivalent to administration and enforcement costs incurred by the board in carrying out this article.

1646.5. A permittee shall be required to complete 24 hours of approved courses of study related to deep sedation or general anesthesia as a condition of renewal of a permit. Those courses of study shall be credited toward the total continuing education hours required by the board pursuant to Section 1645.

1646.6. (a) The application fee for a permit or renewal under this article shall not exceed the amount prescribed in Section 1724.

(b) The fee for an onsite inspection shall not exceed the amount prescribed in Section 1724.

(c) It is the intent of the Legislature that fees established pursuant to this section be equivalent to administrative and enforcement costs incurred by the board in carrying out this article.

(d) At the discretion of the board, the fee for onsite inspection may be collected and retained by a contractor engaged pursuant to subdivision (b) of Section 1646.4.

1646.7. (a) A violation of this article constitutes unprofessional conduct and is grounds for the revocation or suspension of the dentist's permit or license, or both. The board shall issue probationary terms only for violations that do not result in bodily harm.

(b) A violation of any provision of this article or Section 1682 is grounds for suspension or revocation of the physician and surgeon's permit issued pursuant to this article by the board. The exclusive enforcement authority against a physician and surgeon by the board shall be to suspend or revoke the permit issued pursuant to this article. The board shall refer a violation of this article by a physician and surgeon to the Medical Board of California for its consideration as unprofessional conduct and further action, if deemed necessary by the Medical Board of California, pursuant to Chapter 5 (commencing with Section 2000). A suspension or revocation of a physician and surgeon's permit by the board pursuant to this article shall not constitute a disciplinary proceeding or action for any purpose except to permit the initiation of an investigation or disciplinary action by the Medical Board of California, as authorized by Section 2220.5.

(c) The proceedings under this section 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.

1646.8. Nothing in this chapter shall be construed to authorize a dentist to administer or directly supervise the administration of general anesthesia or deep sedation for reasons other than dental treatment, as defined in Section 1625.

1646.9. (a) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) may administer deep sedation or general anesthesia in the office of a licensed dentist for dental patients, without regard to whether the dentist possesses a permit issued pursuant to this article, if all of the following conditions are met:

- (1) The physician and surgeon possesses a current license in good standing to practice medicine in this state.
- (2) The physician and surgeon holds a valid general anesthesia permit issued by the Dental Board of California pursuant to subdivision (b).
- (3) The physician and surgeon meets the requirements of subdivision (d) of Section 1646.1.

(b) A physician and surgeon who desires to administer deep sedation or general anesthesia as set forth in subdivision (a) shall apply to the board on an application form prescribed by the board and shall submit all of the following:

- (1) The payment of an application fee prescribed by this article.
- (2) Evidence satisfactory to the Medical Board of California showing that the applicant has successfully completed a postgraduate residency training program in anesthesiology that is recognized by the American Council on Graduate Medical Education, as set forth in Section 2079.
- (3) Documentation demonstrating that all equipment and drugs required by the board are on the premises for use in any dental office in which he or she administers deep sedation or general anesthesia.
- (4) Information relative to the current membership of the applicant on hospital medical staffs.

(c) Prior to issuance or renewal of a permit pursuant to this section, the board may, at its discretion, require an onsite inspection and evaluation of the facility, equipment, personnel, including, but not limited to, the physician and surgeon, and procedures utilized. At least one of the persons evaluating the procedures utilized by the physician and surgeon shall be a licensed physician and surgeon expert in outpatient deep sedation or general anesthesia who has been authorized or retained under contract by the board for this purpose.

(d) The permit of a physician and surgeon who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the board notifies the physician and surgeon of the failure unless within that time period the physician and surgeon has retaken and passed an onsite inspection and evaluation. Every physician and surgeon issued a permit under this article shall have an onsite inspection and evaluation at least once every five years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit.

(e) A physician and surgeon who additionally meets the requirements of paragraphs (2) and (3) of subdivision (c) of Section 1646.2 may apply to the board for a pediatric endorsement to provide deep sedation or general anesthesia to a child under seven years of age. A physician and surgeon without sufficient cases to obtain a pediatric endorsement may qualify for the endorsement pursuant to the requirements of subdivision (d) of Section 1646.2.

1646.10. A general anesthesia permit shall expire on the date provided in Section 1715 that next occurs after its issuance, unless it is renewed as provided in this article.

1646.11. A general anesthesia permitholder who has a permit that was issued before January 1, 2022, may follow the terms of that existing permit until it expires. Any permit issued or renewed pursuant to this article on or after January 1, 2022, shall require the permitholder to follow the new requirements of this article.

1646.13. This article shall become operative on January 1, 2022.

SEC. 5. Section 1646.10 is added to Article 2.7 of Chapter 4 of Division 2 of the Business and Professions Code, immediately following Section 1646.9, to read:

1646.10. This article shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 6. Article 2.84 (commencing with Section 1647) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

Article 2.84. Use of Moderate Sedation

1647. (a) The Legislature finds and declares that a commendable patient safety record has been maintained in the past by dentists and those other qualified providers of anesthesia services who, pursuant to a dentist's authorization, administer patient sedation, and that the increasing number of pharmaceuticals and techniques used to administer them for patient sedation require additional regulation to maintain patient safety in the future.

(b) The Legislature further finds and declares all of the following:

(1) That previous laws enacted in 1980 contained separate and distinct definitions for general anesthesia and the state of consciousness.

(2) That in dental practice, there is a continuum of sedation used which cannot be adequately defined in terms of consciousness and general anesthesia.

(3) That the administration of sedation through this continuum results in different states of consciousness that may or may not be predictable in every instance.

(4) That in most instances, the level of sedation will result in a predictable level of consciousness during the entire time of sedation.

(c) The Legislature further finds and declares that the educational standards presently required for deep sedation and general anesthesia should be required when the degree of sedation in the continuum of sedation is such that there is a reasonable possibility that loss of consciousness may result, even if unintended. However, achieving the degree of moderate sedation, where a margin of safety exists wide enough to render unintended loss of consciousness unlikely, requires educational standards appropriate to the administration of the resulting predictable level of consciousness.

1647.1. (a) As used in this article, "moderate sedation" means a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, no interventions are required to maintain a patient's airway, spontaneous ventilation is adequate, and cardiovascular function is usually maintained.

(b) The drugs and techniques used in moderate sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from painful stimuli shall not be considered to be in a state of moderate sedation.

1647.2. (a) A dentist may administer or order the administration of moderate sedation on an outpatient basis for a dental patient if one of the following conditions is met:

(1) The dentist possesses a current license in good standing and either holds a valid general anesthesia permit or obtains a moderate sedation permit.

(2) The dentist possesses a current permit under Section 1638 or 1640 and either holds a valid general anesthesia permit or obtains a moderate sedation permit.

(b) A dentist shall obtain a pediatric endorsement on the moderate sedation permit prior to administering moderate sedation to a patient under 13 years of age.

(c) (1) A dentist who orders the administration of moderate sedation shall be physically present in the treatment facility while the patient is sedated.

(2) For patients under 13 years of age, there shall be at least two support personnel in addition to the operating dentist present at all times during the procedure involving moderate sedation. The operating dentist and one personnel member shall maintain current certification in Pediatric Advanced Life Support (PALS) and airway management or other board-approved training in pediatric life support and airway management, adopted pursuant to Section 1601.8. The personnel member with current certification in Pediatric Advanced Life Support (PALS) and airway management or other board-approved training in pediatric life support and airway management shall be dedicated to monitoring the patient during the procedure involving moderate sedation and may assist with interruptible patient-related tasks of short duration, such as holding an instrument.

(d) A dentist with a moderate sedation permit or a moderate sedation permit with a pediatric endorsement shall possess the training, equipment, and supplies to rescue a patient from an unintended deeper level of sedation.

(e) This article shall not apply to the administration of local anesthesia, minimal sedation, deep sedation, or general anesthesia.

1647.3. (a) A dentist who desires to administer or to order the administration of moderate sedation shall apply to the board on an application form prescribed by the board. The dentist shall submit an application fee and produce evidence showing that he or she has successfully completed training in moderate sedation that meets the requirements of subdivision (c).

- (b) The application for a permit shall include documentation that equipment and drugs required by the board are on the premises.
- (c) Training in the administration of moderate sedation shall be acceptable if it meets all of the following as approved by the board:
- (1) Consists of at least 60 hours of instruction.
 - (2) Requires satisfactory completion of at least 20 cases of administration of moderate sedation for a variety of dental procedures.
 - (3) Complies with the requirements of the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students of the American Dental Association, including, but not limited to, certification of competence in rescuing patients from a deeper level of sedation than intended, and managing the airway, intravascular or intraosseous access, and reversal medications.
- (d) A dentist may apply for a pediatric endorsement for a moderate sedation permit by confirming all of the following:
- (1) Successful completion of residency in pediatric dentistry accredited by the Commission on Dental Accreditation (CODA) or the equivalent training in pediatric moderate sedation, as determined by the board.
 - (2) Successful completion of at least 20 cases of moderate sedation to patients under 13 years of age to establish competency in pediatric moderate sedation, both at the time of the initial application and at renewal. The applicant or permit holder shall maintain and shall provide proof of these cases upon request by the board for up to three permit renewal periods.
 - (3) In order to provide moderate sedation to children under seven years of age, a dentist shall establish and maintain current competency for this pediatric population by completing 20 cases of moderate sedation for children under seven years of age in the 24-month period immediately preceding application for the pediatric endorsement and for each permit renewal period.
 - (4) Current certification in Pediatric Advanced Life Support (PALS) and airway management or other board-approved training in pediatric life support and airway management, adopted pursuant to Section 1601.8.
- (e) A permit holder shall maintain current and continuous certification in Pediatric Advanced Life Support (PALS) and airway management or other board-approved training in pediatric life support and airway management, adopted pursuant to Section 1601.8, for the duration of the permit.
- (f) Applicants for a pediatric endorsement who otherwise qualify for the pediatric endorsement but lack sufficient cases of moderate sedation to patients under 13 years of age may administer moderate sedation to patients under 13 years of age under the direct supervision of a general anesthesia or moderate sedation permit holder with a pediatric endorsement. The applicant may count these cases toward the 20 required in order to qualify for the applicant's pediatric endorsement.
- (g) Moderate sedation permit holders with a pediatric endorsement seeking to provide moderate sedation to children under seven years of age, but who lack sufficient cases of moderate sedation to patients under seven years of age pursuant to paragraph (3) of subdivision (d), may administer moderate sedation to patients under seven years of age under the direct supervision of a permit holder who meets those qualifications.

1647.4. A moderate sedation permit shall expire on the date specified in Section 1715 that next occurs after its issuance, unless it is renewed as provided in this article.

1647.5. A permittee shall be required to complete 15 hours of approved courses of study related to moderate sedation as a condition of renewal of a permit. Those courses of study shall be credited toward the total continuing education required by the board pursuant to Section 1645.

1647.6. (a) A physical evaluation and medical history shall be taken before the administration of moderate sedation.

(b) Any dentist holding a permit shall maintain records of the physical evaluation, medical history, and moderate sedation procedures used as required by board regulations.

1647.7. (a) Prior to the issuance or renewal of a permit to administer moderate sedation, the board may, at its discretion, require an onsite inspection and evaluation of the licensee and the facility, equipment, personnel, and procedures utilized by the licensee. The permit of any dentist who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the board notifies the dentist of the failure unless, within that time period, the dentist has retaken and passed an onsite inspection and evaluation. Every dentist issued a permit under this article shall have an onsite inspection and evaluation at least once in every six years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit.

(b) An applicant who has successfully completed the course required by Section 1647.3 may be granted a one-year temporary permit by the board prior to the onsite inspection and evaluation. Failure to pass the inspection and evaluation shall result in the immediate and automatic termination of the temporary permit.

(c) The board may contract with public or private organizations or individuals expert in dental outpatient moderate sedation to perform onsite inspections and evaluations. The board may not, however, delegate its authority to issue permits or to determine the persons or facilities to be inspected.

1647.8. (a) The application fee for a permit or renewal under this article shall not exceed the amount prescribed in Section 1724.

(b) The fee for an onsite inspection shall not exceed the amount prescribed in Section 1724.

(c) It is the intent of the Legislature that the board hire sufficient staff to administer the program and that the fees established pursuant to this section be equivalent to administration and enforcement costs incurred by the board in carrying out this article.

1647.9. A violation of this article constitutes unprofessional conduct and is grounds for the revocation or suspension of the dentist's permit or license, or both. The board shall issue probationary terms only for violations that do not result in bodily harm. The proceedings under this section 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.

1647.10. A conscious sedation permitholder who has a permit that was issued before January 1, 2022, may follow the terms of that existing permit until it expires. Any permit issued or renewed pursuant to this article on or after January 1, 2022, shall require the permitholder to follow the requirements of this article.

1647.12. This article shall become operative on January 1, 2022.

SEC. 7. Section 1647.9.5 is added to Article 2.8 of Chapter 4 of Division 2 of the Business and Professions Code, immediately following Section 1647.9, to read:

1647.9.5. This article shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 8. Section 1647.17.5 is added to Article 2.85 of Chapter 4 of Division 2 of the Business and Professions Code, immediately following Section 1647.17, to read:

1647.17.5. This article shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 9. Article 2.87 (commencing with Section 1647.30) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

Article 2.87. Use of Pediatric Minimal Sedation

1647.30. (a) As used in this article, "minimal sedation" means a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and coordination may be impaired, airway reflexes, ventilatory, and cardiovascular functions are unaffected.

(b) The drugs and techniques used in minimal sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients who require tactile stimulation to elicit a response to verbal commands shall not be considered to be in a state of minimal sedation.

(c) For the very young or developmentally delayed individual, incapable of the usually expected verbal response, a minimally depressed level of consciousness should be maintained.

1647.31. (a) A dentist may administer or order the administration of pediatric minimal sedation on an outpatient basis for pediatric dental patients under 13 years of age, if one of the following conditions is met:

(1) The dentist holds a current permit for deep sedation and general anesthesia, or holds a current permit for moderate sedation with a pediatric endorsement, or obtains a pediatric minimal sedation permit.

(2) The dentist possesses a current permit under Section 1638 or 1640 and holds a valid deep sedation and general anesthesia permit, a moderate sedation permit with a pediatric endorsement, or obtains a pediatric minimal sedation permit.

(b) A dentist who administers or orders the administration of pediatric minimal sedation shall be physically present in the treatment facility while the patient is sedated.

(c) A dentist with a pediatric minimal sedation permit shall possess the training, equipment, and supplies to rescue a patient from an unintended deeper level of sedation.

(d) This article does not apply to the administration of local anesthesia, moderate sedation, deep sedation, or general anesthesia.

1647.32. (a) A dentist who desires to administer or order the administration of pediatric minimal sedation shall apply to the board on an application form prescribed by the board. The dentist shall possess a current license in good standing, submit an application fee, and produce evidence showing that he or she has successfully completed training in pediatric minimal sedation that meets the requirements of subdivision (c).

(b) The application for a permit shall include documentation that equipment and drugs required by the board are on the premises.

(c) Training in the administration of pediatric minimal sedation shall be acceptable if it meets either of the following as approved by the board:

(1) Consists of at least 24 hours of pediatric minimal sedation instruction in addition to one clinical case. The pediatric minimal sedation instruction shall include training in pediatric monitoring, airway management, and resuscitation and patient rescue from moderate sedation.

(2) Completion of a CODA-approved residency in pediatric dentistry.

(d) A dentist shall be limited to administering a single drug whose primary purpose is sedative via the oral route, either singly or in divided doses, not to exceed the manufacturer's maximum recommended dose, plus a mix of nitrous oxide and oxygen and adjunctive agents such that the drugs either singly or in combination are unlikely to produce a state of unintended moderate sedation. This section shall not be construed to restrict the administration of adjunctive medication intended to relieve pain, affect the onset or duration of the primary sedative agent, or to reduce the side effects of sedation, including nausea or emesis.

(e) The operating dentist and a minimum of one additional personnel who are both trained in the monitoring and resuscitation of pediatric patients, as approved by the board, shall be present during the administration of minimal sedation.

1647.33. (a) The application fee for a pediatric minimal sedation permit or renewal under this article shall not exceed the amount prescribed in Section 1724.

(b) It is the intent of the Legislature that the board hire sufficient staff to administer the program and that the fees established pursuant to this section be equivalent to administration and enforcement costs incurred by the board in carrying out this article.

1647.34. A violation of any provision of this article constitutes unprofessional conduct and is grounds for the revocation or suspension of the dentist's permit or license, or both. The proceedings under this section 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.

1647.35. A permitholder who has a permit that was issued before January 1, 2022, that authorized the permitholder to administer or order the administration of oral conscious sedation for minor patients under prior Article 2.85 (commencing with Section 1647.10) may follow the terms of that existing permit until it expires. Any permit issued or renewed pursuant to this article on or after January 1, 2022, shall require the permitholder to follow the requirements of this article.

1647.36. This article shall become operative on January 1, 2022.

SEC. 10. Section 1682 of the Business and Professions Code is amended to read:

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 conscious 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 conscious sedation or general anesthesia.

(b) Any dentist with patients recovering from conscious 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 conscious 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 conscious sedation to fail to have these patients continuously monitored during the dental procedure with a pulse oximeter or similar or superior monitoring equipment required by the board.

(d) Any dentist with patients who are undergoing conscious 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 general anesthesia or conscious sedation. In the case of a minor, the consent shall be obtained from the child's parent or guardian.

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

"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."

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

(f) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 11. Section 1682 is added to the Business and Professions Code, to read:

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 his or her dental treatment, and consult with your dentist or pediatrician as needed."

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

(f) This section shall become operative on January 1, 2022.

SEC. 12. Section 1724 of the Business and Professions Code is amended to read:

1724. The amount of charges and fees for dentists licensed pursuant to this chapter shall be established by the board as is necessary for the purpose of carrying out the responsibilities required by this chapter as it relates to dentists, subject to the following limitations:

(a) The fee for an application for licensure qualifying pursuant to paragraph (1) of subdivision (c) of Section 1632 shall not exceed one thousand five hundred dollars (\$1,500). The fee for an application for licensure qualifying pursuant to paragraph (2) of subdivision (c) of Section 1632 shall not exceed one thousand dollars (\$1,000).

(b) The fee for an application for licensure qualifying pursuant to Section 1634.1 shall not exceed one thousand dollars (\$1,000).

(c) The fee for an application for licensure qualifying pursuant to Section 1635.5 shall not exceed one thousand dollars (\$1,000).

(d) The fee for an initial license and for the renewal of a license is five hundred twenty-five dollars (\$525). On and after January 1, 2016, the fee for an initial license shall not exceed six hundred fifty dollars (\$650), and the fee for the renewal of a license shall not exceed six hundred fifty dollars (\$650). On and after January 1, 2018, the fee for an initial license shall not exceed eight hundred dollars (\$800), and the fee for the renewal of a license shall not exceed eight hundred dollars (\$800).

(e) The fee for an application for a special permit shall not exceed one thousand dollars (\$1,000), and the renewal fee for a special permit shall not exceed six hundred dollars (\$600).

(f) The delinquency fee shall be 50 percent of the renewal fee for such a license or permit in effect on the date of the renewal of the license or permit.

(g) The penalty for late registration of change of place of practice shall not exceed seventy-five dollars (\$75).

(h) The fee for an application for an additional office permit shall not exceed seven hundred fifty dollars (\$750), and the fee for the renewal of an additional office permit shall not exceed three hundred seventy-five dollars (\$375).

(i) The fee for issuance of a replacement pocket license, replacement wall certificate, or replacement engraved certificate shall not exceed one hundred twenty-five dollars (\$125).

(j) The fee for a provider of continuing education shall not exceed five hundred dollars (\$500) per year.

(k) The fee for application for a referral service permit and for renewal of that permit shall not exceed twenty-five dollars (\$25).

(l) The fee for application for an extramural facility permit and for the renewal of a permit shall not exceed twenty-five dollars (\$25).

(m) The fee for an application for an elective facial cosmetic surgery permit shall not exceed four thousand dollars (\$4,000), and the fee for the renewal of an elective facial cosmetic surgery permit shall not exceed eight hundred dollars (\$800).

(n) The fee for an application for an oral and maxillofacial surgery permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of an oral and maxillofacial surgery permit shall not exceed one thousand two hundred dollars (\$1,200).

(o) The fee for an application for a general anesthesia permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of a general anesthesia permit shall not exceed six hundred dollars (\$600).

(p) The fee for an onsite inspection and evaluation related to a general anesthesia or conscious sedation permit shall not exceed four thousand five hundred dollars (\$4,500).

(q) The fee for an application for a conscious sedation permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of a conscious sedation permit shall not exceed six hundred dollars (\$600).

(r) The fee for an application for an oral conscious sedation permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of an oral conscious sedation permit shall not exceed six hundred dollars (\$600).

(s) The fee for a certification of licensure shall not exceed one hundred twenty-five dollars (\$125).

(t) The fee for an application for the law and ethics examination shall not exceed two hundred fifty dollars (\$250).

The board shall report to the appropriate fiscal committees of each house of the Legislature whenever the board increases any fee pursuant to this section and shall specify the rationale and justification for that increase.

(u) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 13. Section 1724 is added to the Business and Professions Code, to read:

1724. The amount of charges and fees for dentists licensed pursuant to this chapter shall be established by the board as is necessary for the purpose of carrying out the responsibilities required by this chapter as it relates to dentists, subject to the following limitations:

(a) The fee for an application for licensure qualifying pursuant to paragraph (1) of subdivision (c) of Section 1632 shall not exceed one thousand five hundred dollars (\$1,500). The fee for an application for licensure qualifying pursuant to paragraph (2) of subdivision (c) of Section 1632 shall not exceed one thousand dollars (\$1,000).

(b) The fee for an application for licensure qualifying pursuant to Section 1634.1 shall not exceed one thousand dollars (\$1,000).

(c) The fee for an application for licensure qualifying pursuant to Section 1635.5 shall not exceed one thousand dollars (\$1,000).

(d) The fee for an initial license and for the renewal of a license is five hundred twenty-five dollars (\$525). On and after January 1, 2016, the fee for an initial license shall not exceed six hundred fifty dollars (\$650), and the fee for the renewal of a license shall not exceed six hundred fifty dollars (\$650). On and after January 1, 2018, the fee for an initial license shall not exceed eight hundred dollars (\$800), and the fee for the renewal of a license shall not exceed eight hundred dollars (\$800).

(e) The fee for an application for a special permit shall not exceed one thousand dollars (\$1,000), and the renewal fee for a special permit shall not exceed six hundred dollars (\$600).

(f) The delinquency fee shall be 50 percent of the renewal fee for such a license or permit in effect on the date of the renewal of the license or permit.

(g) The penalty for late registration of change of place of practice shall not exceed seventy-five dollars (\$75).

(h) The fee for an application for an additional office permit shall not exceed seven hundred fifty dollars (\$750), and the fee for the renewal of an additional office permit shall not exceed three hundred seventy-five dollars (\$375).

(i) The fee for issuance of a replacement pocket license, replacement wall certificate, or replacement engraved certificate shall not exceed one hundred twenty-five dollars (\$125).

(j) The fee for a provider of continuing education shall not exceed five hundred dollars (\$500) per year.

(k) The fee for application for a referral service permit and for renewal of that permit shall not exceed twenty-five dollars (\$25).

(l) The fee for application for an extramural facility permit and for the renewal of a permit shall not exceed twenty-five dollars (\$25).

(m) The fee for an application for an elective facial cosmetic surgery permit shall not exceed four thousand dollars (\$4,000), and the fee for the renewal of an elective facial cosmetic surgery permit shall not exceed eight hundred dollars (\$800).

(n) The fee for an application for an oral and maxillofacial surgery permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of an oral and maxillofacial surgery permit shall not exceed one thousand two hundred dollars (\$1,200).

(o) The fee for an application for a general anesthesia permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of a general anesthesia permit shall not exceed six hundred dollars (\$600).

(p) The fee for an onsite inspection and evaluation related to a general anesthesia or moderate sedation permit shall not exceed four thousand five hundred dollars (\$4,500).

(q) The fee for an application for a moderate sedation permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of a conscious sedation permit shall not exceed six hundred dollars (\$600).

(r) The fee for an application for an oral conscious sedation permit shall not exceed one thousand dollars (\$1,000), and the fee for the renewal of an oral conscious sedation permit shall not exceed six hundred dollars (\$600).

(s) The fee for a certification of licensure shall not exceed one hundred twenty-five dollars (\$125).

(t) The fee for an application for the law and ethics examination shall not exceed two hundred fifty dollars (\$250).

(u) This section shall become operative on January 1, 2022.

SEC. 14. Section 1750.5 of the Business and Professions Code is amended to read:

1750.5. A person holding a dental sedation assistant permit pursuant to Section 1750.4 may perform the following duties under the direct supervision of a licensed dentist or other licensed health care professional authorized to administer conscious sedation or general anesthesia in the dental office:

(a) All duties that a dental assistant is allowed to perform.

(b) Monitor patients undergoing conscious sedation or general anesthesia utilizing data from noninvasive instrumentation such as pulse oximeters, electrocardiograms, capnography, blood pressure, pulse, and respiration rate monitoring devices. Evaluation of the condition of a sedated patient shall remain the responsibility of the dentist or other licensed health care professional authorized to administer conscious sedation or general anesthesia, who shall be at the patient's chairside while conscious sedation or general anesthesia is being administered.

(c) Drug identification and draw, limited to identification of appropriate medications, ampule and vial preparation, and withdrawing drugs of correct amount as verified by the supervising licensed dentist.

(d) Add drugs, medications, and fluids to intravenous lines using a syringe, provided that a supervising licensed dentist is present at the patient's chairside, limited to determining patency of intravenous line, selection of injection port, syringe insertion into injection port, occlusion of intravenous line and blood aspiration, line release and injection of drugs for appropriate time interval. The exception to this duty is that the initial dose of a drug or medication shall be administered by the supervising licensed dentist.

(e) Removal of intravenous lines.

(f) Any additional duties that the board may prescribe by regulation.

(g) The duties listed in subdivisions (b) to (e), inclusive, may not be performed in any setting other than a dental office or dental clinic.

(h) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 15. Section 1750.5 is added to the Business and Professions Code, to read:

1750.5. (a) A person holding a dental sedation assistant permit pursuant to Section 1750.4 may perform the following duties under the direct supervision of a licensed dentist or other licensed health care professional authorized to administer moderate sedation, deep sedation, or general anesthesia in the dental office:

(1) All duties that a dental assistant is allowed to perform.

(2) Monitor patients undergoing moderate sedation, deep sedation, or general anesthesia utilizing data from noninvasive instrumentation such as pulse oximeters, electrocardiograms, capnography, blood pressure, pulse, and respiration rate monitoring devices. Evaluation of the condition of a sedated patient shall remain the responsibility of the dentist or other licensed health care professional authorized to administer moderate sedation, deep sedation, or general anesthesia, who shall be at the patient's chairside while moderate sedation, deep sedation, or general anesthesia is being administered.

(3) Drug identification and draw, limited to identification of appropriate medications, ampule and vial preparation, and withdrawing drugs of correct amount as verified by the supervising licensed dentist.

(4) Add drugs, medications, and fluids to intravenous lines using a syringe, provided that a supervising licensed dentist is present at the patient's chairside, limited to determining patency of intravenous line, selection of injection port, syringe insertion into injection port, occlusion of intravenous line and blood aspiration, line release, and injection of drugs for appropriate time interval. The exception to this duty is that the initial dose of a drug or medication shall be administered by the supervising licensed dentist.

(5) Removal of intravenous lines.

(6) Any additional duties that the board may prescribe by regulation.

(7) The duties listed in paragraphs (2) to (5), inclusive, may not be performed in any setting other than a dental office or dental clinic.

(b) This section shall become operative on January 1, 2022.

SEC. 16. Section 2827 of the Business and Professions Code is amended to read:

2827. The utilization of a nurse anesthetist to provide anesthesia services in an acute care facility shall be approved by the acute care facility administration and the appropriate committee, and at the discretion of the physician, dentist or podiatrist. If a general

anesthetic agent is administered in a dental office, the dentist shall hold a permit authorized by Article 2.7 (commencing with Section 1646) of Chapter 4 or, commencing January 1, 2022, Article 2.75 (commencing with Section 1646) of Chapter 4.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.