

DENTAL BOARD OF CALIFORNIA

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Protection of the public shall be the highest priority for the Dental Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

—Business and Professions Code § 1601.2

The Dental Board of California (DBC) is a consumer protection agency within the state Department of Consumer Affairs (DCA). DBC is charged with enforcing the Dental Practice Act, Business and Professions Code section 1600 et seq. The Board’s regulations are located in Division 10, Title 16 of the California Code of Regulations (CCR).

DBC licenses and regulates dentists (DDS/DMD), and issues specialty permits for a variety of functions to licensed dentists who qualify for them, including permits to administer general anesthesia, conscious sedation, oral conscious sedation for adult patients, and oral conscious sedation for minor patients. Under Business and Professions Code section 1638, DBC also issues oral and maxillofacial surgery (OMS) permits to qualified dentists and physicians; OMS dentists may seek an additional permit and be authorized to perform elective facial cosmetic surgery under section 1638.1. DBC also licenses registered dental assistants (RDA) and registered dental assistants in extended functions (RDAEF); additionally, it issues permits to unlicensed individuals who qualify as orthodontic assistants and dental sedation assistants. Although DBC previously regulated registered dental hygienists (RDH), registered dental hygienists in extended

functions (RDHEF), and registered dental hygienists in alternative practice (RDHAP), much of that regulatory authority transferred from DBC to the Dental Hygiene Committee of California (DHCC), effective July 1, 2009.

DBC is authorized to establish standards for its approval of dental schools and dental assistant training programs; prescribe the subjects in which its licensees should be examined; license applicants who successfully pass the examinations required by the Board; set standards for dental practice; and enforce those standards by taking disciplinary action against licensees as appropriate. DBC is also responsible for registering dental practices (including mobile dental clinics) and corporations; establishing guidelines for continuing education requirements for dentists and dental assistants; approving radiation safety courses; and administering the Diversion Program for substance-abusing dentists and dental assistants.

DBC consists of fifteen members: eight practicing dentists, one RDH, one RDA, and five public members. Business and Professions Code section 1602 requires all of the professional members of the Board to have been actively practicing for at least five years prior to their appointment. The Governor appoints thirteen of the Board's fifteen members (including all of the dental practitioners); the Senate Rules Committee and the Assembly Speaker each appoint one public member.

To assist DBC in regulating RDAs and RDAEFs, the legislature has created the Dental Assisting Council (DAC) in Business and Professions Code section 1742. The DAC consists of seven members: the RDA member of the Board, one other Board member, and five RDAs, appointed by the Board, who represent a broad range of dental assisting experience and education (including at least one RDAEF). The DAC is authorized to

“consider all matters relating to dental assistants in this state, on its own initiative or upon the request of the Board, and make appropriate recommendations” in the following areas: requirements for dental assistant examination, licensure, permitting, and renewal; standards and criteria for approval of dental assisting educational programs, courses, and continuing education; allowable dental assistant duties, settings, and supervision levels; appropriate standards of conduct and enforcement for dental assistants; and requirements regarding infection control.

At this writing, there is a public member vacancy on the Board.

MAJOR PROJECTS

Board Prepares Sunset Review Report

At its October 5, 2018 special [meeting](#), DBC voted to approve [draft language](#) of its Sunset Review Report after substantial discussion over the course of several board meetings. The draft language includes responses to questions by the legislature relating to past issues since the Board’s last [Sunset Review in 2014](#), as well as responses to questions about current issues facing the Board. Of note, these current issues include the Board’s implementation of the Uniform Standards for Substance Abusing Licensees (effective April 1, 2014, the Board implemented the standard outlined in [SB 1441 \(Ridley-Thomas\) \(Chapter 548, Statutes of 2008\)](#)); the status of the Board’s implementation of the Consumer Protection Enforcement Initiation regulations (the Board promulgated three rulemaking proposals to improve its enforcement process since 2014); and the Board’s participation in development of the BreEZe Information Technology system (the Board has been utilizing

the second release of the system since January 19, 2016). The final Sunset Review report is due to the legislature on or before December 1, 2018.

Rulemaking Relating to Minimum Standards for Infection Control

At its May 16, 2018 [meeting](#), DBC voted to accept staff's proposed language and move forward with the rulemaking process to amend section 1005, Title 16 of the CCR regarding minimum standards for infection control. The Board has been considering language for this proposed rulemaking at past meetings, with significant public comment from the California Dental Association (CDA). Pursuant to [AB 1277 \(Daly\) \(Chapter 413, Statutes of 2017\)](#), the Board must amend its regulations to require water or other irrigation methods to be sterile or contain recognized disinfecting or antibacterial properties when performing dental procedures that expose dental pulp. That bill arose out of an incident in Orange County where it was reported that dozens of children became sick after receiving a certain dental procedure at an Anaheim pediatric dental clinic. [\[23:1 CRLR 6-7\]](#)

AB 1277 deems the Board's amendments to section 1005 to update its infection control standards to be an "emergency," for the immediate preservation of the public peace, health, safety, or general welfare, and originally required the Board to update its regulations on or before December 31, 2018. However, a provision in the omnibus bill [SB 1491 \(Committee on Business, Professions, & Economic Development\) \(Chapter 703, Statutes of 2018\)](#), repeals the section of AB 1277 requiring DBC to promulgate emergency regulations. Instead, DBC is moving forward with the regular rulemaking process to update the minimum standard for infection control, but at this writing has not noticed any regulations to the public.

CURES Implementation

At its November [meeting](#), Board staff advised DBC that mandatory use of CURES (Controlled Substance Utilization Review and Evaluation System) became effective on October 2, 2018. [SB 482 \(Lara\) \(Chapter 708, Statutes of 2016\)](#), and sections 11150 and 11165.4(a)(1)(A)(i) of the Health and Safety Code, require prescribers, including dentists, to consult the CURES system prior to prescribing, ordering, administering, or furnishing a Schedule II–IV controlled substance. In accordance with SB 482, dentists must consult the CURES system 1) the first time a patient is prescribed, ordered, administered, or furnished a controlled substance, unless one of enumerated exemptions apply; 2) within the twenty-four hour period, or the previous business day, before prescribing, ordering, administering, or furnishing a controlled substance, unless exempted; 3) before subsequently prescribing a controlled substance, if previously exempt; and 4) at least once every four months if the controlled substance is part of the treatment plan.

LEGISLATION

[SB 1491 \(Committee on Business, Professions, & Economic Development\)](#), as amended August 24, 2018, is an omnibus bill that makes clarifying and non-controversial changes to several sections of the Dental Practice Act. Of note, the bill amends section 1611 of the Business and Professions Code to clarify that licensing and permitting examinations administered by regional or national testing entities designated to administer licensing or permitting examinations are also appropriate prerequisites to licensing. Additionally, the bill amends section 1621 to exempt portfolio examiners of the statutory licensure exam from holding a position at a school that provides instruction on the same

licensure category as the examiner. Amended section 1645 clarifies that continuing education relevant to the practice of dentistry is required in the two years prior to license renewal. This bill also removes obsolete language and adds references to “dental assisting” and “dental assistants” to the Dental Practice Act to ensure consistency. The Board voted to support the bill at its August 24, 2018 [meeting](#).

Governor Brown signed SB 1491 on September 22, 2018 (Chapter 703, Statutes of 2018).

[SB 1482 \(Hill\)](#), as amended August 24, 2018, amends sections 1901–1967 of the Business and Professions Code to establish the Dental Hygiene Board of California (DHB), formerly the DHCC, as an independent board within the DCA, and continues its operations until January 1, 2023. Of note, the bill amends section 1917 to require an RDH applicant to have completed the WREB (Western Regional Examining Board) dental hygiene examination (or any other clinical or dental hygiene exam approved by the DHB) within two years of applying for RDH license. It eliminates the option to take a state clinical examination towards an RDH license and requires the DHB to renew approval of RDH, a RDHAP, or a RDHEF educational programs to certify that the programs continue to meet the requirements proscribed by the DHB. Amended section 1944 prohibits the fee to conduct a compliance site visit to educational programs for a RDH, RDHAP, or RDHEF from exceeding the actual cost incurred by the DHB and prohibits the fee for a retired license from exceeding one-half of the current license renewal fee. Additionally, amended section 1936.1 requires the DHB to conduct random audits of at least five percent of its licensee population each year to ensure compliance with its continuing education requirements.

Governor Brown signed SB 1482 on September 27, 2018 (Chapter 858, Statutes of 2018).

[SB 501 \(Glazer\)](#), as amended August 24, 2018, amends and adds various provisions to the Dental Practice Act to revise DBC's requirements for the administration of various levels of outpatient sedation during dental procedures beginning in 2022. This two-year bill broadly enacts the recommendations of DBC's Pediatric Subcommittee (Subcommittee), which authored DBC's [2016 Pediatric Anesthesia Study](#). This study was undertaken in response to a tragedy in which an otherwise healthy child died while under sedation. Following the study, at least one other child died while under sedation. This version of the bill represents a compromise with the dental industry after the CDA and the California Association of Oral and Maxillofacial Surgeons opposed recommendations a separate general anesthesia provider be present for patients under seven years of age. [[23:1 CRLR 7-8](#)] This provision was eventually removed from the bill.

Of note, this bill amends section 1601.4 to require the Board to review available data on all adverse events related to dental anesthesia and sedation, review relevant professional guidelines, and submit a report to the legislature by January 1, 2022 with its findings to inform dental anesthesia and sedation standards. This amended section also requires the Board to provide a report on pediatric deaths related to general anesthesia and deep sedation in dentistry at its next sunset review and requires the Board to retain all available data on adverse events related to general anesthesia and all levels of sedation in dentistry for at least 15 years.

SB 501 adds section 1601.8 to authorize DBC to approve a training standard for general anesthesia, deep sedation, and moderate sedation 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.

The bill also adds Article 2.75 to Chapter 4 of Division 2 (commencing with section 1646) of the Business and Professions Code to define and set forth standards pertaining to the use of deep sedation and general anesthesia in dentistry. Specifically, newly added sections 1646.1 and 1646.3 now require dentists administering general anesthesia or deep sedation to: (1) possess a general anesthesia permit issued by DBC; (2) possess a pediatric endorsement to administer general anesthesia or deep sedation to patients under the age of seven; (3) be physically present in the office during administration of general anesthesia or deep sedation; (4) have at least two support staff (in addition to the dentist) present during a procedure if the patient is ages seven to thirteen, and additionally the dentist must be certified in PALS and at least one support staff must be trained in pediatric life support and airway management; and (5) have at least two people (in addition to the dentist) present during a procedure involving general anesthesia or deep sedation if the patient is under seven, one being dedicated to monitoring the child throughout the procedure (with the other person assisting the dentist in the procedure). New section 1646.2 requires dentists seeking a pediatric endorsement on their general anesthesia permit (beginning January 1, 2019) to have: (1) completed an accredited or equivalent residency training program, providing competency in the administration of deep sedation and general anesthesia on children under seven; (2) provided proof of successful completion of at least 20 cases of pediatric sedation to patients under seven years of age to establish competency (both initial applications and

renewals); and (3) provided proof of current and continuous certification in Advanced Cardiac Life Support and PALS.

New sections 1646.3 and 1647.6 require any dentist holding a permit to take a physical evaluation and medical history of a patient before the administration of deep sedation, general anesthesia, or moderate sedation, and a dentist must maintain medical history and specific records of sedation or anesthesia as required by DBC regulations. New section 1646.4 authorizes the Board to require an onsite inspection and evaluation of the licensee and the facility prior to the issuance or renewal of a permit for the use of deep sedation or general anesthesia and requires that DBC automatically suspend the license for 30 days of any dentist who fails an onsite inspection. Under this new provision, every dentist issued a permit must be subject to an onsite inspection at least once every five years.

New article 2.84 (commencing with section 1647) defines and sets the standards for moderate sedation in dentistry. Specifically, section 1647.1 defines “moderate sedation,” a level of sedation previously referred to as “conscious sedation,” and outlines similar personnel and training requirements for patients under the age of 13 years old; sections 1647.2 and 1647.3 set forth the requirements for dentists to administer moderate sedation on an outpatient basis for a dental patient, and the requisite training in order to receive Board approval; and section 1647.7 provides that every dentist administering moderate sedation must be subject to an onsite inspection and evaluation at least once every six years.

New article 2.87 (commencing with section 1647.30) defines and sets forth the standards for pediatric minimal sedation. The bill also adds section 1750.5 to specify the duties and requirements for individuals holding a dental sedation assistant permit.

Under the bill, DBC must produce two new reports regarding pediatric deaths and access to care with the implementation of a second permit for general anesthesia as well as conduct a review of pediatric morbidity and mortality. Additionally, the Board is required to update regulations to define “general anesthesia,” “deep sedation,” “moderate sedation,” and “minimal sedation” to be consistent with the definitions in this bill as well as update the regulations defining the requirements, education, and protocol to obtain permits for the different levels of sedation.

The American Academy of Pediatrics, California opposed the bill, stating “it offers a false sense of security that ‘something is to be done’ to prevent deaths of young children in dental chairs, while still permitting the use of the single operator-anesthetist model considered too dangerous for use in other health care settings.” Similarly, the California Society of Dentist Anesthesiologists opposed the bill, claiming that it “undermines the DBC . . . by excluding a crucial board guideline meant to ensure the highest level of care for children 6 and under.” DBC voted to support SB 501 at its August 24, 2018 [meeting](#), however it spoke at length about its concerns with some of the specifics of the bill, including similar concerns the bill may not be enough to fully address the problem, worries about the timeline the bill imposes on the Board to promulgate the necessary rulemaking, and the necessary funding to enact the bill.

Governor Brown signed SB 501 on September 29, 2018 (Chapter 929, Statutes of 2018).

[AB 2138 \(Chiu and Low\)](#), as amended August 24, 2018, adds sections 480, 481, 482, 488, and 493 to the Business and Professions Code to limit the circumstances under which DCA boards, including DBC, may deny licensure to those previously convicted of

crimes. New section 480.2 requires DCA boards to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the profession the specific board regulates. Section 480 requires boards to report specific information relating to action concerning criminal convictions annually. At its August 24, 2018 [meeting](#), the board voted to oppose this bill, citing its concerns to the health and safety of the public.

Governor Brown signed AB 2138 on September 30, 2018 (Chapter 995, Statutes of 2018).

[SB 1109 \(Bates\)](#), as amended August 24, 2018, affects many sections of the Business and Professions Code. This bill is part of the ongoing efforts to address the public health crisis of opioid addiction and expressly states that the intent of the Legislature is to ensure that health care providers receive necessary education on this topic. Of note, the bill amends section 1645 of the Business and Professions Code to include the risks of addiction associated with the use of Schedule II drugs in the mandatory coursework required of the Board's licensees. Additionally, this bill adds section 11158.1 to the Health and Safety Code to require a prescriber to discuss the risks and dangers of opioids and opioid addiction with the minor, the minor's parent or guardian, or another adult authorized to consent to the minor's medical treatment before dispensing or issuing for a minor the first prescription in a single course of treatment for a controlled substance containing an opioid.

Governor Brown signed SB 1109 on September 22, 2018 (Chapter 693, Statutes of 2018).

Legislative Bills that Died

The following bills reported in Volume 23, No. 2 (Spring 2018) died in committee or otherwise failed to be enacted during 2018: [AB 224 \(Thurmond\)](#) and [SB 392 \(Bates\)](#), relating pediatric anesthesia; [AB 2643 \(Irwin\)](#), relating specifically to language included on the written informed consent signed by a minor's parent or guardian prior to anesthesia; and [SB 641 \(Lara\)](#), relating to the release of CURES information to law enforcement agencies.

RECENT MEETINGS

At its May 2018 [meeting](#), DBC staff updated the Board regarding RDA program re-evaluations in response to student failure rates. [[23:1 CRLR 6](#)] Staff reported that it is in the process of recruiting more experts to review curriculum and didactic infection control requirements and the Board is on schedule to complete re-evaluation of all programs within the next 18 months. Staff also reported that the Board's first administration of the combined RDA law and ethics exams took place in May and scores were released on May 23, 2018. [[23:1 CRLR 7](#)]

Also at the May meeting, DBC's Executive Officer, Karen Fisher, gave a report to the Board about DCA's Substance Abuse Coordination Committee relating to the number of tests and testing procedures with which a participant in a probation or diversion program must comply. The committee must submit its report (or provide notice of recommendations) to the legislature by December 31, 2018. She will continue to update the Board as the Committee meets.

At its August 2018 [meeting](#), the Board heard and discussed a report from DCA and Office of Professional Examination Services (OPES) regarding its occupational analysis for dentists. OPES conducted a survey of DBC licensees through email with a final sample size of 1,046 licensees and a response rate of 18%. Based on the results from these responses, OPES will do a review of the American Board of Dental Examiners (ADEX) and WREB examinations to ensure compliance with professional standards and guidelines and perform a comparison study to confirm content areas covered on the ADEX and WREB examinations.