

1 **CALIFORNIA DENTAL PRACTICE ACT 2021**

2 **WHY ARE WE HERE?**

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

3 **WHERE IS IT WRITTEN?**

3 layers of state law:

- State Constitution
- Statutory laws – general “.....Code” including:
 - Business & Professional Code
 - Health & Safety Code....
- Cal Code of Regulations (CCR) – most specific
- To read statutes go to Board website
<http://www.dbc.ca.gov/>

4 **DENTAL BOARD OF CALIFORNIA**

- Operates as Bureau under Dept. of Consumer Affairs
- Regulatory Board for licensed: DDS, RDA, RDAEF

What we will cover:

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

5 **DENTAL PRACTICE ACT INCLUDES:**

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

6 **DENTAL PRACTICE ACT INCLUDES:**

- Health & safety codes, infection control

- Illegal acts, unprofessional conduct, gross negligence
- Prescriptions / drugs
- Criminal act reporting

7 **THE 4 MOST COMMONLY CITED VIOLATIONS ARE:**

- Failure to produce patient records
 - 15 days
- Failure to follow infection-control guidelines
- Failure to comply with bloodborne requirements
 - OSHA & Board & police share info
- Unprofessional conduct
-

8 **CASE: PATIENT REPORTED DDS NOT WEARING GLOVES**

9 **RULES & UPDATES.....**

DENTAL PRACTICES MUST COMPLY WITH NEW [LAWS AND REGULATIONS](#) ON THE FOLLOWING DATES:

10 **AMALGAM RECOVERY**

Amalgam Recovery Rules:

- July 14, 2020: Existing facilities must have installed amalgam separators
 - Oct. 12, 2020: Compliance report due to local sanitation agency or Cal. State Water Resources Control Board
 - June 14, 2027: facilities with separators:
 - Replace amalgam separators
- ** Amalgam separators must meet ANSI, ADA& ISO specs & achieve 95% removal efficiency

11 **PRACTICES EXEMPT FROM THE FEDERAL HG RECOVERY RULE:**

- Oral pathology
 - Oral and maxillofacial radiology
 - Oral and maxillofacial surgery
 - Orthodontics
 - Periodontics
 - Prosthodontics
- (not expected to discharge silver), must document
ALL must have submitted 1- time compliance report Oct 12, 2020
www.waterboards.ca.gov

12 **HG RECOVERY RULE**

- Offices prohibited from using line cleaners that have a pH lower than 6 or greater than 8, are acidic or contain oxidizers, including but not limited to bleach, chlorine, iodine and peroxide.

13 **COVID-19 EVOLVING RULES, RECOMMENDATIONS:
RISK BALANCED WITH URGENCY**

- Interim recommendations – increase safety precautions over Standard Precautions
 - But provide crisis compromises – preserve PPE, alternative PPE, supplies, practices
- Recommendations change & evolve
- Laws take time
-

14 **HIERARCHY OF RULES**

- OSHA: Occupational Safety & Health Administration laws
 - Based on CDC recs
- State Board laws
 - Include CDC & OSHA & ADA standards
- Civil & Health Dept... laws
- FDA, EPA laws
- Instructions for use
- CDC Recommendations
 - Based on research
 - Set standards, not “laws”
- Consensus standards, Expert statements, ADA, OSAP, NIOSH
- Competition, marketing, reputation

15 **MUST POST IN OFFICE:**

*Appendix 3
Dental Board of California
Infection Control Regulations*

California Code of Regulations Title 16 Section §1005
Minimum Standards for Infection Control

*All DHCP must comply & follow OSHA laws
(b) (1-3)*

16 **OSHA REG'S**

BLOODBORNE PATHOGEN STANDARD

([29 CFR 1910.1030](#))

(BBP DOES NOT ADDRESS RESPIRATORY SECRETIONS)

PERSONAL PROTECTIVE EQUIPMENT
 (29 CFR 1910.132)
 RESPIRATORY PROTECTION STANDARDS
 (29 CFR 1910.134)
 THE AEROSOL TRANSMISSIBLE DISEASES (ATD) STANDARD
 (CCR TITLE 8, SECTION 5199)

- 17 **COVID-19**
- California dentists with license renewals between the months of March 31 and Dec 31 were granted an extension until April 22, 2021 to meet CE requirements.
 - The waiver did not change license-renewal expiration dates – must apply and pay on time.
 - Do not treat active COVID-19 cases in dental office.
 - Workers must report exposure to employer
 - Patients should be alerted if possible exposure occurred.
- 18 **MANAGING EMPLOYEE EXPOSURES TO COVID-19**
- CDA flowchart to handle work exposures if:
 1. Patient reports symptoms after appt.
 2. Employee reports symptoms or exposure
- 19 **IS COVID-19 TESTING WITHIN A DENTIST'S SCOPE OF PRACTICE?**
- No formal CDB ruling, but "all necessary related procedures needed to provide dental treatment" = allowed
 - CDA: likely: when used for screening: NOT for formal COVID-19 diagnosis (= medical practice & must be reported)
 - OSHA requires screening for ATD's
 - State prohibits dentists from obtaining Laboratory Field Services (LFS) licensure to process rapid tests in office and report positive cases to CDPH (Cal Dept. Pub. Health)
- 20 **CDA IS ADVOCATING FOR DENTISTS TO TEST FOR COVID IN OFFICES & RECEIVE PAYMENT USING WAIVED TESTS**
- "Waived, rapid tests" = simple, do not require lab instruments & technicians, low risk of errors
 - Ex: Pregnancy & A1C glucose tests
 - DDS must be appropriately trained & use FDA cleared COVID-19 tests.
 - >100 tests with emergency-use authorization for symptomatic pts only! (none for asymptomatic patients)
 - Test reliability = limited
 - Informed consent required
 -

21 **2 LEGAL REQUIREMENTS TO PROVIDE IN-OFFICE TESTS**

- Primary application: Laboratory Field Services (LFS) license from California Department of Public Health (CDPH). Will include:
- Clinical Laboratory Improvement Amendments (CLIA) Certificate of Waiver from the Centers for Medicare & Medicaid Services (CMS)
- Fees, renewal @ 2 yrs, inspection upon complaints

22 **DENTISTS MAY ORDER & ADMINISTER COVID VACCINES**

- Exec. Order N-39-20, Dept of Consumer Affairs amended DDS scope of practice (BP&C 1625). CDC training required:
- Best practices, COVID-19 vaccine safety, Moderna & Pfizer-BioNTech COVID-19 vaccine info
- Must give FDA authorized vaccine to over 16 yrs old. & be able to give epi & diphenhydramine for allergic reactions.

23 **STATE WORKERS COMP CHANGES**

- Workers who contract COVID-19 are presumed to have a workplace injury covered by the workers' compensation system
- Document safety system & training
- Screen daily

24 **COVID-19 RESOURCES**

- CDC <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>
- Join osap Organization for Safety, Asepsis and Prevention www.osap.org
 - COVID-19 checklist: https://cdn.ymaws.com/www.osap.org/resource/resmgr/dentaquest/INC-1353_Best_Practices_for_.pdf
 - Infection Control Coordinator certification: DANB.org, osap.org <https://www.osap.org/page/RoleofICPC?> – OSAP initiative
- CDA Practice Support
- ADA COVID-19 Workplace Hazard checklist <https://files.constantcontact.com/315b0f2b001/a48e311e-2cf7-4d79-800c-5e3bc2053874.pdf>
-

25 **2020 RULES**

- July 1, 2020: Paid family leave extended from six to eight weeks
- State Disability Service program provides wage replacement to workers who take time off from work for an ill child, spouse, parent, grandparent, sibling, or domestic partner, or to bond with a child within one year of birth or adoption.

- The Families First Coronavirus Response Act provides up to two weeks of paid sick leave and an additional 10 weeks of leave for eligible employees for school and child-care closures due to COVID-19.

-

26 **DPA UPDATE - PAPER PRESCRIPTIONS**

- Jan. 1, 2021: (AB) 1753 MUST use DOJ Approved Security Prescription Printers and required security prescription forms with unique twelve (12) character serial number & corresponding barcode compliant with the requirements introduced in AB 149 & HSC 11162.1.

Serial # AAANNNANNNNN

27 **DPA UPDATE - PRESCRIPTIONS**

- CDA recommends:
 - e-prescribing Schedule II+ prescriptions now
- Jan 1, 2022: E-prescriptions required
- BUT have paper back-up
- Serial number is not reported on an e-prescription. The Electronic Prescription Reference Number is reported on an e-prescription.

28 **2020 RULINGS**

- Jan 1, 2020: Updated minimum wage to “living wage”
 - \geq 26 employees: \$13/hr
 - \leq 25 employees: \$12/hr
 - Cities may exceed these amounts
 - CDA provides chart by location
 - Wages to reach \$15/hr by 2022

-

-

29 **JANUARY 1, 2020: UPDATED SEDATION/ANESTHESIA CONSENT FORM REQUIRED**

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

AB1622

30 **REMINDER: PAST RULINGS**

- Jan 1, 2019: When prescribing opioids to minors, must have mandatory informed-consent discussion about:
 - Risk of opioid addiction & overdose
 - Higher risk for those with mental / addiction disorders
 - Danger: opioids + alcohol or CNS depressants (benzodiazepines)
 - SB 1109

31 **REMINDER: PAST RULINGS**

- Prescriber must offer naloxone (FDA-approved opioid reversal drug) IF:
 - Dosage \geq 90 morphine (milligram-equivalents) MEQ/day
 - Opioid prescribed with benzodiazepine
 - Pt. = risk for OD, +/or history of OD / substance-use disorder
 - AB 2760

–

32 **REMINDER: PAST RULINGS**

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

33 **REMINDER: PAST RULINGS**

- January 1, 2019: Updated Lactation Accommodation location requirements Section 1031 of the Labor Code
 - Employers should provide a location other than a bathroom.

34

- Display mandatory poster : “Transgender Rights in the Workplace” SB 396
- Must have all-gender restrooms in addition to “men” and “women”
- Single-stall restrooms – post universally accessible and “all gender” sign.

35 **EXPANDED SEXUAL HARASSMENT PREVENTION TRAINING**

- January 1, 2020. SB 1343
- If \geq 5 employees
- Managers require 2 hrs. Training
- Others require 1 hr.
-

36 **REMINDER: PAST RULING**

- January 1, 2019: New infection control standard for procedures that expose dental pulp: irrigation must be “sterile or contain recognized disinfecting or antibacterial properties.” Post & comply with: CCR Title 16, sect §1005, CDC & OSHA rules

(b) (1-3)

B&PC §1683

37 **DUTIES OF THE BOARD**

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

38 **DUTIES OF THE BOARD**

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

39 **CDB EXECUTIVE OFFICER**

- Board’s Exec. Officer is authorized to adopt, amend, or repeal rules & regs necessary to enforce DPA.
- Exec. Officer can approve settlements for revocation, surrender, or interim suspension of licenses without Board vote.
- Title 16, Sec. 1001

40 **CONTENT OF DPA**

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

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

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

42 **EXEMPTIONS**

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

43 **WHAT IF YOUR PATIENT REFUSES X-RAYS?**

- 44 **INFORM PATIENT IN WRITING; DO NOT TREAT!**
 PATIENTS HAVE REPORTED DENTISTS FOR REQUIRING X-RAYS!
 X-RAYS = STANDARD OF PRACTICE FOR ASSESSMENT & TX
 "ILLEGAL TO TREAT WITHOUT THEM"

45 **COMMUNICATION ISSUES**46 **PATIENT'S PERCEPTION DETERMINES LITIGATION**47 **WHO CAN TURN US IN?****....AND HOW?**

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

48 **SUBMIT EMAIL ADDRESS TO BOARD**

- If licensed by DBC or DHBC
- Subject: "Electronic Mail Address Requirement"
- Name, license type, License #, email
- Send to: dentalboard@dca.ca.gov
- Also notify Board - address change
- Privacy protected

49 **ALL CLINICIANS: I.D. YOURSELF!**

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

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

Every DDS MUST provide notice to each patient:

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

51 **NOTICE TO PATIENTS OF LICENSURE BY DENTAL HYGIENE BOARD**

Every DH MUST provide notice to each patient:

"Dental Hygienists are licensed and regulated by the Dental Hygiene Board of California
Business and Professions Code
Division 2, Ch. 4, Article 9
Sections 1900 - 1966.6"
<https://www.dhbc.ca.gov/>

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

Must post (update annually):

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

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

53 **ADVERTISING**

- Don't lie
- Unlawful: any form of false, fraudulent, misleading or deceptive claim, image, statement related to practicing dentistry or profiting from dental products
- Fee & discount ads must be accurate, precise with disclosures

54 **DDS LICENSING**

- Illegal to:
 - Misrepresent DDS credentials,
 - Sell, buy or counterfeit or fraudulently use dental degree, license or transcript or
 - Practice without valid license

55 **LICENSURE BY PORTFOLIO**

- Dental students graduate with "portfolio" model exam process over the final year of dental school
- Replaces Board exam
- Not a requirement, but allowed

56 **BOARD COMMITTEES**57 **FCS CREDENTIALING COMMITTEE**

Elective Facial Cosmetic Surgery

- 3 oral & maxillofacial surgeons
- 2 physician / surgeons
 - Category 1 permit: facial bone & cartilage structures
 - Category 11 permit: soft-tissue contouring, rejuvenation
 - 26 DDSs have permits
 -
-
-

58 **DENTAL ASSISTING COUNCIL OF THE DENTAL BOARD OF CALIFORNIA**
§ 1742

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

59 **DENTAL HYGIENE BOARD OF CALIFORNIA (DHBC) § 1900-1966.6**

- Represents RDH's, RDH EF's (Extended Functions), RDH AP's (Alternative Practice)
- 1st of its kind in U.S.
- 9 members, appointed by Governor
 - 4 public
 - 1 practicing DDS
 - 4 RDH's: 1 educator, 1 RDHAP
- Contact DHBC: (916) 263-1978
- <https://www.dhbc.ca.gov/>

60 **DENTAL HYGIENE BOARD OF CALIFORNIA (DHBC) § 1900-1966.6**

- Issue, review, revoke licenses
- Develop & administer exams
- Adopts regulations
- Determines DH fees & CE regs
- Only DH Committee/Board with complete control over school accreditation
- New DH Schools must show need & feasibility to DHBC B4 CODA

61 **DH LICENSING: CAL ACCEPTS:**

- Western Regional Examination Board (WREB) exam
- Central Regional Dental Testing Services (CRDTS)

62 **REMIEDIATION FOR FAILED DH LICENSE EXAMINEE**

- If applicant fails clinical exam 3 times or fails after a single incident of causing gross trauma to patient; must complete approved program of remediation.
-
-
- CCR Title 16, Section 1108

63 **RDA LICENSING EXAM**

- Clinical exam required but testing sites now shut down (COVID-19)
-

64 **MUST A LICENSE APPLICANT DISCLOSE PREVIOUS DISCIPLINE OR LICENSE REMOVAL (EVEN IF OUT OF STATE)?**

65 **YES!**

LICENSE APPLICANTS MUST DISCLOSE PREVIOUS DISCIPLINE/LICENSE REMOVAL (FROM ANY STATE)

66 **DOES DISCLOSURE OF PAST CONVICTIONS PREVENT LICENSURE?**

67 **DOES DISCLOSURE OF PAST CONVICTIONS PREVENT LICENSURE?
NO**

CASE:

- RDA issued probationary license due to disclosing on license application past conviction for attempting to cross her vehicle over US boarder with 2 undocumented aliens.

68 **AUXILIARY SCOPE OF PRACTICE
DPA LEGALLY DEFINES
(UPDATES @ 7 YEARS)**

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

69 **RDA DUTIES, SETTINGS**

- Allowed duties specifically listed
- All other duties = NOT allowed & are illegal

–Such duties represent dentistry; require knowledge, skill, training of licensed dentist)

- All auxiliary duties & settings (supervision), must be posted in office, visible to all employees

70 **SPECIAL PERMITS**

- 2 Dental Assistant categories
 - Orthodontic Assistant (OA)
 - Dental Sedation Assistant (DSA)
 - DA's may earn permits
 - IC & DPA CE required to keep permit

71 **SUPERVISION**

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

72 **SUPERVISION**

- Direct supervision:
 - Procedures based on instructions given by licensed dentist
 - Dentist must be physically present in tx facility during performance of those procedures: (B&P C§ 1741)
 - General supervision:
 - Procedures based on instructions given by licensed dentist
 - Dentist's physical presence not required during procedure

73 **VIRTUAL DENTAL HOME**

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

74 **WHAT IS ALLOWED?**

- DA: unlicensed, may perform:
 - specified dental supportive procedures under supervision of licensed dentist:
 - technically elementary, completely reversible, will not cause possible harm
 - Supervising licensed DDS determines competency
- RDA: licensed,
 - may perform: DA duties + other specified procedures, under varying supervision
 - Requires graduation from RDA program or 15 months DA experience + pass

exam

- RDAEF: licensed + completed post-licensure clinical & didactic approved training & testing, may perform: RDA duties + others

75 **DR. HAS LEFT**

RDH & RDA ARE WORKING

- Is it OK for RDA to do coronal polishing under direct supervision of RDH?

76 **DR. HAS LEFT**

RDH & RDA ARE WORKING

- Yes. BUT RDH must determine teeth are calculus-free PRIOR to polishing.
- RDA / RDAEF may also apply topical fluoride & sealants if trained – direct supervision of RDH or RHDEF
- Polishing is not “prophylaxis”
(B&P C§1753.5)

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

78 **YOU**

- Follow up
- Keep records
- Document!

79 **RDA MUST HAVE ADDITIONAL APPROVED TRAINING FOR: § 1752.4**

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

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

81 **RDAEF DUTIES, SETTINGS**

- RDAEF: completed post licensure approved training & exam;
- All RDA duties plus higher risk duties: (supervision – D or DD)
- Settings: under jurisdiction & control of dentist in approved facility
- DDS May use no more than 3 RDAEF's or RDHEF's B&PC § 1753.6-7
-

•

82 **RDH WHAT IS ALLOWED?**

- RDH: licensed, may perform all specified DH duties & DA & RDA duties under specified supervision if licensed by Dec. 31, 2005. If licensed after Jan 1, 2006, must earn RDA license (B&P 1907)
- RDHEF: same as RDAEF - operative duties under supervision, with training, same settings
- RDHAP: Same RDH scope, practice independently;
 - without supervision
 - but with prescription from dentist or physician & surgeon

83 **WHAT RDH DUTIES REQUIRE DIRECT SUPERVISION?**84 **A:**

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

85 **RDH SCOPE § 1911**

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

86 **RDH SCOPE DOES NOT INCLUDE:**

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

87 **RDH SCOPE DOES NOT INCLUDE:**

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

88 **DIRECT OR GENERAL SUPERVISION?**

- Dr is coming back from lunch, Hygiene patient wants nitrous oxide.
- Dr. calls when she is in the parking lot.
- Can RDH start N₂O before Dr. arrives?

89 **DIRECT SUPERVISION?**

- Can RDH start N₂O before Dr. arrives?
- NO

90 **DH'S TRAINED IN BOTOX & FILLERS....**

- CE is offered to DH's in botox & dermal fillers
- Is the administration of botox & fillers legal?

91 **NO**

92 **DH LAWS**

- License denied / suspended if fail to pay taxes
- RDH must be employed by DDS
- RDHAP may be:
 - self-employed as sole proprietor of alternative hygiene practice in areas certified as having dental healthcare shortage
 - employed by another RDHAP as independent contractor

93 **WHAT IS ITR?**

INTERIM THERAPEUTIC RESTORATIONS

- Removal of caries with hand instruments
- Local anes. "shall not be needed"
- Direct provisional adhesive restoration (self-setting or resin-modified glass ionomer cement)
- Follow-up care (OH, fluoride...)
- Must be part of comprehensive dental plan in a dental home

94 **INTERIM THERAPEUTIC RESTORATIONS (ITRS) BECOMES OPERATIVE 1/1/2018 AB 1174**

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

95 **ITR SELECTION CRITERIA**

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

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

- Licensed with approved post-licensure training for AP

- May treat a pt. for up to 18 mos. without proof of DDS visit.
- Then, must have prescription from DDS or MD & surgeon: required to include:
 - Date services prescribed
 - Expiration date (up to 2 years)
 - DH services, special instructions
- Prop AB 502: allows tx of pt. after 18 months without DDS's prescription
-

97 **RDHAP**

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

98 **LICENSE RENEWAL**

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

99 **LICENSE RENEWAL**

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

100 **CASE: UNLICENSED PRACTICE OF ORTHODONTICS**

- DA advertised & practiced orthodontics
- DA "training" to attended dental school in Mexico
- DDS allowed, profited
- Dr: "aiding and abetting", license revoked

101 **UNLICENSED "DENTISTS"**

- Poor infection control
 - Disease transmission
- Poor quality care
 - Adverse outcomes
- Drug risks, poor pain management (alcohol often used)
 - Accidents, injury, death

102 **THE CHALLENGES**

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

- Protecting & educating public

103 **CE REQUIREMENTS**

- Dentists – 50 units
- ADHP's – 25 units (RDHAP – 35)
- Must include Infection Control (2 hrs.), CDPA (2 hrs.) & CPR (mandated content) by licensed provider
- Special permit holders (GA, CS): subject- specific CE required for permit renewal
- DA's must pass:
 - IC (8 hours) & radiation safety once
 - CDPA (2 hr.) once
 - BLS must be kept current

104 **MANDATORY CE**

- 80% must be scientifically oriented courses directly related to dental practice, benefiting patients
- 20% may primarily benefit DHCW, but must also benefit pt.
- 50/50 (live vs. remote) rule still applies
 - 50%: Clearly defined "live" course work
 - May be online if live
 - 50%: Clearly defined "home study"
 - Includes recorded / on-line / computer courses

105 **NON-ELIGIBLE CE SUBJECTS**

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

106 **Q:**

- Do we have to wear a name tag?

107 **A:**

- No, if license is in public view
- Workers must ID self
 - (Nametag: 18 pt. Type or larger)
- Unless safety risk

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

109 **YES BUT....**

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

110 **CASE: RDH FAILS TO DOCUMENT RECORDS**

- RDH often uses only initials, sometimes does not ID self on written records.
-
- Who is liable?

111 **RDH FAILS TO DOCUMENT RECORDS**

-
- Who is liable?
- Both DDS & RDH
- Dental records are legal records

112 **CASE: DENTAL RECORDS ALTERED**

- Pt. chart listed restorations on 12 teeth
- Office staff added teeth, other treatment and changed dates for insurance submission
- Office staff later changed records back

-
-

113 **CASE: DENTAL RECORDS ALTERED**

- Insurance fraud
- Altering patients records
- Aiding and abetting
- Revoked licenses: DDS, RDAEF, fictitious name, Additional office
-

San Jose, CA

-

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

115 **2 HIPAA STANDARDS**

- Privacy
 - Control of PHI disclosures
- Security

–Safeguard PHI specifically in electronic form (ePHI)

116 **OMNIBUS RULE - 2013**

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

117 **BE CAREFUL ABOUT PAPER**

118 **RECENT BREACHES**

- Office IT found data breach
- Dental patient records placed on social media
- Had to inform patients, fined for HIPAA violation

119 **HIPAA**

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

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

- Assistant took drive with patient info home, worked on home computer
- Lost drive
- Fined \$150,000!
- So: Cloud back-up
- Buy "data compromise" insurance
(HIPAA audits & info: hhs.gov)

121 **MANDATED REPORTING**

- 65% of physical child abuse = visible in head / neck region
- 75% of physical injuries from domestic violence are to head, face, mouth & neck
- Dentists, Hygienists, assistants (DA's & RDA's), within professional capacity / scope of employment = responsible to report suspected child, elder, domestic & disabled: abuse & neglect.
- Report "reasonable suspicions" (low threshold)
- Animal control officers = mandated reporters: bad people abuse animals & people
- \$1000 fine & jail for NOT Reporting (liable for civil or criminal prosecution)

122 **ABUSE = A CRIME**

PUNISHABLE BY IMPRISONMENT – COUNTY JAIL

Anyone who willfully attempts to or does:

- Cause or permit any child to suffer
- Inflict unjustifiable physical pain or mental suffering
- Cause or permit injury or danger to body or health

Cal Penal Code §273a

123 **IT IS A FELONY TO:**

- Inflict upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition
- Punishment: prison

Cal Penal Code §273d

•

124 **WHAT IS ABUSE?**

- Spectrum of repetitive behavior
- Non-accidental physical injury by another person
- An act or failure to act resulting in:
 - Physical abuse / neglect or:
 - Sexual abuse / exploitation, including attempted abuse or:
 - Emotional abuse
- Fatal abuse is often preceded by minor maltreatment

•

(Pen. Code §11165.6, §11160)

•

125 **REPORTABLE ABUSE**

1 CHILD, ELDER & DEPENDENT ADULT, DOMESTIC VIOLENCE

- 2
- Child = under 18 yrs.,
 - Elder = 65 yrs. + older
 - Special disabilities – any age

•

• (Pen. Code §11165.6)

•

•

126

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

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

- Must report suspected child abuse to a county welfare agency or police / sheriff
 - Must report elder or dependent adult abuse to county welfare
 - Domestic (physical) violence: to local police
 - Call, written report – 36 hrs.
- Cal Penal Code § 11165.9, 11166(a)

128 **CLINICAL SIGNS OF ABUSE**

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

129 **STRANGULATION**

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

130 **STRANGULATION**

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

131 **STRANGULATION: LOOK FOR:**

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

132 **DENTAL NEGLECT**

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

133 **ELDER / DEPENDENT ADULT ABUSE=**

- Willfully causing, permitting, inflicting or attempting:
 - Physical abuse, neglect, fiduciary abuse, abandonment, isolation, sexual assault
 - Other treatment resulting in physical harm, pain or mental suffering
 - Deprivation of goods & services necessary to avoid physical harm or physical suffering

Cal Penal Code §368, Cal Welfare & Institutions Code

§15510.07

134 **ELDER ABUSE**

WHAT SHOULD YOU LOOK FOR?

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

135 **DOCUMENTATION / REPORTING**

- Objective observations, descriptions
- Quote pt. comments
"My husband went off the rails, so here I am"
- **Patient / Provider privilege does NOT apply: MUST REPORT
- Observe demeanor, behavior
"pt. Became quiet and fearful near caregiver"

136 **CALL, THEN WRITE A REPORT**

- If immediate danger: 911!!!
- Call law enforcement or:
- Call County Child or adult Protective Services ASAP
- Submit written report – 36 hours
- Reporter is immune from criminal & civil liability!
- NOT reporting = misdemeanor
-

CPC §11165.9, 11172

137 **EMPLOYEE ACKNOWLEDGEMENT REQUIRED**

- Employees must sign a statement acknowledging responsibility (C.P.C. 11166.5[a])
- Employer provides statement & copy of Penal Code sect. 11165.7, 11166 and 11167
- Sign, date & witness forms
- Place in personnel file & give copies to employee
- Employer "encouraged" to provide training
- Lack of training does not exempt worker

138 **LEGAL PROTECTION OF MANDATED REPORTERS**

- Restriction, sanction, prevention of reporting by employers/managers is illegal
–Establish internal process
- Reporters have immunity from criminal or civil liability

- Reporters identity is protected within agencies

139 **REPORT FORMS**

- Elder or Dependent Adult Abuse Report (SOC 341) – <http://www.cdss.ca.gov/Adult-Protective-Services>
- Suspected Child Abuse Report (BCIA 8572) – <https://oag.ca.gov/childabuse/forms>
- Suspicious Injury Report (CAL OES 2-920)-
<http://www.caloes.ca.gov/GrantsManagementSite/Documents/2-920%20Mandated%20Suspicious%20Injury%20Report.pdf>

140 **SCOPE OF PRACTICE CASES**

141 **IS THIS OK?**

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

142 **NO**

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

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

144 **NO**

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

145 **Q:**

- Can RDA's use ultrasonic scalers?

146 **A:**

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

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

148

149 **CAN A DDS USE BOTOX?**

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

- Category 11 permit: soft-tissue contouring, rejuvenation
-
-

150 **SHOW YOUR QUALIFICATIONS**

....IF YOU DO THESE:

- Top 5 minimally invasive cosmetic procedures being done:
 - Botox
 - Dermal fillers
 - Chemical peel
 - Laser hair removal
 - Microdermabrasion
- Must post degree/ qualifications
- Must be licensed (check insurance!)

151 **CAN DENTISTS OFFER ORAL PIERCING?**

152 **ORAL PIERCING IS NOT PRACTICING DENTISTRY**

153 **CAN YOU REMOVE TATTOOS?**

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

155 **CONTROLLED SUBSTANCES ACT (CSA) = FEDERAL LAW**

- 21 US.C. §§801-890, 21 CFR §§1300-1316
- Abide by most stringent law: usually State
- Practitioner's Manual:
 - <https://www.deadiversion.usdoj.gov/pubs/manuals/pract/index.html>
- Drug violations: DDS held responsible
 - “someone to punish”
- Citations based only on act, irrespective of intent or knowledge

156 **CONTROLLED SUBSTANCES ACT SCHEDULES**

- Sched. 1: no accepted medical use (Heroin, LSD) – illegal to use in dentistry
- Sched. 11: high potential for abuse, severe psychological or physical dependency (morphine, codeine, opium)
- Sched. 111: lower potential for abuse than sched. 11 (Vicodin, Tylenol w/codeine)
- Sched. 1V: lower potential for abuse than sched. 111 (Darvon, Xanax)
- Sched. V: lowest potential for abuse (Robitussin AC, Phenergan w/codeine)

157 **CURES 2.0**

- “Controlled Substance Utilization Review & Evaluation /System”
- = State database of patients with controlled-substance abuse history
- Dr.'s may access only for pt. care

- HIPAA & state health info. privacy laws apply.
- Access: oag.ca.gov/ures-pdmp
- (Civ: 1798-1798.1)

158 **PRESCRIPTION DISPENSING**

- Labeling requirements (dispensing in coin envelope or container):
 - Patients name
 - Doctor’s office name
 - Date dispensed
 - Name of drug
 - Dosage
 - Quantity
 - Exp. Date
 - Directions for use
- Meet State & Local laws for storage – at ALL locations drugs are kept
- Records must be kept in 3 places: pt. Chart, separate in log & out log
-

159 **E-PRESCRIBING CONTROLLED DRUGS**

- Avoid paper forms, improve security
- CDA.org
- Remember: Jan 1, 2021: paper prescriptions must have unique twelve (12) character serial number & corresponding barcode compliant with the requirements introduced in AB 149
-

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

- Transfer to “reverse distributors”
- Local DEA field office has authorized list
- Use official forms, keep records 2 years
 - Sched. II drugs: Use DEA form 222
 - Sched. III-V drugs: can use invoice

161 **OVERDOSE CASE:**

- California DDS gave 4 year-old ~4 times recommended anesthetic dosage for weight to ext. 15 primary teeth
- Pt. seizures (Survived)
- Dr. Did not consider weight
 - “Lidocaine toxicity/overdose”
- Dr. Failed to report incident to Board w/n 7 days

162 **OVERDOSE CASE: VIOLATIONS**

- Unprofessional conduct: excessive drug prescribing/administering
- Gross negligence: failed to follow prescribing standards, calculate dose based on weight & correctly tx. Plan
- Incompetence
- License & Conscious Sedation certificate revoked
-

163 **CASE: FATALITY**

- Pt died during 2-hour perio surgery with conscious sedation
- Violations:
 - failure to correctly assess pt's health risk category (ASA 1 instead of 4)
 - failure to correctly monitor pt's vital signs
- License and multiple office licenses revoked but stayed (5 years probation). Conscious sedation Permit revoked

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

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

165 **PRESCRIBING ABUSES**

- Lack of documentation
- Over prescribing to both patients and non-patients
 - Must show doctor-patient relationship
 - Must show relationship between drugs & dental treatment
 - Dr. must see pt. first,
 - ONLY Dr. may prescribe

166 **CAN YOU SELF-PRESCRIBE?
(CONTROLLED DRUGS)**

167 **NO**

168 **UNPROFESSIONAL CONDUCT**

- Concerns both patients & employees:
 - Lack of informed consent
 - Negligence
 - Sexual misconduct

- B & P Code 1680 “the committing of any act / acts of gross immorality substantially related to the practice of dentistry is considered unprofessional conduct.”
- Spouse may be patient

169 **UNPROFESSIONAL CONDUCT**

- Past felony convictions may affect licensure
- New convictions if substantially related to RDA, RDH, or DDS qualifications, functions or duties must be reported to the DBC, may be grounds for license revocation
- Failure to notify CDB of indictment, guilty verdict by military, any state or fed authority = felony

16 CCR §1018.05

170 **CASE: RDA LICENSE REVOKED**

- RDA convicted of (accessory to) armed robbery. Drove get-away car.
- Failed to report felony conviction to board
- Must pay costs of investigation, enforcement

171 **UNPROFESSIONAL CONDUCT**

FAILURE TO:

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

172 **UNPROFESSIONAL CONDUCT**

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

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

- License Revoked
- Dr. Placed temporary crown
- Notified patient office was closing in 1 week, could not seat crown
- Failed to attend to pt. tx, to refer & to transfer records
- Did not provide ample opportunity for pts to secure other dental services
- Abandonment: 2 prosecutions: unprofessional conduct & dental malpractice

174 **CASE: GEN DDS DOING ORTHO - FIXED APPLIANCES 1**

- 14 y/o pt, class III occ.
- Extracted tooth, no informed consent or reason given to pt
- Tx result: flared, mobile max & mand anteriors over-jet, over-bite, unstable occlusion

175 **CASE: GEN DDS DOING ORTHO - FIXED APPLIANCES 2**

- 5 other cases showed violations of consent, record keeping & tx not meeting standards of practice
- Charges:
 - Unprofessional conduct
 - Incompetence
 - Repeated acts of negligence
- License revoked

176 **CONSENT: OPPORTUNITY TO MANAGE PT & PROTECT SELF**

- 2 best risk management strategies:
 - Malpractice insurance
 - Consent
- Who is least likely to be sued?
 - Best communicators!
- Consent is ALWAYS part of EVERY malpractice case
- WHY? Everyone has the right to make decisions about their body (even bad decisions)

177 **CONSENT**

- Not getting consent & tx beyond consent (medical malpractice) = battery
- Forgetting consent = negligence
- Consent establishes responsibility
- ALWAYS record consent, even verbal
- Informed refusal: must provide enough info for decision
-

178 **CONSENT: 2 TYPES**

- Simple (when risks = low & commonly understood)
 - Cleanings, simple fillings
- Informed (written): required for surgery, extensive tx, or large number of simple procedures
- Must explain: Nature of tx, risks, complications, likelihood of success, expected benefits & alternatives (including NO tx & those risks), conflict of interest
- Harmful or offensive touching without effective consent = battery

179 **INFORMED CONSENT**

- Must be made knowingly & given freely
- Express vs. Implied consent
- Methods:
 - Verbal

- Written
- Pictures
- Video & audio recordings
- Forms
- DR. Determines capacity to consent:
 - Pt. = rational, understands & freely commits
- Dentist alone = responsible, must be involved in consent

180 **CONSENT TO TREAT MINORS**

- Under age of 18 = minor
- Minors cannot legally consent to their tx or financially commit
 - Includes minors who are pregnant or are mothers
- Dr.'s must not treat without clearly documented parental consent (potential liability)
- EXCEPTION: fully documented consent prior to serial tx (ortho) – renew if changes, or yearly

Cal. Fam. Code §6500

181 **MINORS MAY CONSENT IF:**

- Minor is married (validated)
- Minor is on active duty in U.S. Military
- Minor is emancipated by court
- Minor is 15 yo, living away from home & managing own finances

Cal. Fam. Code 7112, *et seq.*

182 **INCAPACITATED ADULTS: CONSENT**

- Power of consent goes to legal decisionmaker or nearest available family member
- Requires caregivers authorization affidavit: get consent for EVERY procedure
-

183 **PROTECT INDIVIDUAL AUTONOMY**

**INFORMED CONSENT &
INFORMED REFUSAL**

184 **CAN BIO PARENTS
GIVE CONSENT?**

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

- If unsure delay tx unless risk of harm

185 **MINOR CONSENT**

- Adoptive parents: yes, same as bio parents
- Step parents: NO, never unless adopted child
- Older sibling?
- Teen mother?
- Aunt, other family, not legal guardian?
- Minor living with adult family member & parents agree, need caregivers authorization affidavit

186 **FINES - CONSIDERATIONS**

- Citations follow violations. But fines vary:
- Good or bad faith exhibited
- Nature & severity of violation
- Evidence of willful violation
- History of similar violations
- Cooperation with Board
- Attempted mitigation of harm or injury caused by violation
- Other matters requested by Board
-

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

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

188 **COMMUNICATING WITH THE BOARD**

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

189