



Friday, April 20, 2018

Dental Hygiene Committee of California

Legislative & Regulatory Subcommittee

Agenda



Notice is hereby given that a public meeting of the Legislative and Regulatory Subcommittee of the Dental Hygiene Committee of California (DHCC) will be held as follows:

LEGISLATIVE AND REGULATORY SUBCOMMITTEE MEETING

Friday, April 20, 2018
Doubletree by Hilton San Diego – Mission Valley
Catalina II
7450 Hazard Center Drive
San Diego, CA 92108
9:00 am - adjournment

Legislative and Regulatory Subcommittee Members:

Garry Shay, Public Member, Chair
Noel Kelsch, RDHAP
Sandra Klein, Public Member
Timothy Martinez, DMD, Public Health Dentist

Upon Conclusion of the Licensing and Examination Subcommittee meeting.

Agenda

LEG 1 – Roll Call

LEG 2 – Public Comment for Items Not on the Agenda

[The DHCC may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 & 11125.7(a)]

LEG 3 – Chairperson's Report

LEG 4 – Approval of the November 17, 2017, Leg/Reg Subcommittee Meeting Minutes

LEG 5 – Status Report on Legislative Bills of Interest to DHCC:

- AB 767, Quirk-Silva, Master Business License
- AB 1659, Low, Healing Arts Boards: Inactive Licenses
- AB 2078, Daly, Sex Offenses: Professional Services
- AB 2138, Chiu, Licensing Boards: Denial of Application: Criminal Conviction
- AB 2264, Brough, Professions and Vocations: Fees
- AB 2409, Kiley, Professions and Vocations: Occupational Regulations
- AB 2483, Voepel, Department of Consumer Affairs: Office of Supervision of Occupational Boards

- AB 2643, Irwin, Dentistry: General Anesthesia: Health Care Coverage
- SB 244, Lara, Privacy: Agencies: Personal Information
- SB 707, Cannella, Medi-Cal: Denti-Cal Advisory Group
- SB 762, Hernandez, Healing Arts Licensee: License Activation Fee: Waiver
- SB 984, Skinner, State Boards and Commissions: Representation: Women
- SB 1137, Vidak, Veterans: Professional Licensing Benefits
- SB 1148, Pan, Medi-Cal: Restorative Dental Services
- SB 1465, Hill, Professions and Vocations: Examinations
- SB 1482, Hill, Dental Hygienists (DHCC Sunset Review Bill)
- Update on prior Legislative Bills of Interest to DHCC

LEG 6 – Discussion and Possible Action, and Recommendation to the Full Committee to Amend CCR, Title 16, Division 11, § 1103 Definitions, to Update Reference to the Commission on Dental Accreditation's Most Current Revision to Accreditation Standards for Dental Hygiene Educational Programs

LEG 7 – Discussion and Possible Action, and Recommendation to the Full Committee to Adopt CCR, Title 16, Division 11, § 1105.5 Radiographic Decision-Making and Interim Therapeutic Restoration Course for RDH, RDHAP, and RDHEF

LEG 8 – Future Agenda Items

LEG 9 – Adjournment of the Legislative and Regulatory Subcommittee Meeting

DHCC members who are not members of this subcommittee may attend meetings as observers only, and may not participate or vote. Action may be taken on any item listed on this agenda, including information only items. Items may be taken out of order for convenience, to accommodate speakers, or maintain a quorum. All times are approximate and subject to change. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-1978 or access the Committee's Web Site at www.dhcc.ca.gov.

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Brittany Alicia at (916) 576-5001 or e-mail at: Brittany.alicia@dca.ca.gov or send a written request to DHCC at 2005 Evergreen Street, Ste. 2050, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.



Friday, April 20, 2018

Dental Hygiene Committee of California

Legislative and Regulatory Subcommittee Meeting

Agenda Item LEG 2:

Public Comment for Items Not on the Agenda

[The DHCC may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 & 11125.7(a))]



Friday, April 20, 2018

Dental Hygiene Committee of California

Legislative and Regulatory Subcommittee Meeting

Agenda Item LEG 3:

**Chairperson's Report
A Verbal Report Will Be Given**



Friday, April 20, 2018

Dental Hygiene Committee of California

Legislative and Regulatory Subcommittee Meeting

Agenda Item LEG 4:

**Approval of November 17, 2017 Legislative
and Regulatory Subcommittee Meeting
Minutes**



Legislative & Regulatory Subcommittee Minutes

November 17, 2017

Department of Consumer Affairs
Dental Hygiene Committee of California
2005 Evergreen Street, Hearing Room
Sacramento, CA 95815

DHCC Members Present:

Susan Good, Chairperson, Public Member
Michelle Hurlbutt, Registered Dental Hygienist (RDH) Educator
Nicolette Moultrie, RDH

Members Absent:

Gary Shay, Public Member

DHCC Staff Present:

Anthony Lum, Interim Executive Officer
Brittany Alicia, Office Receptionist
Nancy Gaytan, Enforcement Analyst
Traci Napper, Licensing Program Analyst
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Educational Specialist
Jason Hurtado, Department of Consumer Affairs (DCA) Legal Counsel for the DHCC

Public Present:

JoAnn Galliano, RDH, DHCC Educational Consultant
Maureen Titus, California Dental Hygienists' Association (CDHA)
Vickie Kimbrough, Program Director (Taft College) and CDHA
Mary McCune, California Dental Association (CDA)

Roll Call and Establishment of a Quorum

Susan Good, Chairperson, called the meeting to order at 3:55 p.m. Roll call taken and quorum established with three members present.

Public Comments for Items Not on the Agenda

No comments received.

Chairperson's Report

Chair Good expressed her appreciation to Estelle Champlain, Legislative and Regulatory Analyst, her diligence, and Anthony Lum for taking over in her absence, and presenting the agenda items for the meeting.

Chair Good reported on legislation that the DHCC was following or took a position on, and two of the four support bills were chaptered. The DHCC had ten additional bills that the committee took positions on: Four were to "watch", three were to "oppose", two to "support", and one to "support if amended". All ten have been carried over to the second year of the legislative session. Bills carried over to the new legislative year will be presented as an agenda item.

Chair Good requested comments.

No comments received.

Approval of the May 2, 2017, Legislative and Regulatory Subcommittee Minutes

Chair Good reported the May 2, 2017 minutes were sent as an addendum.

Motion: Michelle Hurlbutt moved to adopt the May 2, 2017 Legislative and Regulatory Subcommittee Meeting Minutes.

Second: Nicolette Moultrie

Chair Good requested comments.

No comments received.

Vote: The motion to adopt the November 17, 2018 Legislative and Regulatory Subcommittee Meeting Minutes as amended.

Vote: Pass (3:0).

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Nicolette Moultrie	X		
Garry Shay	Absent/Excused		

Status Report on Legislative Bills of Interest to the DHCC

Chair Good reported the chart listed legislation was informational purposes only. AB 15 was legislation that the DHCC's position was "supported if amended." Forty million dollars was allocated to help with the Dental-Cal reimbursement that was not part of the bill. The DHCC had concerns regarding procedures that would be reimbursed by Dental-Cal, but did not include the periodontal codes that Registered Dental Hygienists perform. The legislation only included the top 25 codes utilized.

Chair Good requested comments.

No comment received.

Discussion and Possible Action, and Recommendation to the Full Committee to Amend CCR, Title, Division 11 § 1103 Definitions, to Update Reference to the Commission on Dental Accreditation's Most Current Revision to Accreditation Standards for Dental Hygiene Educational Programs

Anthony Lum reported on August 4, 2017 the Commission on Dental Accreditation (CODA) adopted revisions to its Accreditation Standards for Dental Hygiene Education Programs. Specifically, CODA adopted revisions to Standards 2-14, related to competence in providing dental hygiene care for patients with peri-implant disease, and 3-7, related to faculty qualifications. The DHCC recommends updating the current regulations from the 2015 version to the 2017 version of the CODA Standards.

The DHCC uses CODA's Accreditation Standards as the official definition for "approved accreditation standards" and incorporates them by reference into the DHCC's regulations.

The proposed amendment would update the reference in the DHCC's regulation to reflect the most current CODA Accreditation Standards.

Mr. Lum requested that the Legislative and Regulatory Subcommittee recommend to the Full Committee to adopt the proposed amendment to California Code of Regulations Section 1103 and authorize the Interim Executive Officer to make any technical and non-substantive changes to the language and move forward with the rulemaking file.

Chair Good requested comments.

Michelle Hurlbutt moved to insert under 1103(c) the February date that the Commission will be acting on the new standards that will be coming out in 2018. These standards will include "dental hygiene diagnosis". Dr. Hurlbutt requested the Subcommittee wait until CODA adopts that language to insert the most current CODA Standards to utilize as the date the DHCC incorporates by reference.

The motion died due to lack of a second.

Chair Good requested other motions.

Motion: Michelle Hurlbut moved that the Legislative and Regulatory Subcommittee recommend to the Full Committee to approve the proposed amendment to Section 1103 and authorize the Interim Executive Officer to make any technical and non-substantive changes to the language and move forward with the rulemaking file with the insertion of February 2, 2018 instead of February 6, 2015 on item "c'.

Second: Nicolette Moultrie

Dr. Hurlbut asked legal counsel if date can be left "open".

Jason Hurtado advised inserting February 2018 in the place of the older date of February 2016.

Chair Good requested comments.

Comments: Michelle Hurlbut stated the regulations should include the most current CODA Standards incorporated by reference. Additional CODA revisions are forthcoming and if approved, the DHCC should have it incorporated into law.

No further comments received.

Vote: Motion that that the Legislative and Regulatory Subcommittee recommend to the Full Committee to approve the proposed amendment to Section 1103 and authorize the Interim Executive Officer to make any technical and non-substantive changes to the language and move forward with the rulemaking file with the insertion of February 2018 date instead of the proposed August 4, 2017, date.

Vote: Pass (3:0).

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Nicolette Moultrie	X		
Garry Shay	Absent/Excused		

Discussion and Possible Action, and Recommendation to the Full Committee for 2018 Legislative Proposals: Omnibus Bill

Mr. Lum reported that every year the Senate Business, Professions, and Economic Development (BP&ED) Committee plans to introduce two technical, non-substantive committee bills during the 2018 legislative year that revise provisions in the Business and Professions Code relating to the state's licensure of non-health and health professionals and vocations under DCA. One bill will be for non-health related fields and the second for health-related professions. The Committee requires that proposals should include statutory changes that are non-controversial and non-substantive, intended to clarify, update, and strengthen current law.

The Committee's deadline to accept proposed language is January 9, 2018, but should be submitted prior to this date for review.

Mr. Lum, stated the Business, Professions and Economic Development Committee (BP & ED) reached out to see if there was anything the DHCC would request to add to the Omnibus Bill. The original proposal had been addressed in the B&P Code 1917. The DHCC requested to remove the clinical examination as the DHCC no longer administers examinations. This change was considered a substantive change.

Mr. Lum requested if the subcommittee had non-substantive or non-controversial changes to add to the Omnibus Bill.

Chair Good requested comments.

JoAnn Galliano requested information regarding a list that was previously drafted by Estelle Champlain for items requested to add to the Omnibus Bill.

Mr. Lum stated staff will locate the list.

Maureen Titus, CDHA, requested 1911(a) regarding unsupervised duties be added to the Omnibus Bill.

Mr. Lum stated that unsupervised duties would be a controversial issue and defined non-substantive and noncontroversial issues. Mr. Lum stated that this item would be a substantive change.

Lisa Okamoto stated fluoride varnish may be applied without supervision. Ms. Okamoto questioned as to why it was placed in Business and Professions Code Section 1910.

Dr. Hurlbutt stated that California Code of Regulations Section 1107: RDH Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage was written using the Malamed text book as a reference. When the DHCC used the term “intraseptal”, it became controversial. The intent of the injection was always to be interpapillary. Dr. Hurlbutt questioned if the term “interpapillary” could be placed in parentheses.

Nicolette Moultrie questioned if the SLN regulatory package was returning for revision.

Motion: Ms. Moultrie requested staff to collaborate with Mr. Lum and for the Committee to assemble a task force to review other non-substantive and noncontroversial changes to be added to the BP&ED Committee to be included in the 2018 Omnibus Bill.

Second- Michelle Hurlbutt

Chair Good requested comments.

JoAnn Galliano questioned if language was added to place schools on probation and would it be considered controversial.

Mr. Lum stated the subject would be considered controversial.

No further comments were received.

Vote: Motion to review existing language in the BPC to determine whether any language would benefit from any non-substantive and non-controversial changes to the DHCC statutes to be proposed to the BP&ED Committee for inclusion in the 2018 Omnibus Bill.

Vote: Pass (3:0).

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Nicolette Moultrie	X		
Garry Shay	Absent/Excused		

Future Agenda Items

Chair Good requested future agenda items.

1. Chair Good requested revisiting AB 15 to add periodontal permitted duties to the bill.

Dr. Hurlbutt requested clarification if the position is still “support if amended”. Dr. Hurlbutt questioned if the DHCC wrote a “letter of support” to the author to include the periodontal duties for a registered dental hygienist.

Mr. Lum replied that a letter of support was not drafted, as specific content to be added would need to be drafted by the Committee.

Dr. Hurlbutt requested the Committee to draft a letter to the author. Dr. Hurlbutt stated a letter should be sent to the author if the DHCC is taking a position and asking for a change.

Mr. Lum, stated a letter will be drafted to be sent to the author once specific content is received.

Dr. Hurlbutt questioned how other regulatory boards request changes.

Mr. Lum stated when Boards vote for support it is noted on public record and a letter is not necessarily sent to the author.

Chair Good stated if a letter is sent to the author, the letter is added as part of the analysis for support or opposing the bill and it has an impact. The Subcommittee could recommend to the full Committee to direct staff to draft a letter to be sent to the author.

Dr. Hurlbutt requested a letter be drafted by staff to be sent to the author, as AB15 was discussed in length at the last Subcommittee meeting. As the Bill was lived another year, Dr. Hurlbutt requested a letter sent to advise the author that the DHCC will support the Bill with amendment to add periodontal codes for the registered dental hygienist.

Motion: Dr. Hurlbutt moved to recommend to the full committee that a letter of support if amended to add to the top 25 duties to add the periodontal duties for registered dental hygienist.

Second: Nicolette Moultrie.

Chair Good requested questions or comment.

Dr. Hurlbutt requested the DHCC to revisit B&P codes. A list of items to be addressed included educational programs and mobile units.

Mr. Lum stated the DHCC is in possession of a list of items to be addressed.

Ms. Galliano requested legislative language to add cite and fine and probation for educational programs. Language is due in January, unless an author could be found to carry a bill for the DHCC. Ms. Galliano requested to add this as a future agenda item, however, it would need to be addressed prior to the next meeting.

Mr. Lum stated that should not preclude the committee from looking for an author. A teleconference may be held to approve the language.

Ms. Galliano requested the language for cite and find and probation to be added as a future agenda item prior to the January due date.

Revisited Status Report on Legislative Bills of Interest to the DHCC

Dr. Hurlbutt requested the Subcommittee to request a letter to the author under Agenda Item 5.

Chair Good and Nicolette Moultrie agreed to recommend a letter be sent to the author,

Motion: Dr. Hurlbutt moved to direct staff to draft a letter of support for AB 15, if amended, to add the periodontal codes for the registered dental hygienist.

Second: Nicolette Moultrie

Chair Good requested discussion or comments.

No comments received.

Chair Good requested clarification if the Subcommittee will be listing specific periodontal procedures to be added to AB 15.

Ms. Moultrie stated the Subcommittee would like to ensure all periodontal codes are added into the Bill for Dental-Cal.

Dr. Hurlbutt stated there are approximately twelve codes.

Mr. Lum questioned if codes listed were included in the legislation.

Dr. Hurlbutt stated the codes were not included and the DHCC would need to add to the language.

Ms. Moultrie stated she will provide staff with the periodontal codes.

The motion to direct staff to draft a letter of support for AB 15 if amended to add the periodontal codes for registered dental hygienist.

Vote: Pass (3:0).

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Nicolette Moultrie	X		
Garry Shay	Absent/Excused		

Chair Good requested questions or comments.

No comments received.

Chair Good adjourned the meeting at 4:30 p.m.



Friday, April 20, 2018

**Dental Hygiene Committee of California
Legislative and Regulatory Subcommittee Meeting**

Agenda Item LEG 5:

Status Report on Legislative Bills of Interest to DHCC:

- AB 767, Quirk-Silva, Master Business License
- AB 1659, Low, Healing Arts Boards: Inactive Licenses
- AB 2078, Daly, Sex Offenses: Professional Services
- AB 2138, Chiu, Licensing Boards: Denial of Application: Criminal Conviction
- AB 2264, Brough, Professions and Vocations: Fees
- AB 2409, Kiley, Professions and Vocations: Occupational Regulations
- AB 2483, Voepel, Department of Consumer Affairs: Office of Supervision of Occupational Boards
- AB 2643, Irwin, Dentistry: General Anesthesia: Health Care Coverage
- SB 244, Lara, Privacy: Agencies: Personal Information

- SB 707, Cannella, Medi-Cal: Denti-Cal Advisory Group
- SB 762, Hernandez, Healing Arts Licensee: License Activation Fee: Waiver
- SB 984, Skinner, State Boards and Commissions: Representation: Women
- SB 1137, Vidak, Veterans: Professional Licensing Benefits
- SB 1148, Pan, Medi-Cal: Restorative Dental Services
- SB 1465, Hill, Professions and Vocations: Examinations
- SB 1482, Hill, Dental Hygienists (DHCC Sunset Review Bill)
- Update on prior Legislative Bills of Interest to DHCC

2018 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE

Revised 11/16/16

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 3 Legislature Reconvenes (J.R. 51(a)(4)).

Jan. 10 Budget must be submitted by Governor (Art. IV, Sec. 12(a)).

Jan. 12 Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the **odd-numbered year** (J.R. 61(b)(1)).

Jan. 15 Martin Luther King, Jr. Day.

Jan. 19 Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year (J.R. 61(b)(2)). Last day to **submit bill requests** to the Office of Legislative Counsel.

Jan. 31 Last day for each house to **pass bills introduced** in that house in the odd-numbered year (J.R. 61(b)(3), (Art. IV, Sec. 10(c)).

FEBRUARY						
S	M	T	W	TH	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			

Feb. 16 Last day for bills to be **introduced** (J.R. 61(b)(4), (J.R. 54(a)).

Feb. 19 Presidents' Day.

MARCH						
S	M	T	W	TH	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Mar. 22 **Spring Recess** begins upon adjournment of this day's session (J.R. 51(b)(1)).

Mar. 30 Cesar Chavez Day observed.

APRIL						
S	M	T	W	TH	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Apr. 2 Legislature Reconvenes from Spring Recess (J.R. 51(b)(1)).

Apr. 27 Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house (J.R. 61(b)(5)).

MAY						
S	M	T	W	TH	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

May 11 Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).

May 18 Last day for **policy committees** to meet prior to June 4 (J.R. 61(b)(7)).

May 25 Last day for **fiscal committees** to hear and report to the floor bills introduced in their house (J.R. 61(b)(8)).
Last day for **fiscal committees** to meet prior to June 4 (J.R. 61(b)(9)).

May 28 Memorial Day.

May 29- June 1 Floor Session only. No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61 (b)(10)).

*Holiday schedule subject to Senate Rules committee approval

2018 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE

Revised 11/16/16

JUNE						
S	M	T	W	TH	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

June 1 Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).

June 4 Committee meetings may resume (J.R. 61(b)(12)).

June 15 Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)(3)).

June 28 Last day for a legislative measure to qualify for the Nov. 6 General Election ballot (Elections code Sec. 9040).

June 29 Last day for policy committees to hear and report fiscal bills to fiscal committees (J.R. 61(b)(13)).

JULY						
S	M	T	W	TH	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

July 4 Independence Day.

July 6 Last day for policy committees to meet and report bills (J.R. 61(b)(14)).
Summer Recess begins upon adjournment provided Budget Bill has been passed (J.R. 51(b)(2)).

AUGUST						
S	M	T	W	TH	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Aug. 6 Legislature Reconvenes (J.R. 51(b)(2)).

Aug. 17 Last day for fiscal committees to meet and report bills (J.R. 61(b)(15)).

Aug. 20-31 Floor Session only. No committees, other than Conference and Rules Committees, may meet for any purpose (J.R. 61(b)(16)).

Aug. 24 Last day to amend on the floor (J.R. 61(b)(17)).

Aug. 31 Last day for each house to pass bills, except bills that take effect immediately or bills in Extraordinary Session (Art. IV, Sec. 10(c), (J.R. 61(b)(18)).
Final Recess begins upon adjournment (J.R. 51(b)(3)).

*Holiday schedule subject to Senate Rules committee approval

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2018

Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).

Nov. 6 General Election

Nov. 30 Adjournment *Sine Die* at midnight (Art. IV, Sec. 3(a)).

Dec. 3 12 Noon convening of the 2019-20 Regular Session (Art. IV, Sec. 3(a)).

2019

Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

LEGISLATIVE BILLS OF INTEREST TO THE DHCC: APRIL 20, 2018

Legislation	Topic	DHCC Action	Status
AB 767 (Quirk-Silva)	Master Business License		In Senate; last amended date 4/5/18
AB 1659 (Low)	Healing Arts Boards: Inactive Licenses		Last action on 1/18/18 in Assembly Appropriations
AB 2078 (Daly)	Sex Offenses: Professional Services		Last action on 3/20/18 in Assembly Public Safety
AB 2138 (Chiu)	Licensing Boards: Denial of Application: Criminal Conviction		Active: last amended date 4/2/18
AB 2264 (Brough)	Professions and Vocations: Fees		Active: Introduced 2/13/18
AB 2483 (Voepel)	Department of Consumer Affairs: Office of Supervision of Occupational Boards		Active: last amended date 4/9/18
AB 2643 (Irwin)	Dentistry: General Anesthesia: Health Care Coverage		Active: set for hearing in Assembly Health on 4/24/18
SB 244 (Lara)	Privacy: Agencies: Personal Information		Inactive; no action since 9/2017
SB 707 (Cannella)	Medi-Cal: Denti-Cal Advisory Group		Active: Senate Appropriations acted on bill 1/18/18

SB 762 (Hernandez)	Healing Arts Licensee: License Activation Fee: Waiver		Active: last amended date 4/17/17
SB 984 (Skinner)	State Boards and Commissions: Representation: Women		Active: set for hearing in Senate BP&ED on 4/24/18
SB 1137 (Vidak)	Veterans: Professional Licensing Benefits		Active: set for hearing in Senate BP&ED on 4/16/18
SB 1148 (Pan)	Medi-Cal: Restorative Dental Services		Active: last amended on 4/10/18
SB 1465 (Hill)	Professions and Vocations: Examinations		Active: set for hearing in Senate BP&ED on 4/23/18
SB 1482 (Hill)	Dental Hygienists (DHCC Sunset Bill)		Active: set for hearing in Senate BP&ED on 4/23/18

Updated 4/13/2018

AMENDED IN SENATE APRIL 5, 2018

AMENDED IN ASSEMBLY MAY 3, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 767

Introduced by Assembly Member Quirk-Silva

February 15, 2017

An act to add Part 12.5 (commencing with Section 15930) to Division 3 of Title 2 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 767, as amended, Quirk-Silva. Master Business License Act.

Existing law authorizes various state agencies to issue permits and licenses in accordance with specified requirements to conduct business within this state. Existing law establishes the Governor's Office of Business and Economic Development to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Existing law creates within the Governor's Office of Business and Economic Development the Office of Small Business Advocate to advocate for the causes of small businesses and to provide small businesses with the information they need to survive in the marketplace.

This bill would create within the Governor's Office of Business and Economic Development, or its successor, a business license center to develop and administer an online master business license system to simplify the process of engaging in business in this state. The bill would set forth the duties and responsibilities of the business license center. The bill would require each state regulatory agency to cooperate and

provide reasonable assistance to the office to implement these ~~provisions~~. *provisions, except as specified.*

This bill would authorize a person that applies for 2 or more business licenses that have been incorporated into the master business license system to submit a master application to the office requesting the issuance of the licenses. The bill would require the office to develop and adopt an Internet-based platform that allows the businesses to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master application fee, which would be deposited into the Master License Fund, which would be created by the bill. The bill would authorize the office to borrow up to \$140,000 from the General Fund. ~~Fund~~. *Fund, as specified.* The bill would authorize a state agency that the office has determined to have a license and fee that is appropriate for inclusion in the master business license system to borrow money as needed from the General Fund to support the reasonable costs of integrating into the ~~system~~. *system, as specified.* The bill would require these General Fund moneys to be deposited into the Master License Fund. The bill would authorize moneys in the fund, upon appropriation, to be expended only to administer this bill or be transferred to the appropriate licensing agencies. The bill would also require, upon issuance of the license or licenses, the office to transfer the fees, except for the master license fee, to the appropriate accounts under the applicable statutes for those regulatory agencies' licenses.

~~The bill would require the office to establish a reasonable fee for each master license application and to collect those fees for deposit into the Master License Fund established by this bill. Funds derived from the master license application fees would be expended to administer the master business license program upon appropriation by the Legislature. The bill would require the license fees of the regulatory agencies deposited into the fund to be transferred to the appropriate accounts of the regulatory agencies, as provided.~~

The bill would require the office, in consultation with other regulatory agencies, to establish a uniform business identification number for each business that would be recognized by all affected state agencies and used to facilitate the information sharing between state agencies and to improve customer service to businesses.

The bill would also require the office, including the Director of Small Business Advocate, to work with small business owners and all

regulatory agencies to ensure the state's implementation of a consolidated business license and permit system.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 12.5 (commencing with Section 15930) is
2 added to Division 3 of Title 2 of the Government Code, to read:

3
4 PART 12.5. MASTER BUSINESS LICENSE ACT

5
6 CHAPTER 1. GENERAL PROVISIONS

7
8 15930. This part may be known, and may be cited as, the
9 Master Business License Act.

10 15931. As used in this part, the following words shall have the
11 following meanings:

12 (a) "Business license center" means the business registration
13 and licensing center established by this part and located in and
14 under the administrative control of the office.

15 (b) "Director" means the Director of the Governor's Office of
16 Business and Economic Development.

17 (c) "License information packet" means a collection of
18 information about licensing requirements and application
19 procedures custom assembled for each request.

20 (d) "License" means the whole or part of any state agency
21 permit, license, certificate, approval, registration, charter, or any
22 form or permission required by law, including agency regulation,
23 to engage in any activity.

24 (e) "Master application" means a document incorporating
25 pertinent data from existing applications for licenses covered under
26 this part.

27 (f) "Master business license system" or "system" means the
28 mechanism by which licenses are issued, license and regulatory
29 information is disseminated, and account data is exchanged by
30 state agencies.

31 (g) "Office" means the Governor's Office of Business and
32 Economic Development or its successor.

(h) “Person” means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain one or more licenses from the state or any of its agencies.

(i) “Regulatory” means all licensing and other governmental or statutory requirements pertaining to business activities.

(j) “Regulatory agency” means any state agency, board, commission, or division that regulates one or more industries, businesses, or activities.

CHAPTER 2. BUSINESS LICENSE CENTER

15932. (a) There is created within the office a business license center.

(b) The duties of the center shall include, but not be limited to, all of the following:

(1) Developing and administering an online master business license system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes.

(2) Providing a license information service detailing requirements to establish or engage in business in this state.

(3) Identifying types of licenses appropriate for inclusion in the master business license system.

~~(4) Recommending in reports to the Governor and the Legislature the elimination, consolidation, or other modification of duplicative, ineffective, or inefficient licensing.~~

~~(5)~~

(4) Incorporating licenses into the master business license system.

15933. (a) The office shall adopt regulations as may be necessary to effectuate the purposes of this part.

(b) The director shall encourage state regulatory ~~entities~~ agencies to participate in the online master business license system.

(c) The office shall adopt and periodically update a schedule for the buildout and upgrading of the master business license system to allow for the integration of additional licenses into the Internet-based platform of the system. The office shall integrate additional licenses to the Internet-based platform after the director

1 *determines that funding for this project is available and the project*
2 *is in alignment with required elements of the state planning*
3 *practices for the development of state information technology*
4 *projects.*

5 15934. Each state regulatory agency shall cooperate and provide
6 reasonable assistance to the office in the implementation of this
7 ~~part.~~ *part, except that a state regulatory agency may deny or limit*
8 *the ability of the office to establish an application to obtain multiple*
9 *licenses from that state regulatory agency through the system.*

10
11 CHAPTER 3. MASTER LICENSE
12

13 15935. (a) Any person that applies for two or more business
14 licenses that have been incorporated into the master business
15 license system may submit a master application to the office
16 requesting the issuance of the licenses. The office shall develop
17 and adopt an Internet-based platform that allows the business to
18 electronically submit the master application to the office, as well
19 as the payment of every fee required to obtain each requested
20 license and a master application fee established pursuant to Section
21 15936.

22 (b) Irrespective of any authority delegated to the office to
23 implement this part, the authority for approving the issuance and
24 renewal of any requested license that requires a preclicensing or
25 renewal investigation, inspection, testing, or other judgmental
26 review by the regulatory agency otherwise legally authorized to
27 issue the license shall remain with that agency.

28 (c) Upon receipt of the application and proper fee payment for
29 any license for which issuance is subject to regulatory agency
30 action under subdivision (a), the office shall immediately notify
31 the business of receipt of the application and fees.

32 15936. (a) The office shall establish a fee for each master
33 application that does not exceed the reasonable costs of
34 administering this part and collect that fee.

35 (b) ~~The~~ *Subject to subdivision (d), the office may borrow up to*
36 *one hundred forty thousand dollars (\$140,000) from the General*
37 *Fund in the State Treasury.*

38 (c) ~~A~~ *Subject to subdivision (d), a state agency that the office*
39 *has determined to have a license and fee that is appropriate for*
40 *inclusion in the master business license system may borrow money*

1 from the General Fund in the State Treasury in an amount
2 necessary to support the reasonable cost of integrating into the
3 system.

4 (d) *Before the office or a state agency may request a loan*
5 *pursuant to this section, the director shall make a determination*
6 *that both the project to integrate a license into the system is ready*
7 *to be moved forward and that with the addition of the loan funds*
8 *there is sufficient funding to implement the project.* The loans made
9 pursuant to subdivisions (b) and (c) shall be repaid with interest,
10 calculated at the rate earned by the Pooled Money Investment
11 Account at the time of the transfer from the General Fund, from
12 the fees collected pursuant to this section.

13 15937. All fees collected under the master business license
14 system, including the master license application fee and the fees
15 of the regulatory agencies, and all moneys borrowed under Section
16 15936 shall be deposited into the Master License Fund, which is
17 hereby created in the State Treasury. Moneys in the fund from
18 master application fees may, upon appropriation by the Legislature,
19 be expended only to administer this part or be transferred to the
20 appropriate licensing agencies. Moneys in the fund from other fees
21 shall be transferred to the appropriate accounts under the applicable
22 statutes for those regulatory agencies' licenses.

23
24 CHAPTER 4. UNIFORM BUSINESS IDENTIFICATION NUMBER
25

26 15940. (a) The office, in consultation with other regulatory
27 agencies, shall establish a uniform business identification number
28 for each business. The uniform business identification number
29 shall be recognized by all affected state agencies and shall be used
30 by state agencies to facilitate information sharing between state
31 agencies and to improve customer service to businesses.

32 (b) It is the intent of the Legislature that the uniform business
33 number would permit the office to do both of the following:

34 (1) Register a business with multiple state agencies electronically
35 as licenses and permits are processed.

36 (2) Input and update information regarding a business once,
37 thereby reducing the number of duplicate or conflicting records
38 from one state agency to another.

CHAPTER 5. OVERSIGHT

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15945. The office, including the Director of Small Business Advocate from the Governor's Office of Business and Economic Development shall work with small business owners and all regulatory agencies to ensure the state's implementation of a consolidated business license and permit system under this part.

O

AMENDED IN ASSEMBLY JANUARY 3, 2018

AMENDED IN ASSEMBLY APRIL 4, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1659

Introduced by Assembly Member Low

February 17, 2017

~~An act to add Sections 43020.2 and 43020.3 to, and to add Chapter 6 (commencing with Section 42370) to Part 3 of Division 30 of, the Public Resources Code, relating to recycling. An act to amend Sections 701, 702, and 703 of the Business and Professions Code, relating to healing arts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1659, as amended, Low. ~~Food Service Plastic Packaging Recovery and Recycling Stewardship Act. Healing arts boards: inactive licenses.~~

Existing law establishes healing arts boards in the Department of Consumer Affairs to ensure private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. Existing law requires each healing arts board to issue inactive licenses to holders of active licenses whose license is not punitively restricted by that board. Existing law prohibits the holder of an inactive license from engaging in any activity for which an active license is required. Existing law requires the renewal fee for an active license to apply to an inactive license.

This bill would prohibit the holder of an inactive license from representing that he or she has an active license. The bill would also

authorize a healing arts board to establish a lower inactive license renewal fee.

~~(1) The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste.~~

~~Existing law requires a manufacturer of carpets sold in the state, individually or through a carpet stewardship organization, to submit a carpet stewardship plan to the Department of Resources Recycling and Recovery for approval that would, among other things, increase the amount of postconsumer carpet that is diverted from landfills and recycled into secondary products. Existing law requires the carpet stewardship plan to include a funding mechanism that provides sufficient funding to carry out the plan and requires a manufacturer or carpet stewardship organization to pay the department an annual administrative fee. Existing law requires the department to identify the direct development or regulatory costs incurred by the department prior to the submittal of the carpet stewardship plans, and to establish a fee in an amount adequate to cover these costs, that is paid by a carpet stewardship organization. Existing law imposes administrative civil penalties on a person who violates these provisions.~~

~~This bill, the Food Service Plastic Packaging Recovery and Recycling Stewardship Act, would authorize a city, county, or city and county to establish and implement a residential curbside collection program for the collection and recycling of a particular type of plastic packaging, defined to mean a container or single-use food service packaging product labeled with the same resin code. The bill would require a residential curbside collection program to impose certain requirements on the transportation of plastic packaging collected as a part of the program and on material recovery facilities to which waste that includes that plastic packaging is delivered.~~

~~The bill would require, by June 30, 2018, a manufacturer of plastic packaging sold in this state, individually or through a plastic packaging stewardship organization, to submit to the department one or more plastic packaging stewardship plans, similar to the carpet stewardship plans described above, collectively covering each particular type of plastic packaging distributed, sold, or used in the state by that manufacturer. The bill would require the plan to include a funding mechanism similar to that required in the carpet stewardship law. The bill would require the manufacturer or organization to, among other~~

packaging to send the plastic packaging to a material recovery facility, secondary sorting facility, or to a recycling facility that has the capability to sort, separate, or recycle plastic packaging material.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 701 of the Business and Professions Code*
2 *is amended to read:*

3 ~~701. Each healing arts board referred to in this division shall~~
4 ~~issue, upon application and payment of the normal renewal fee,~~
5 ~~an inactive license or certificate to a current holder of an active~~
6 ~~license or certificate whose license or certificate is not suspended,~~
7 ~~revoked, or otherwise punitively restricted by that board.~~

8 701. (a) As used in this article, "board" refers to any healing
9 arts board, division, or examining committee which licenses or
10 certifies health professionals.

11 (b) *Each healing arts board referred to in this division shall*
12 *issue, upon application and payment of the normal renewal fee,*
13 *an inactive license or certificate to a current holder of an active*
14 *license or certificate whose license or certificate is not suspended,*
15 *revoked, or otherwise punitively restricted by that board.*

16 *SEC. 2. Section 702 of the Business and Professions Code is*
17 *amended to read:*

18 702. The holder of an inactive healing arts license or certificate
19 issued pursuant to this article shall not engage ~~do any of the~~
20 *following:*

21 (a) Engage in any activity for which an active license or
22 certificate is required.

23 (b) *Represent that he or she has an active license.*

24 *SEC. 3. Section 703 of the Business and Professions Code is*
25 *amended to read:*

26 703. (a) An inactive healing arts license or certificate issued
27 pursuant to this article shall be renewed during the same time
28 period at which an active license or certificate is renewed. In order
29 to renew a license or certificate issued pursuant to this article, the
30 holder thereof need not comply with any continuing education
31 requirement for renewal of an active license or certificate.

32 The

1 (b) The renewal fee for a license or certificate in an active status
2 shall apply also for renewal of a license or certificate in an inactive
3 status. *status, unless a lower fee has been established by the issuing*
4 *board.*

5 ~~SECTION 1. This act shall be known, and may be cited, as the~~
6 ~~Food Service Plastic Packaging Recovery and Recycling~~
7 ~~Stewardship Act.~~

8 ~~SEC. 2. Chapter 6 (commencing with Section 42370) is added~~
9 ~~to Part 3 of Division 30 of the Public Resources Code, to read:~~

10
11 ~~CHAPTER 6. FOOD SERVICE PLASTIC PACKAGING STEWARDSHIP~~
12 ~~PROGRAM~~

13
14 ~~Article 1. General Provisions~~

15
16 ~~42370. The Legislature finds and declares the following:~~

17 (a) ~~It is the intent of the Legislature, in adopting this chapter,~~
18 ~~to reduce the amount of food service packaging that is littered and~~
19 ~~improperly disposed of, to reduce the amount of food service~~
20 ~~plastic packaging that is disposed of in landfills, to increase~~
21 ~~opportunities for businesses or multifamily complexes to save~~
22 ~~money, to create jobs in California by providing materials for~~
23 ~~recycling manufacturing facilities, to reduce greenhouse gas~~
24 ~~emissions, to keep valuable materials out of landfills, and to create~~
25 ~~a healthy environment for the community and future generations~~
26 ~~by recovering natural resources by increasing the recycling rate~~
27 ~~of food service plastic packaging.~~

28 (b) ~~California is home to a number of food service packaging~~
29 ~~manufacturers that produce a variety of products. These facilities~~
30 ~~employ thousands of Californians and are important components~~
31 ~~of the state's economy.~~

32 (c) ~~All food service packaging, regardless of the material from~~
33 ~~which it is made, has environmental impacts, including, but not~~
34 ~~limited to, raw material acquisition, energy use, greenhouse gas~~
35 ~~emissions and other emissions associated with its manufacture,~~
36 ~~transportation, and disposal, consumption of increasingly scarce~~
37 ~~landfill capacity, and unsightly and environmentally damaging~~
38 ~~consequences of littering and other improper disposal.~~

39 (d) ~~Manufacturers, distributors, and users of food service~~
40 ~~packaging have a shared responsibility to identify, finance, and~~

ASSEMBLY BILL

No. 2078

Introduced by Assembly Member Daly

February 7, 2018

An act to amend Sections 243.4, 261, 286, 288a, and 289 of the Penal Code, relating to sex offenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 2078, as introduced, Daly. Sex offenses: professional services.

Under existing law, a person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery punishable by imprisonment in a county jail for not more than one year or in the state prison for 2, 3, or 4 years, and a fine not to exceed \$10,000. Under existing law, the crimes of rape, sodomy, oral copulation, and sexual penetration, when the victim was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration or oral copulation served a professional purpose, are punishable by imprisonment in the state prison for 3, 6, or 8 years.

This bill would expand the crime of sexual battery to apply to a person who performs professional services that entail having access to another person's body and who touches an intimate part of that person's body while performing those services, and the touching was against the person's will and for the purpose of sexual arousal, sexual gratification, or sexual abuse. The bill would expand the definitions of each of the crimes of rape, sodomy, oral copulation, and sexual penetration to

include any of those crimes performed against a victim's will by a professional whose services entail having access to the victim's body, if the conduct is performed by the professional while performing those services. By expanding the scope of these crimes, 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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 243.4 of the Penal Code is amended to
2 read:

3 243.4. (a) Any person who touches an intimate part of another
4 person while that person is unlawfully restrained by the accused
5 or an accomplice, and if the touching is against the will of the
6 person touched and is for the purpose of sexual arousal, sexual
7 gratification, or sexual abuse, is guilty of sexual battery. A violation
8 of this subdivision is punishable by imprisonment in a county jail
9 for not more than one year, and by a fine not exceeding two
10 thousand dollars (\$2,000); or by imprisonment in the state prison
11 for two, three, or four years, and by a fine not exceeding ten
12 thousand dollars (\$10,000).

13 (b) Any person who touches an intimate part of another person
14 who is institutionalized for medical treatment and who is seriously
15 disabled or medically incapacitated, if the touching is against the
16 will of the person touched, and if the touching is for the purpose
17 of sexual arousal, sexual gratification, or sexual abuse, is guilty
18 of sexual battery. A violation of this subdivision is punishable by
19 imprisonment in a county jail for not more than one year, and by
20 a fine not exceeding two thousand dollars (\$2,000); or by
21 imprisonment in the state prison for two, three, or four years, and
22 by a fine not exceeding ten thousand dollars (\$10,000).

23 ~~(c) Any~~

24 (c) (1) Any person who touches an intimate part of another
25 person for the purpose of sexual arousal, sexual gratification, or

sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery. ~~A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).~~

(2) *Any person who performs professional services that entail having access to another person's body and who touches an intimate part of that person while performing those services, and the touching is against the will of the person touched and for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery.*

(3) *A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year and by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in the state prison for two, three, or four years and by a fine not exceeding ten thousand dollars (\$10,000).*

(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(e) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars (\$3,000), by

1 imprisonment in a county jail not exceeding six months, or by both
2 that fine and imprisonment. Notwithstanding any other provision
3 of law, any amount of a fine above two thousand dollars (\$2,000)
4 which is collected from a defendant for a violation of this
5 subdivision shall be transmitted to the State Treasury and, upon
6 appropriation by the Legislature, distributed to the Department of
7 Fair Employment and Housing for the purpose of enforcement of
8 the California Fair Employment and Housing Act (Part 2.8
9 (commencing with Section 12900) of Division 3 of Title 2 of the
10 Government Code), including, but not limited to, laws that
11 proscribe sexual harassment in places of employment. However,
12 in no event shall an amount over two thousand dollars (\$2,000)
13 be transmitted to the State Treasury until all fines, including any
14 restitution fines that may have been imposed upon the defendant,
15 have been paid in full.

16 (2) As used in this subdivision, “touches” means physical contact
17 with another person, whether accomplished directly, through the
18 clothing of the person committing the offense, or through the
19 clothing of the victim.

20 (f) As used in subdivisions (a), (b), (c), and (d), “touches” means
21 physical contact with the skin of another person whether
22 accomplished directly or through the clothing of the person
23 committing the offense.

24 (g) As used in this section, the following terms have the
25 following meanings:

26 (1) “Intimate part” means the sexual organ, anus, groin, or
27 buttocks of any person, and the breast of a female.

28 (2) “Sexual battery” does not include the crimes defined in
29 Section 261 or 289.

30 (3) “Seriously disabled” means a person with severe physical
31 or sensory disabilities.

32 (4) “Medically incapacitated” means a person who is
33 incapacitated as a result of prescribed sedatives, anesthesia, or
34 other medication.

35 (5) “Institutionalized” means a person who is located voluntarily
36 or involuntarily in a hospital, medical treatment facility, nursing
37 home, acute care facility, or mental hospital.

38 (6) “Minor” means a person under 18 years of age.

1 (h) This section ~~shall not be construed to~~ *does not* limit or
2 prevent prosecution under any other law which also proscribes a
3 course of conduct that also is proscribed by this section.

4 (i) In the case of a felony conviction for a violation of this
5 section, the fact that the defendant was an employer and the victim
6 was an employee of the defendant shall be a factor in aggravation
7 in sentencing.

8 (j) A person who commits a violation of subdivision (a), (b),
9 (c), or (d) against a minor when the person has a prior felony
10 conviction for a violation of this section shall be guilty of a felony,
11 punishable by imprisonment in the state prison for two, three, or
12 four years and a fine not exceeding ten thousand dollars (\$10,000).

13 SEC. 2. Section 261 of the Penal Code is amended to read:

14 261. (a) Rape is an act of sexual intercourse accomplished
15 with a person not the spouse of the perpetrator, under any of the
16 following circumstances:

17 (1) Where a person is incapable, because of a mental disorder
18 or developmental or physical disability, of giving legal consent,
19 and this is known or reasonably should be known to the person
20 committing the act. Notwithstanding the existence of a
21 conservatorship pursuant to the provisions of the
22 Lanterman-Petris-Short Act (Part 1 (commencing with Section
23 5000) of Division 5 of the Welfare and Institutions Code), the
24 prosecuting attorney shall prove, as an element of the crime, that
25 a mental disorder or developmental or physical disability rendered
26 the alleged victim incapable of giving consent.

27 (2) Where it is accomplished against a person's will by means
28 of force, violence, duress, menace, or fear of immediate and
29 unlawful bodily injury on the person or another.

30 (3) Where a person is prevented from resisting by any
31 intoxicating or anesthetic substance, or any controlled substance,
32 and this condition was known, or reasonably should have been
33 known by the accused.

34 (4) Where a person is at the time unconscious of the nature of
35 the act, and this is known to the accused. As used in this paragraph,
36 "unconscious of the nature of the act" means incapable of resisting
37 because the victim meets any one of the following conditions:

38 (A) Was unconscious or asleep.

39 (B) Was not aware, knowing, perceiving, or cognizant that the
40 act occurred.

1 (C) Was not aware, knowing, perceiving, or cognizant of the
2 essential characteristics of the act due to the perpetrator's fraud in
3 fact.

4 (D) Was not aware, knowing, perceiving, or cognizant of the
5 essential characteristics of the act due to the perpetrator's fraudulent
6 representation that the sexual penetration served a professional
7 purpose when it served no professional purpose.

8 (5) Where a person submits under the belief that the person
9 committing the act is someone known to the victim other than the
10 accused, and this belief is induced by any artifice, pretense, or
11 concealment practiced by the accused, with intent to induce the
12 belief.

13 (6) Where the act is accomplished against the victim's will by
14 threatening to retaliate in the future against the victim or any other
15 person, and there is a reasonable possibility that the perpetrator
16 will execute the threat. As used in this paragraph, "threatening to
17 retaliate" means a threat to kidnap or falsely imprison, or to inflict
18 extreme pain, serious bodily injury, or death.

19 (7) Where the act is accomplished against the victim's will by
20 threatening to use the authority of a public official to incarcerate,
21 arrest, or deport the victim or another, and the victim has a
22 reasonable belief that the perpetrator is a public official. As used
23 in this paragraph, "public official" means a person employed by
24 a governmental agency who has the authority, as part of that
25 position, to incarcerate, arrest, or deport another. The perpetrator
26 does not actually have to be a public official.

27 *(8) Where the act is accomplished against the victim's will by*
28 *a person while that person is performing professional services*
29 *that entail having access to the victim's body.*

30 (b) As used in this section, "duress" means a direct or implied
31 threat of force, violence, danger, or retribution sufficient to coerce
32 a reasonable person of ordinary susceptibilities to perform an act
33 which otherwise would not have been performed, or acquiesce in
34 an act to which one otherwise would not have submitted. The total
35 circumstances, including the age of the victim, and his or her
36 relationship to the defendant, are factors to consider in appraising
37 the existence of duress.

38 (c) As used in this section, "menace" means any threat,
39 declaration, or act which shows an intention to inflict an injury
40 upon another.

1 SEC. 3. Section 286 of the Penal Code is amended to read:

2 286. (a) Sodomy is sexual conduct consisting of contact
3 between the penis of one person and the anus of another person.
4 Any sexual penetration, however slight, is sufficient to complete
5 the crime of sodomy.

6 (b) (1) Except as provided in Section 288, any person who
7 participates in an act of sodomy with another person who is under
8 18 years of age shall be punished by imprisonment in the state
9 prison, or in a county jail for not more than one year.

10 (2) Except as provided in Section 288, any person over 21 years
11 of age who participates in an act of sodomy with another person
12 who is under 16 years of age shall be guilty of a felony.

13 (c) (1) Any person who participates in an act of sodomy with
14 another person who is under 14 years of age and more than 10
15 years younger than he or she shall be punished by imprisonment
16 in the state prison for three, six, or eight years.

17 (2) (A) Any person who commits an act of sodomy when the
18 act is accomplished against the victim's will by means of force,
19 violence, duress, menace, or fear of immediate and unlawful bodily
20 injury on the victim or another person shall be punished by
21 imprisonment in the state prison for three, six, or eight years.

22 (B) Any person who commits an act of sodomy with another
23 person who is under 14 years of age when the act is accomplished
24 against the victim's will by means of force, violence, duress,
25 menace, or fear of immediate and unlawful bodily injury on the
26 victim or another person shall be punished by imprisonment in the
27 state prison for 9, 11, or 13 years.

28 (C) Any person who commits an act of sodomy with another
29 person who is a minor 14 years of age or older when the act is
30 accomplished against the victim's will by means of force, violence,
31 duress, menace, or fear of immediate and unlawful bodily injury
32 on the victim or another person shall be punished by imprisonment
33 in the state prison for 7, 9, or 11 years.

34 (D) This paragraph does not preclude prosecution under Section
35 269, Section 288.7, or any other provision of law.

36 (3) Any person who commits an act of sodomy where the act
37 is accomplished against the victim's will by threatening to retaliate
38 in the future against the victim or any other person, and there is a
39 reasonable possibility that the perpetrator will execute the threat,

1 shall be punished by imprisonment in the state prison for three,
2 six, or eight years.

3 (d) (1) Any person who, while voluntarily acting in concert
4 with another person, either personally or aiding and abetting that
5 other person, commits an act of sodomy when the act is
6 accomplished against the victim's will by means of force or fear
7 of immediate and unlawful bodily injury on the victim or another
8 person or where the act is accomplished against the victim's will
9 by threatening to retaliate in the future against the victim or any
10 other person, and there is a reasonable possibility that the
11 perpetrator will execute the threat, shall be punished by
12 imprisonment in the state prison for five, seven, or nine years.

13 (2) Any person who, while voluntarily acting in concert with
14 another person, either personally or aiding and abetting that other
15 person, commits an act of sodomy upon a victim who is under 14
16 years of age, when the act is accomplished against the victim's
17 will by means of force or fear of immediate and unlawful bodily
18 injury on the victim or another person, shall be punished by
19 imprisonment in the state prison for 10, 12, or 14 years.

20 (3) Any person who, while voluntarily acting in concert with
21 another person, either personally or aiding and abetting that other
22 person, commits an act of sodomy upon a victim who is a minor
23 14 years of age or older, when the act is accomplished against the
24 victim's will by means of force or fear of immediate and unlawful
25 bodily injury on the victim or another person, shall be punished
26 by imprisonment in the state prison for 7, 9, or 11 years.

27 (4) This subdivision does not preclude prosecution under Section
28 269, Section 288.7, or any other provision of law.

29 (e) Any person who participates in an act of sodomy with any
30 person of any age while confined in any state prison, as defined
31 in Section 4504, or in any local detention facility, as defined in
32 Section 6031.4, shall be punished by imprisonment in the state
33 prison, or in a county jail for not more than one year.

34 ~~(f) Any~~

35 *(f) (1) Any* person who commits an act of sodomy, and the
36 victim is at the time unconscious of the nature of the act and this
37 is known to the person committing the act, shall be punished by
38 imprisonment in the state prison for three, six, or eight years. As
39 used in this subdivision, "unconscious of the nature of the act"

1 means incapable of resisting because the victim meets one of the
2 following conditions:

3 ~~(1)~~

4 (A) Was unconscious or asleep.

5 ~~(2)~~

6 (B) Was not aware, knowing, perceiving, or cognizant that the
7 act occurred.

8 ~~(3)~~

9 (C) Was not aware, knowing, perceiving, or cognizant of the
10 essential characteristics of the act due to the perpetrator's fraud in
11 fact.

12 ~~(4)~~

13 (D) Was not aware, knowing, perceiving, or cognizant of the
14 essential characteristics of the act due to the perpetrator's fraudulent
15 representation that the sexual penetration served a professional
16 purpose when it served no professional purpose.

17 *(2) A person who performs professional services that entail*
18 *having access to the victim's body and who commits an act of*
19 *sodomy upon the victim while performing those services, and the*
20 *act is against the victim's will, shall be punished by imprisonment*
21 *in the state prison for three, six, or eight years.*

22 (g) Except as provided in subdivision (h), a person who commits
23 an act of sodomy, and the victim is at the time incapable, because
24 of a mental disorder or developmental or physical disability, of
25 giving legal consent, and this is known or reasonably should be
26 known to the person committing the act, shall be punished by
27 imprisonment in the state prison for three, six, or eight years.
28 Notwithstanding the existence of a conservatorship pursuant to
29 the Lanterman-Petris-Short Act (Part 1 (commencing with Section
30 5000) of Division 5 of the Welfare and Institutions Code), the
31 prosecuting attorney shall prove, as an element of the crime, that
32 a mental disorder or developmental or physical disability rendered
33 the alleged victim incapable of giving consent.

34 (h) Any person who commits an act of sodomy, and the victim
35 is at the time incapable, because of a mental disorder or
36 developmental or physical disability, of giving legal consent, and
37 this is known or reasonably should be known to the person
38 committing the act, and both the defendant and the victim are at
39 the time confined in a state hospital for the care and treatment of
40 the mentally disordered or in any other public or private facility

1 for the care and treatment of the mentally disordered approved by
2 a county mental health director, shall be punished by imprisonment
3 in the state prison, or in a county jail for not more than one year.
4 Notwithstanding the existence of a conservatorship pursuant to
5 the Lanterman-Petris-Short Act (Part 1 (commencing with Section
6 5000) of Division 5 of the Welfare and Institutions Code), the
7 prosecuting attorney shall prove, as an element of the crime, that
8 a mental disorder or developmental or physical disability rendered
9 the alleged victim incapable of giving legal consent.

10 (i) Any person who commits an act of sodomy, where the victim
11 is prevented from resisting by an intoxicating or anesthetic
12 substance, or any controlled substance, and this condition was
13 known, or reasonably should have been known by the accused,
14 shall be punished by imprisonment in the state prison for three,
15 six, or eight years.

16 (j) Any person who commits an act of sodomy, where the victim
17 submits under the belief that the person committing the act is
18 someone known to the victim other than the accused, and this
19 belief is induced by any artifice, pretense, or concealment practiced
20 by the accused, with intent to induce the belief, shall be punished
21 by imprisonment in the state prison for three, six, or eight years.

22 (k) (1) Any person who commits an act of sodomy, where the
23 act is accomplished against the victim's will by threatening to use
24 the authority of a public official to incarcerate, arrest, or deport
25 the victim or another, and the victim has a reasonable belief that
26 the perpetrator is a public official, shall be punished by
27 imprisonment in the state prison for three, six, or eight years.

28 ~~As~~

29 (2) *As* used in this subdivision, "public official" means a person
30 employed by a governmental agency who has the authority, as part
31 of that position, to incarcerate, arrest, or deport another. The
32 perpetrator does not actually have to be a public official.

33 (l) *As* used in subdivisions (c) and (d), "threatening to retaliate"
34 means a threat to kidnap or falsely imprison, or inflict extreme
35 pain, serious bodily injury, or death.

36 (m) In addition to any punishment imposed under this section,
37 the judge may assess a fine not to exceed seventy dollars (\$70)
38 against any person who violates this section, with the proceeds of
39 this fine to be used in accordance with Section 1463.23. The court,
40 however, shall take into consideration the defendant's ability to

1 pay, and no defendant shall be denied probation because of his or
2 her inability to pay the fine permitted under this subdivision.

3 SEC. 4. Section 288a of the Penal Code is amended to read:

4 288a. (a) Oral copulation is the act of copulating the mouth
5 of one person with the sexual organ or anus of another person.

6 (b) (1) Except as provided in Section 288, any person who
7 participates in an act of oral copulation with another person who
8 is under 18 years of age shall be punished by imprisonment in the
9 state prison, or in a county jail for a period of not more than one
10 year.

11 (2) Except as provided in Section 288, any person over 21 years
12 of age who participates in an act of oral copulation with another
13 person who is under 16 years of age is guilty of a felony.

14 (c) (1) Any person who participates in an act of oral copulation
15 with another person who is under 14 years of age and more than
16 10 years younger than he or she shall be punished by imprisonment
17 in the state prison for three, six, or eight years.

18 (2) (A) Any person who commits an act of oral copulation when
19 the act is accomplished against the victim's will by means of force,
20 violence, duress, menace, or fear of immediate and unlawful bodily
21 injury on the victim or another person shall be punished by
22 imprisonment in the state prison for three, six, or eight years.

23 (B) Any person who commits an act of oral copulation upon a
24 person who is under 14 years of age, when the act is accomplished
25 against the victim's will by means of force, violence, duress,
26 menace, or fear of immediate and unlawful bodily injury on the
27 victim or another person, shall be punished by imprisonment in
28 the state prison for 8, 10, or 12 years.

29 (C) Any person who commits an act of oral copulation upon a
30 minor who is 14 years of age or older, when the act is accomplished
31 against the victim's will by means of force, violence, duress,
32 menace, or fear of immediate and unlawful bodily injury on the
33 victim or another person, shall be punished by imprisonment in
34 the state prison for 6, 8, or 10 years.

35 (D) This paragraph does not preclude prosecution under Section
36 269, Section 288.7, or any other provision of law.

37 (3) Any person who commits an act of oral copulation where
38 the act is accomplished against the victim's will by threatening to
39 retaliate in the future against the victim or any other person, and
40 there is a reasonable possibility that the perpetrator will execute

1 the threat, shall be punished by imprisonment in the state prison
2 for three, six, or eight years.

3 (d) (1) Any person who, while voluntarily acting in concert
4 with another person, either personally or by aiding and abetting
5 that other person, commits an act of oral copulation (A) when the
6 act is accomplished against the victim's will by means of force or
7 fear of immediate and unlawful bodily injury on the victim or
8 another person, or (B) where the act is accomplished against the
9 victim's will by threatening to retaliate in the future against the
10 victim or any other person, and there is a reasonable possibility
11 that the perpetrator will execute the threat, or (C) where the victim
12 is at the time incapable, because of a mental disorder or
13 developmental or physical disability, of giving legal consent, and
14 this is known or reasonably should be known to the person
15 committing the act, shall be punished by imprisonment in the state
16 prison for five, seven, or nine years. Notwithstanding the
17 appointment of a conservator with respect to the victim pursuant
18 to the provisions of the Lanterman-Petris-Short Act (Part 1
19 (commencing with Section 5000) of Division 5 of the Welfare and
20 Institutions Code), the prosecuting attorney shall prove, as an
21 element of the crime described under paragraph (3), that a mental
22 disorder or developmental or physical disability rendered the
23 alleged victim incapable of giving legal consent.

24 (2) Any person who, while voluntarily acting in concert with
25 another person, either personally or aiding and abetting that other
26 person, commits an act of oral copulation upon a victim who is
27 under 14 years of age, when the act is accomplished against the
28 victim's will by means of force or fear of immediate and unlawful
29 bodily injury on the victim or another person, shall be punished
30 by imprisonment in the state prison for 10, 12, or 14 years.

31 (3) Any person who, while voluntarily acting in concert with
32 another person, either personally or aiding and abetting that other
33 person, commits an act of oral copulation upon a victim who is a
34 minor 14 years of age or older, when the act is accomplished
35 against the victim's will by means of force or fear of immediate
36 and unlawful bodily injury on the victim or another person, shall
37 be punished by imprisonment in the state prison for 8, 10, or 12
38 years.

39 (4) This paragraph does not preclude prosecution under Section
40 269, Section 288.7, or any other provision of law.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

~~(f) Any~~

(f) (1) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

~~(1)~~

(A) Was unconscious or asleep.

~~(2)~~

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

~~(3)~~

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.

~~(4)~~

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

(2) *A person who performs professional services that entail having access to the victim’s body and who commits an act of oral copulation upon the victim while performing those services, and the act is against the victim’s will, shall be punished by imprisonment in the state prison for three, six, or eight years.*

(g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the

1 Lanterman-Petris-Short Act (Part 1 (commencing with Section
2 5000) of Division 5 of the Welfare and Institutions Code), the
3 prosecuting attorney shall prove, as an element of the crime, that
4 a mental disorder or developmental or physical disability rendered
5 the alleged victim incapable of giving consent.

6 (h) Any person who commits an act of oral copulation, and the
7 victim is at the time incapable, because of a mental disorder or
8 developmental or physical disability, of giving legal consent, and
9 this is known or reasonably should be known to the person
10 committing the act, and both the defendant and the victim are at
11 the time confined in a state hospital for the care and treatment of
12 the mentally disordered or in any other public or private facility
13 for the care and treatment of the mentally disordered approved by
14 a county mental health director, shall be punished by imprisonment
15 in the state prison, or in a county jail for a period of not more than
16 one year. Notwithstanding the existence of a conservatorship
17 pursuant to the provisions of the Lanterman-Petris-Short Act (Part
18 1 (commencing with Section 5000) of Division 5 of the Welfare
19 and Institutions Code), the prosecuting attorney shall prove, as an
20 element of the crime, that a mental disorder or developmental or
21 physical disability rendered the alleged victim incapable of giving
22 legal consent.

23 (i) Any person who commits an act of oral copulation, where
24 the victim is prevented from resisting by any intoxicating or
25 anesthetic substance, or any controlled substance, and this condition
26 was known, or reasonably should have been known by the accused,
27 shall be punished by imprisonment in the state prison for a period
28 of three, six, or eight years.

29 (j) Any person who commits an act of oral copulation, where
30 the victim submits under the belief that the person committing the
31 act is someone known to the victim other than the accused, and
32 this belief is induced by any artifice, pretense, or concealment
33 practiced by the accused, with intent to induce the belief, shall be
34 punished by imprisonment in the state prison for a period of three,
35 six, or eight years.

36 (k) (1) Any person who commits an act of oral copulation,
37 where the act is accomplished against the victim's will by
38 threatening to use the authority of a public official to incarcerate,
39 arrest, or deport the victim or another, and the victim has a
40 reasonable belief that the perpetrator is a public official, shall be

1 punished by imprisonment in the state prison for a period of three,
2 six, or eight years.

3 ~~As~~

4 (2) *As* used in this subdivision, “public official” means a person
5 employed by a governmental agency who has the authority, as part
6 of that position, to incarcerate, arrest, or deport another. The
7 perpetrator does not actually have to be a public official.

8 (l) *As* used in subdivisions (c) and (d), “threatening to retaliate”
9 means a threat to kidnap or falsely imprison, or to inflict extreme
10 pain, serious bodily ~~injury~~ *injury*, or death.

11 (m) In addition to any punishment imposed under this section,
12 the judge may assess a fine not to exceed seventy dollars (\$70)
13 against any person who violates this section, with the proceeds of
14 this fine to be used in accordance with Section 1463.23. The court
15 shall, however, take into consideration the defendant’s ability to
16 pay, and no defendant shall be denied probation because of his or
17 her inability to pay the fine permitted under this subdivision.

18 SEC. 5. Section 289 of the Penal Code is amended to read:

19 289. (a) (1) (A) Any person who commits an act of sexual
20 penetration when the act is accomplished against the victim’s will
21 by means of force, violence, duress, menace, or fear of immediate
22 and unlawful bodily injury on the victim or another person shall
23 be punished by imprisonment in the state prison for three, six, or
24 eight years.

25 (B) Any person who commits an act of sexual penetration upon
26 a child who is under 14 years of age, when the act is accomplished
27 against the victim’s will by means of force, violence, duress,
28 menace, or fear of immediate and unlawful bodily injury on the
29 victim or another person, shall be punished by imprisonment in
30 the state prison for 8, 10, or 12 years.

31 (C) Any person who commits an act of sexual penetration upon
32 a minor who is 14 years of age or older, when the act is
33 accomplished against the victim’s will by means of force, violence,
34 duress, menace, or fear of immediate and unlawful bodily injury
35 on the victim or another person, shall be punished by imprisonment
36 in the state prison for 6, 8, or 10 years.

37 (D) This paragraph does not preclude prosecution under Section
38 269, Section 288.7, or any other provision of law.

39 (2) Any person who commits an act of sexual penetration when
40 the act is accomplished against the victim’s will by threatening to

1 retaliate in the future against the victim or any other person, and
2 there is a reasonable possibility that the perpetrator will execute
3 the threat, shall be punished by imprisonment in the state prison
4 for three, six, or eight years.

5 (b) Except as provided in subdivision (c), any person who
6 commits an act of sexual penetration, and the victim is at the time
7 incapable, because of a mental disorder or developmental or
8 physical disability, of giving legal consent, and this is known or
9 reasonably should be known to the person committing the act or
10 causing the act to be committed, shall be punished by imprisonment
11 in the state prison for three, six, or eight years. Notwithstanding
12 the appointment of a conservator with respect to the victim pursuant
13 to the provisions of the Lanterman-Petris-Short Act (Part 1
14 (commencing with Section 5000) of Division 5 of the Welfare and
15 Institutions Code), the prosecuting attorney shall prove, as an
16 element of the crime, that a mental disorder or developmental or
17 physical disability rendered the alleged victim incapable of giving
18 legal consent.

19 (c) Any person who commits an act of sexual penetration, and
20 the victim is at the time incapable, because of a mental disorder
21 or developmental or physical disability, of giving legal consent,
22 and this is known or reasonably should be known to the person
23 committing the act or causing the act to be committed and both
24 the defendant and the victim are at the time confined in a state
25 hospital for the care and treatment of the mentally disordered or
26 in any other public or private facility for the care and treatment of
27 the mentally disordered approved by a county mental health
28 director, shall be punished by imprisonment in the state prison, or
29 in a county jail for a period of not more than one year.
30 Notwithstanding the existence of a conservatorship pursuant to
31 the provisions of the Lanterman-Petris-Short Act (Part 1
32 (commencing with Section 5000) of Division 5 of the Welfare and
33 Institutions Code), the prosecuting attorney shall prove, as an
34 element of the crime, that a mental disorder or developmental or
35 physical disability rendered the alleged victim incapable of giving
36 legal consent.

37 ~~(d) Any~~

38 (d) (1) Any person who commits an act of sexual penetration,
39 and the victim is at the time unconscious of the nature of the act
40 and this is known to the person committing the act or causing the

1 act to be committed, shall be punished by imprisonment in the
2 state prison for three, six, or eight years. As used in this
3 subdivision, “unconscious of the nature of the act” means incapable
4 of resisting because the victim meets one of the following
5 conditions:

6 (1)

7 (A) Was unconscious or asleep.

8 (2)

9 (B) Was not aware, knowing, perceiving, or cognizant that the
10 act occurred.

11 (3)

12 (C) Was not aware, knowing, perceiving, or cognizant of the
13 essential characteristics of the act due to the perpetrator’s fraud in
14 fact.

15 (4)

16 (D) Was not aware, knowing, perceiving, or cognizant of the
17 essential characteristics of the act due to the perpetrator’s fraudulent
18 representation that the sexual penetration served a professional
19 purpose when it served no professional purpose.

20 (2) *A person who performs professional services that entail*
21 *having access to the victim’s body and who commits an act of*
22 *sexual penetration upon the victim while performing those services,*
23 *and the act is against the victim’s will, shall be punished by*
24 *imprisonment in the state prison for three, six, or eight years.*

25 (e) Any person who commits an act of sexual penetration when
26 the victim is prevented from resisting by any intoxicating or
27 anesthetic substance, or any controlled substance, and this condition
28 was known, or reasonably should have been known by the accused,
29 shall be punished by imprisonment in the state prison for a period
30 of three, six, or eight years.

31 (f) Any person who commits an act of sexual penetration when
32 the victim submits under the belief that the person committing the
33 act or causing the act to be committed is someone known to the
34 victim other than the accused, and this belief is induced by any
35 artifice, pretense, or concealment practiced by the accused, with
36 intent to induce the belief, shall be punished by imprisonment in
37 the state prison for a period of three, six, or eight years.

38 (g) Any person who commits an act of sexual penetration when
39 the act is accomplished against the victim’s will by threatening to
40 use the authority of a public official to incarcerate, arrest, or deport

1 the victim or another, and the victim has a reasonable belief that
2 the perpetrator is a public official, shall be punished by
3 imprisonment in the state prison for a period of three, six, or eight
4 years.

5 As used in this subdivision, “public official” means a person
6 employed by a governmental agency who has the authority, as part
7 of that position, to incarcerate, arrest, or deport another. The
8 perpetrator does not actually have to be a public official.

9 (h) Except as provided in Section 288, any person who
10 participates in an act of sexual penetration with another person
11 who is under 18 years of age shall be punished by imprisonment
12 in the state prison or in a county jail for a period of not more than
13 one year.

14 (i) Except as provided in Section 288, any person over 21 years
15 of age who participates in an act of sexual penetration with another
16 person who is under 16 years of age shall be guilty of a felony.

17 (j) Any person who participates in an act of sexual penetration
18 with another person who is under 14 years of age and who is more
19 than 10 years younger than he or she shall be punished by
20 imprisonment in the state prison for three, six, or eight years.

21 (k) As used in this section:

22 (1) “Sexual penetration” is the act of causing the penetration,
23 however slight, of the genital or anal opening of any person or
24 causing another person to so penetrate the defendant’s or another
25 person’s genital or anal opening for the purpose of sexual arousal,
26 gratification, or abuse by any foreign object, substance, instrument,
27 or device, or by any unknown object.

28 (2) “Foreign object, substance, instrument, or device” shall
29 include any part of the body, except a sexual organ.

30 (3) “Unknown object” shall include any foreign object,
31 substance, instrument, or device, or any part of the body, including
32 a penis, when it is not known whether penetration was by a penis
33 or by a foreign object, substance, instrument, or device, or by any
34 other part of the body.

35 (l) As used in subdivision (a), “threatening to retaliate” means
36 a threat to kidnap or falsely imprison, or inflict extreme pain,
37 serious bodily injury or death.

38 (m) As used in this section, “victim” includes any person who
39 the defendant causes to penetrate the genital or anal opening of
40 the defendant or another person or whose genital or anal opening

1 is caused to be penetrated by the defendant or another person and
2 who otherwise qualifies as a victim under the requirements of this
3 section.

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

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2138

Introduced by Assembly Members Chiu and Low

February 12, 2018

An act to amend ~~Sections 480 and~~ Sections 7.5, 480, 481, 482, 488, 490, 492, 493, 1005, and 11345.2 ~~of of, to add Section 481.5 to, and to repeal Section 490.5 of~~, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chiu. Licensing boards: denial of application: *revocation or suspension of licensure: criminal conviction.*

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and Affairs. Existing law authorizes a board to ~~deny deny, suspend, or revoke~~ a license ~~or take disciplinary action against a licensee~~ on the grounds that the applicant ~~or licensee~~ has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the

business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would ~~instead prohibit a person from being denied a license solely on the basis that he or she has been convicted of a nonviolent crime and would make conforming changes.~~ revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.

The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board to suspend a license if a licensee is not in compliance with a child support order or judgment.

This bill would repeal that authorization.

Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.

This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.

Existing law authorizes a board after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license.

This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.

This bill would also make necessary conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7.5 of the Business and Professions Code
- 2 is amended to read:
- 3 7.5. (a) A conviction within the meaning of this code means
- 4 a judgment following a plea or verdict of guilty or a conviction
- 5 following a plea of nolo contendere, contendere or finding of guilt.
- 6 Any action which a board is permitted to take following the

1 establishment of a conviction may be taken when the time for
2 appeal has elapsed, or the judgment of conviction has been affirmed
3 on appeal or when an order granting probation is made suspending
4 the imposition of sentence, ~~irrespective of a subsequent order under~~
5 ~~the provisions of Section 1203.4 of the Penal Code.~~ sentence.
6 However, a board may not deny a license to an applicant who is
7 otherwise qualified pursuant to subdivision (b) *or (c)* of Section
8 480.

9 **Nothing**

10 *(b) Nothing* in this section shall apply to the licensure of persons
11 pursuant to Chapter 4 (commencing with Section 6000) of Division
12 3.

13 *(c) Except as provided in subdivision (b), this section controls*
14 *over and supersedes the definition of conviction contained within*
15 *individual practice acts under this code.*

16 **SECTION 1.**

17 **SEC. 2.** Section 480 of the Business and Professions Code is
18 amended to read:

19 480. (a) ~~A(1) Notwithstanding any other provision of this~~
20 ~~code, a board may deny a license regulated by this code on the~~
21 ~~grounds that the applicant has one of the following: been convicted~~
22 ~~of a crime or has been subject to formal discipline only if either~~
23 ~~of the following conditions are met:~~

24 ~~(1) Been convicted of a crime. A conviction within the meaning~~
25 ~~of this section means a plea or verdict of guilty or a conviction~~
26 ~~following a plea of nolo contendere. Any action that a board is~~
27 ~~permitted to take following the establishment of a conviction may~~
28 ~~be taken when the time for appeal has elapsed, or the judgment of~~
29 ~~conviction has been affirmed on appeal, or when an order granting~~
30 ~~probation is made suspending the imposition of sentence,~~
31 ~~irrespective of a subsequent order under the provisions of Section~~
32 ~~1203.4, 1203.4a, or 1203.41 of the Penal Code.~~

33 ~~(2) Done any act involving dishonesty, fraud, or deceit with the~~
34 ~~intent to substantially benefit himself or herself or another, or~~
35 ~~substantially injure another.~~

36 ~~(3) (A) Done any act that if done by a licensee of the business~~
37 ~~or profession in question, would be grounds for suspension or~~
38 ~~revocation of license.~~

39 ~~(B) The board may deny a license pursuant to this subdivision~~
40 ~~only if the crime or act is substantially related to the qualifications,~~

functions, or duties of the business or profession for which application is made.

(A) The applicant has been convicted of a crime for which the applicant is presently incarcerated or for which the conviction occurred within the preceding five years. However, the preceding five year limitation shall not apply to a conviction for a violent felony, as defined in Section 667.5 of the Penal Code.

The board may deny a license pursuant to this subparagraph only if the crime is directly and adversely related to the qualifications, functions, or duties of the business or profession for which application is made.

(B) The applicant has been subjected to formal discipline by a licensing board within the preceding five years based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is directly and adversely related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding five years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable dismissal or expungement.

(2) Denial of a license includes denial of an unrestricted license by issuance of a restricted or probationary license.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a ~~nonviolent crime~~ crime, or on the basis of acts underlying a conviction for a crime, if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code

1 *shall provide proof of the dismissal if it is not reflected on the*
2 *report furnished by the Department of Justice.*

3 *(d) Notwithstanding any other provision of this code, a board*
4 *shall not deny a license on the basis of an arrest that resulted in*
5 *a disposition other than a conviction, including an arrest that*
6 *resulted in an infraction, citation, or a juvenile adjudication.*

7 ~~*(e)*~~

8 *(e) A board may deny a license regulated by this code on the*
9 *ground that the applicant knowingly made a false statement of fact*
10 *that is required to be revealed in the application for the license. A*
11 *board shall not deny a license based solely on an applicant's*
12 *failure to disclose a fact that would not have been cause for denial*
13 *of the license had it been disclosed.*

14 *(f) A board shall follow the following procedures in requesting*
15 *or acting on an applicant's criminal history information:*

16 *(1) A board shall not require an applicant for licensure to*
17 *disclose any information or documentation regarding the*
18 *applicant's criminal history.*

19 *(2) If a board decides to deny an application based solely or in*
20 *part on the applicant's conviction history, the board shall notify*
21 *the applicant in writing of all of the following:*

22 *(A) The denial or disqualification of licensure.*

23 *(B) Any existing procedure the board has for the applicant to*
24 *challenge the decision or to request reconsideration.*

25 *(C) That the applicant has the right to appeal the board's*
26 *decision.*

27 *(D) The processes for the applicant to request a copy of his or*
28 *her complete conviction history and question the accuracy or*
29 *completeness of the record pursuant to Sections 11122 to 11127*
30 *of the Penal Code.*

31 *(g) (1) For a minimum of three years, each board under this*
32 *code shall retain application forms and other documents submitted*
33 *by an applicant, any notice provided to an applicant, all other*
34 *communications received from and provided to an applicant, and*
35 *criminal history reports of an applicant.*

36 *(2) Each board under this code shall retain the number of*
37 *applications received for each license and the number of*
38 *applications requiring inquiries regarding criminal history. In*
39 *addition, each licensing authority shall retain all of the following*
40 *information:*

1 (A) The number of applicants with a criminal record who
2 received notice of denial or disqualification of licensur e.

3 (B)The number of applicants with a criminal record who
4 provided evidence of mitigation or rehabilitation.

5 (C) The number of applicants with a criminal record who
6 appealed any denial or disqualification of licensur e.

7 (D) The fnal disposition and demographic information,
8 including, but not limited to, voluntarily provided information on
9 race or gender, of any applicant described in subparagraph (A),
10 (B), or (C).

11 (3) (A) Each board under this code shall annually make
12 available to the public through the board's Internet Web site and
13 through a report submitted to the appropriate policy committees
14 of the Legislature deidentified information collected pursuant to
15 this subdivision. Each board shall ensure confidentiality of the
16 individual applicants.

17 (B) A report pursuant to subparagraph (A) shall be submitted
18 in compliance with Section 9795 of the Government Code.

19 (h) "Conviction" as used in this section shall have the same
20 meaning as defined in Section 7.5.

21 (i) This section supersedes any contradictory provision in a
22 licensing act under this code or initiative act referred to in Division
23 2 (commencing with Section 500) that authorizes license denial
24 based on a criminal conviction, arrest, or the acts underlying an
25 arrest or conviction.

26 SEC. 3. Section 481 of the Business and Professions Code is
27 amended to read:

28 481. (a) Each board under ~~the provisions of~~ this code shall
29 develop criteria to aid it, when considering the denial, ~~suspension~~
30 ~~suspension~~, or revocation of a license, to determine whether a
31 ~~crime or act is substantially~~ is directly and adversely related to the
32 qualifications, functions, or duties of the business or profession it
33 regulates.

34 (b) Criteria for determining whether a crime is directly and
35 adversely related to the qualifications, functions, or duties of the
36 business or profession a board regulates shall include all of the
37 following:

38 (1) The nature and gravity of the offense.

39 (2) The number of years elapsed since the date of the offense.

1 (3) *The nature and duties of the profession in which the*
2 *applicant seeks licensure or in which the licensee is licensed.*

3 (c) *A board shall not deny a license based in whole or in part*
4 *on a conviction without considering evidence of rehabilitation.*

5 (d) *Each board shall post on its Internet Web site a summary*
6 *of the criteria used to consider whether a crime is considered to*
7 *be directly and adversely related to the qualifications, functions,*
8 *or duties of the business or profession it regulates consistent with*
9 *this section.*

10 SEC. 4. *Section 481.5 is added to the Business and Professions*
11 *Code, to read:*

12 481.5. (a) *Probationary terms or restrictions placed on a*
13 *license by a board shall be limited to two years or less. Any*
14 *additional conditions may be imposed only if the board determines*
15 *that there is clear and convincing evidence that additional*
16 *conditions are necessary to address a risk shown by clear and*
17 *convincing evidence.*

18 (b) *Each board under this code shall develop criteria to aid it*
19 *when considering the imposition of probationary conditions or*
20 *restrictions to determine what conditions may be imposed to*
21 *address a risk shown by clear and convincing evidence.*

22 (c) (1) *A licensee or registrant whose license or registration*
23 *has been placed on probation may petition the board for a change*
24 *to the probation, including modification or termination of*
25 *probation, one year from the effective date of the decision. The*
26 *board shall issue its decision on the petition within 90 days of*
27 *submission of the petition. The petition shall be deemed granted*
28 *by operation of law if the board does not file a decision denying*
29 *the petition within 90 days of submission of the petition.*

30 (2) *The one-year time period to petition for modification or*
31 *termination of penalty shall control over longer time periods under*
32 *a licensing act under this code or initiative act referred to in*
33 *Division 2 (commencing with Section 500).*

34 SEC. 5. *Section 482 of the Business and Professions Code is*
35 *amended to read:*

36 482. (a) ~~Each board under the provisions of this code shall~~
37 ~~develop criteria to evaluate the rehabilitation of a person when:~~
38 ~~when doing either of the following:~~

39 (a)

(1) Considering the denial of a license by the board under Section ~~480~~; or 480.

~~(b)~~

(2) Considering suspension or revocation of a license under Section 490.

~~Each~~

~~(b) Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee. find that an applicant or licensee has made a showing of rehabilitation if any of the following are met:~~

~~(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.~~

~~(2)(A) The applicant or licensee documents that he or she has worked in a related field continuously for at least one year prior to licensure or successfully completed a course of training in a related field, unless the board finds a public record of an official finding that the applicant committed professional misconduct in the course of that work.~~

~~(B) Work in a related field may include, but is not limited to, work performed without compensation and work performed while incarcerated.~~

~~(C) "Related field," for purposes of this paragraph, means a field of employment whose duties are substantially similar to the field regulated by the board.~~

~~(3) The applicant or licensee has satisfied criteria for rehabilitation developed by the board.~~

~~SEC. 6. Section 488 of the Business and Professions Code is amended to read:~~

~~488. Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:~~

~~(a) Grant the license effective upon completion of all licensing requirements by the applicant.~~

~~(b) Grant the license effective upon completion of all licensing requirements by the applicant, grant the license and immediately issue a public reproof pursuant to Section 495, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.~~

~~(c) Deny the license.~~

(d) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

SEC. 7. Section 490 of the Business and Professions Code is amended to read:

490. (a) (1) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, ~~if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.~~ *crime for which the applicant is presently incarcerated or for which the conviction occurred within the preceding five years. However, the preceding five year limitation shall not apply to a conviction for a violent felony, as defined in Section 667.5 of the Penal Code.*

(2) *The board may suspend or revoke a license pursuant to this subdivision only if the crime is directly and adversely related to the qualifications, functions, or duties of the business or profession for which application is made.*

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if ~~the both of the following are met:~~

(1) ~~The crime is substantially directly and adversely related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.~~

(2) ~~The licensee was convicted of the crime within the preceding five years or is presently incarcerated for the crime. However, the preceding five year limitation shall not apply to a conviction for a violent felony, as defined in Section 667.5 of the Penal Code.~~

~~(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.~~

~~(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and~~

1 that the holding in that case has placed a significant number of
2 statutes and regulations in question, resulting in potential harm to
3 the consumers of California from licensees who have been
4 convicted of crimes. Therefore, the Legislature finds and declares
5 that this section establishes an independent basis for a board to
6 impose discipline upon a licensee, and that the amendments to this
7 section made by Chapter 33 of the Statutes of 2008 do not
8 constitute a change to, but rather are declaratory of, existing law.

9 (c) Notwithstanding any other provision of this code, a board
10 shall not suspend or revoke a license on the basis of a conviction,
11 or of the acts underlying a conviction, where that conviction has
12 been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or
13 1203.42 of the Penal Code or a comparable dismissal or
14 expungement.

15 (d) Notwithstanding any other provision of this code, a board
16 shall not suspend or revoke a license on the basis of an arrest that
17 resulted in a disposition other than a conviction, including an
18 arrest that resulted in an infraction, citation, or juvenile
19 adjudication.

20 (e) The board shall use the following procedures in requesting
21 or acting on a licensee's criminal history information:

22 (1) A board shall not require a licensee to disclose any
23 information or documentation regarding the licensee's criminal
24 history.

25 (2) If a board chooses to file an accusation against a licensee
26 based solely or in part on the licensee's conviction history, the
27 board shall notify the licensee in writing of the processes for the
28 licensee to request a copy of the licensee's complete conviction
29 history and question the accuracy or completeness of his or her
30 criminal record pursuant to Sections 11122 to 11127, inclusive,
31 of the Penal Code.

32 (f) (1) For a minimum of three years, each board under this
33 code shall retain all documents submitted by a licensee, notices
34 provided to a licensee, all other communications received from or
35 provided to a licensee, and criminal history reports of a licensee.

36 (2) Each board under this code shall retain all of the following
37 information:

38 (A) The number of licensees with a criminal record who received
39 notice of potential revocation or suspension of their license or who
40 had their license suspended or revoked.

1 (B) The number of licensees with a criminal record who
2 provided evidence of mitigation or rehabilitation.

3 (C) The number of licensees with a criminal record who
4 appealed any suspension or revocation of a license.

5 (D) The final disposition and demographic information,
6 including, but not limited to, voluntarily provided information on
7 race or gender, of any applicant described in subparagraph (A),
8 (B), or (C).

9 (3) (A) Each board under this code shall annually make
10 available to the public through the board's Internet Web site and
11 through a report submitted to the appropriate policy committees
12 of the Legislature deidentified information collected pursuant to
13 this subdivision. Each board shall ensure the confidentiality of the
14 individual licensees.

15 (B) A report pursuant to subparagraph (A) shall be submitted
16 in compliance with Section 9795 of the Government Code.

17 (g) (1) This section supersedes any contradictory provision in
18 a licensing act under this code or initiative act referred to in
19 Division 2 (commencing with Section 500) that authorizes action
20 based on a criminal conviction, arrest, or the acts underlying an
21 arrest or conviction.

22 (2) This section shall not prohibit any agency from taking
23 disciplinary action against a licensee for professional misconduct
24 in the course and scope of the licensee's profession that is based
25 on evidence that is independent of an arrest.

26 SEC. 8. Section 490.5 of the Business and Professions Code
27 is repealed.

28 ~~490.5. A board may suspend a license pursuant to Section~~
29 ~~17520 of the Family Code if a licensee is not in compliance with~~
30 ~~a child support order or judgment.~~

31 SEC. 9. Section 492 of the Business and Professions Code is
32 amended to read:

33 492. (a) Notwithstanding any other provision of law, successful
34 completion of any diversion program under the Penal Code,
35 successful completion by a licensee or applicant of any
36 nonstatutory diversion program, deferred entry of judgment, or
37 successful completion of an alcohol and drug problem assessment
38 program under Article 5 (commencing with Section 23249.50) of
39 Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit
40 any agency established under Division 2 (commencing with Section

500) of this code, or any initiative act referred to in that division, board from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest. *misconduct.*

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

(b) This section shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee for professional misconduct in the course and scope of the profession, which is based on evidence that is independent of an arrest.

SEC. 10. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially directly and adversely related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question. *fact.*

(b) (1) Criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

1 (2) A board shall not categorically bar an applicant based solely
2 on the type of conviction without considering evidence of
3 rehabilitation.

4 As

5 (c) As used in this section, “license” includes “certificate,”
6 “permit,” “authority,” and “registration.”

7 SEC. 11. Section 1005 of the Business and Professions Code
8 is amended to read:

9 1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35,
10 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,
11 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, ~~490.5~~,
12 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704,
13 710, 716, 730.5, 731, and 851 are applicable to persons licensed
14 by the State Board of Chiropractic Examiners under the
15 Chiropractic Act.

16 SEC. 2.

17 SEC. 12. Section 11345.2 of the Business and Professions Code
18 is amended to read:

19 11345.2. (a) An individual shall not act as a controlling person
20 for a registrant if any of the following apply:

21 (1) The individual has entered a plea of guilty or no contest to,
22 or been convicted of, a felony. If the individual’s felony conviction
23 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41
24 of the Penal Code, the bureau may allow the individual to act as
25 a controlling person.

26 (2) The individual has had a license or certificate to act as an
27 appraiser or to engage in activities related to the transfer of real
28 property refused, denied, canceled, or revoked in this state or any
29 other state.

30 (b) Any individual who acts as a controlling person of an
31 appraisal management company and who enters a plea of guilty
32 or no contest to, or is convicted of, a felony, or who has a license
33 or certificate as an appraiser refused, denied, canceled, or revoked
34 in any other state shall report that fact or cause that fact to be
35 reported to the office, in writing, within 10 days of the date he or
36 she has knowledge of that fact.

ASSEMBLY BILL

No. 2264

Introduced by Assembly Member Brough

February 13, 2018

An act to amend Sections 163 and 163.5 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2264, as introduced, Brough. Professions and vocations: fees.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires the Department of Consumer Affairs and each board in the department to charge a \$2 fee for the certification of a record, document, or paper in its custody or for the certification of a document evidencing the content of that record, document, or paper, except as otherwise provided by law.

This bill would instead authorize the department and boards to charge a fee of not more than \$2 for these certifications, except as otherwise provided by law.

Existing law requires that the delinquency, penalty, or late fee for any licensee within the department be 50% of the renewal fee for that license that is in effect on the date of the renewal of the license, but not less than \$25 nor more than \$150, except as otherwise provided by law.

This bill would delete the requirement that the fee not be less than \$25 and would make other nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 163 of the Business and Professions Code is amended to read:

163. Except as otherwise expressly provided by law, the department and each board in the department ~~shall~~ *may* charge a fee of *not more than* two dollars (\$2) for the certification of a copy of any record, document, or paper in its custody or for the certification of any document evidencing the content of ~~any such~~ *that* record, document or paper.

SEC. 2. Section 163.5 of the Business and Professions Code is amended to read:

163.5. (a) Except as otherwise provided by law, the delinquency, penalty, or late fee for any licensee within the Department of Consumer Affairs shall be 50 percent of the renewal fee for ~~such~~ *that* license in effect on the date of the renewal of the license, but ~~not less than twenty-five dollars (\$25)~~ *not more than* one hundred fifty dollars (\$150).

~~A~~

(b) A delinquency, penalty, or late fee shall not be assessed until 30 days have elapsed from the date that the licensing agency mailed a notice of renewal to the licensee at the licensee's last known address of record. The notice shall specify the date for timely renewal, and that failure to renew in a timely fashion shall result in the assessment of a delinquency, penalty, or late fee.

~~In the event a~~

(c) ~~If a~~ reinstatement or like fee is charged for the reinstatement of a license, the reinstatement fee shall be 150 percent of the renewal fee for ~~such~~ *that* license in effect on the date of the reinstatement of the license, but not more than twenty-five dollars (\$25) in excess of the renewal fee, except that in the event that ~~such a~~ *this* fee is fixed by statute at less than 150 percent of the renewal fee and less than the renewal fee plus twenty-five dollars (\$25), the fee so fixed shall be charged.

AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2409

Introduced by Assembly Member Kiley

February 14, 2018

An act to ~~amend Section 101.6 of~~ *add Section 37 to* the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 2409, as amended, Kiley. Professions and ~~vocations~~: *vocations: occupational regulations*.

Existing law provides for the licensure and regulation of various professions and vocations by ~~boards, bureaus, and commissions~~ *boards* within the Department of Consumer Affairs and provides that those ~~boards, bureaus, and commissions~~ *boards* are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities that have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. *Existing law authorizes a board to deny a license if an applicant has been convicted of a crime, done any act involving dishonesty, fraud, or deceit with intent to substantially benefit himself or herself or another or substantially injure another, or does any act that, if done by a licentiate of the business or profession, would be grounds for suspension or revocation.*

This bill would ~~make a nonsubstantive change to that provision~~: *establish that a person has a right to engage in a lawful profession or vocation without being subject to an occupational regulation, as defined, that imposes a substantial burden on that right, and would require each occupational regulation to be limited to what is demonstrably necessary*

and narrowly tailored to fulfill a legitimate public health, safety, or welfare objective. The bill would include within this the right of a person with a criminal record to obtain a license and not to have a board use the person's criminal record as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation. The bill would also include the right of a person who is behind on his or her taxes or student loans to petition a board not to use these factors against that person, as prescribed.

The bill would authorize a person who is denied a license to file a petition and appeal to the board. The bill would prescribe procedures and legal standards by which a board may determine that a person's criminal record disqualifies that person. The bill would also permit a person, following the response to an administrative petition, to file an appeal to a court for a declaratory judgment or injunctive or other equitable relief, in accordance with certain legal procedures and criteria. The bill would include related definitions and declare the intent of the Legislature in this regard.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act may be known as the "Occupational
- 2 Opportunity Act."
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) Each individual has the right to pursue a chosen profession
- 5 and vocation, free from arbitrary or excessive government
- 6 interference.
- 7 (b) The freedom to earn an honest living traditionally has
- 8 provided the surest means for economic mobility.
- 9 (c) In recent years, many regulations of entry into professions
- 10 and vocations have exceeded legitimate public purposes and have
- 11 had the effect of arbitrarily limiting entry and reducing
- 12 competition.
- 13 (d) The burden of excessive regulation is borne most heavily by
- 14 individuals outside the economic mainstream, for whom
- 15 opportunities for economic advancement are curtailed.
- 16 (e) It is in the public interest to do all of the following:

1 (1) Ensure the right of all individuals to pursue legitimate
2 entrepreneurial and professional opportunities to the limits of
3 their talent and ambition.

4 (2) Provide the means for the vindication of this right.

5 (3) Ensure that regulations of entry into professions and
6 vocations are demonstrably necessary and narrowly tailored to
7 fulfill legitimate health, safety, and welfare objectives.

8 SEC. 3. Section 37 is added to the Business and Professions
9 Code, to read:

10 37. (a) (1) Notwithstanding Section 480 or any other law, a
11 person has a right to engage in a lawful profession or vocation
12 without being subject to an occupational regulation that imposes
13 a substantial burden on that right. To achieve this purpose, each
14 occupational regulation shall be limited to what is demonstrably
15 necessary and shall be narrowly tailored to fulfill a legitimate
16 public health, safety, or welfare objective.

17 (2) Notwithstanding any other law, the right set forth in
18 paragraph (1) includes the right of a person with a criminal record
19 to obtain a license to engage in a profession or vocation, and the
20 right to not have a board use the person's criminal record as an
21 automatic or mandatory permanent bar to engaging in a lawful
22 profession or vocation.

23 (3) Notwithstanding any other law, the right set forth in
24 paragraph (1) also includes the right of a person who is behind
25 on his or her taxes or student loans to obtain a license to engage
26 in a profession or vocation, and the right to not have the board
27 use the person's status with respect to his or her taxes or student
28 loans as an automatic or mandatory permanent bar to engaging
29 in a lawful profession or vocation.

30 (b) (1) (A) A person denied a license may file a petition and
31 appeal to the board.

32 (B) If the person has a criminal record, the person shall include
33 in the petition a copy of his or her criminal record or shall
34 authorize the board to obtain a copy of that record. The person may
35 additionally include information about his or her current
36 circumstances, including, but not limited to, the time passed since
37 the offense, completion of the criminal sentence, other evidence
38 of rehabilitation, testimonials, employment history, and
39 employment aspirations.

1 (C) Notwithstanding any other law, the board may find that the
2 person's criminal record disqualifies that person from obtaining
3 a license only if the person's criminal record includes a conviction
4 for a felony or a violent misdemeanor and the board concludes
5 that the state has an important interest in protecting public safety
6 that is superior to the person's individual right. The board may
7 make this conclusion only if it determines, by clear and convincing
8 evidence at the time of the petition, all of the following:

9 (i) The specific offense for which the person was convicted is
10 substantially related to the qualifications, functions, or duties of
11 the profession or vocation for which application was denied.

12 (ii) The person, based on the nature of the specific offense for
13 which he or she was convicted and his or her current
14 circumstances, would be put in a position in which that person is
15 more likely to reoffend by having the license than if the person did
16 not obtain that license.

17 (iii) A reoffense by the person would cause greater harm than
18 it would if the person did not have a license and was not put in a
19 position in which the person is more likely to reoffend.

20 (2) Within 90 days of a petition filed pursuant to paragraph (1),
21 the board shall make a determination on the appeal, based on the
22 standards set forth in subdivision (a).

23 (c) (1) Following the response to an administrative petition
24 pursuant to paragraph (2) of subdivision (b), a person may file an
25 appeal to a court of general jurisdiction for a declaratory judgment
26 or injunctive relief or other equitable relief for a violation of
27 subdivision (a).

28 (2) In such an action, the board bears the burden of proving by
29 preponderance of the evidence that the challenged occupational
30 regulation meets the criteria set forth in paragraph (1) of
31 subdivision (a).

32 (3) If the board fails to meet the burden of proof and the court
33 finds by a preponderance of evidence that the challenged
34 occupational regulation fails to meet the criteria set forth in
35 paragraph (1) of subdivision (a), the court shall enjoin further
36 enforcement of the occupational regulation and shall award
37 reasonable attorney's fees and costs to the plaintiff.

38 (4) A court shall liberally construe this section to protect the
39 rights established in paragraph (1) of subdivision (a).

40 (d) For purposes of this section, the following terms apply:

1 (1) “Board” has the same meaning as set forth in Section 22.

2 (2) “License” has the same meaning as set forth in Section 23.7.

3 (3) “Occupational regulation” means a regulation, rule, policy,
4 condition, test, permit, administrative practice, or other state
5 government-prescribed requirement for a person to engage in a
6 lawful profession or vocation.

7 SECTION 1. ~~Section 101.6 of the Business and Professions~~
8 ~~Code is amended to read:~~

9 ~~101.6. (a) The boards, bureaus, and commissions in the~~
10 ~~department are established for the purpose of ensuring that those~~
11 ~~private businesses and professions deemed to engage in activities~~
12 ~~that have potential impact upon the public health, safety, and~~
13 ~~welfare are adequately regulated in order to protect the people of~~
14 ~~California.~~

15 ~~(b) To this end, they establish minimum qualifications and levels~~
16 ~~of competency and license persons desiring to engage in the~~
17 ~~occupations they regulate upon determining that such persons~~
18 ~~possess the requisite skills and qualifications necessary to provide~~
19 ~~safe and effective services to the public, or register or otherwise~~
20 ~~certify persons in order to identify practitioners and ensure~~
21 ~~performance according to set and accepted professional standards.~~
22 ~~They provide a means for redress of grievances by investigating~~
23 ~~allegations of unprofessional conduct, incompetence, fraudulent~~
24 ~~action, or unlawful activity brought to their attention by members~~
25 ~~of the public and institute disciplinary action against persons~~
26 ~~licensed or registered under the provisions of this code when such~~
27 ~~action is warranted. In addition, they conduct periodic checks of~~
28 ~~licensees, registrants, or otherwise certified persons in order to~~
29 ~~ensure compliance with the relevant sections of this code.~~

AMENDED IN ASSEMBLY APRIL 9, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2483

Introduced by Assembly Member Voepel

February 14, 2018

An act to add Chapter 10 (commencing with Section 473) to Division 1 of the Business and Professions Code, relating to professions: liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Voepel. ~~Department of Consumer Affairs: Office of Supervision of Occupational Boards. Indemnification of public officer s and employees: antitrust awards.~~

The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble

damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.

Under existing law, the Department of Consumer Affairs is composed of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations for the purpose of protecting the people of California. With certain exceptions, decisions of these entities with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are final and are not subject to review by the Director of Consumer Affairs.

This bill would establish an Office of Supervision of Occupational Boards within the department to exercise active supervision over a “covered board,” defined as specific licensing and regulatory agencies within the department, to ensure compliance with specific policies established in the bill regarding licensing and enforcement (established policies). The bill would require the office, in the exercise of active supervision, to be involved in the development of a covered board’s rules and policies, to disapprove the use of any board rule or policy and terminate any enforcement action that is not consistent with the established policies, and to review and affirmatively approve only rules, policies, and enforcement actions consistent with the established policies. The bill would require the office to review and approve or reject any rule, policy, enforcement action, or other occupational licensure action proposed by each covered board before adoption or implementation. The bill would establish procedures for complaints, investigation, remedial action, and appeal relating to a rule, policy, enforcement action, or other occupational licensure action of a covered board inconsistent with the established policies.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 825 of the Government Code is amended
- 2 to read:
- 3 825. (a) Except as otherwise provided in this section, if an
- 4 employee or former employee of a public entity requests the public
- 5 entity to defend him or her against any claim or action against him
- 6 or her for an injury arising out of an act or omission occurring

1 within the scope of his or her employment as an employee of the
2 public entity and the request is made in writing not less than 10
3 days before the day of trial, and the employee or former employee
4 reasonably cooperates in good faith in the defense of the claim or
5 action, the public entity shall pay any judgment based thereon or
6 any compromise or settlement of the claim or action to which the
7 public entity has agreed.

8 If the public entity conducts the defense of an employee or
9 former employee against any claim or action with his or her
10 reasonable good-faith cooperation, the public entity shall pay any
11 judgment based thereon or any compromise or settlement of the
12 claim or action to which the public entity has agreed. However,
13 where the public entity conducted the defense pursuant to an
14 agreement with the employee or former employee reserving the
15 rights of the public entity not to pay the judgment, compromise,
16 or settlement until it is established that the injury arose out of an
17 act or omission occurring within the scope of his or her
18 employment as an employee of the public entity, the public entity
19 is required to pay the judgment, compromise, or settlement only
20 if it is established that the injury arose out of an act or omission
21 occurring in the scope of his or her employment as an employee
22 of the public entity.

23 Nothing in this section authorizes a public entity to pay that part
24 of a claim or judgment that is for punitive or exemplary damages.

25 (b) Notwithstanding subdivision (a) or any other provision of
26 law, a public entity is authorized to pay that part of a judgment
27 that is for punitive or exemplary damages if the governing body
28 of that public entity, acting in its sole discretion except in cases
29 involving an entity of the state government, finds all of the
30 following:

31 (1) The judgment is based on an act or omission of an employee
32 or former employee acting within the course and scope of his or
33 her employment as an employee of the public entity.

34 (2) At the time of the act giving rise to the liability, the employee
35 or former employee acted, or failed to act, in good faith, without
36 actual malice and in the apparent best interests of the public entity.

37 (3) Payment of the claim or judgment would be in the best
38 interests of the public entity.

39 As used in this subdivision with respect to an entity of state
40 government, “a decision of the governing body” means the

1 approval of the Legislature for payment of that part of a judgment
2 that is for punitive damages or exemplary damages, upon
3 recommendation of the appointing power of the employee or
4 former employee, based upon the finding by the Legislature and
5 the appointing authority of the existence of the three conditions
6 for payment of a punitive or exemplary damages claim. The
7 provisions of subdivision (a) of Section 965.6 shall apply to the
8 payment of any claim pursuant to this subdivision.

9 The discovery of the assets of a public entity and the introduction
10 of evidence of the assets of a public entity shall not be permitted
11 in an action in which it is alleged that a public employee is liable
12 for punitive or exemplary damages.

13 The possibility that a public entity may pay that part of a
14 judgment that is for punitive damages shall not be disclosed in any
15 trial in which it is alleged that a public employee is liable for
16 punitive or exemplary damages, and that disclosure shall be
17 grounds for a mistrial.

18 (c) Except as provided in subdivision (d), if the provisions of
19 this section are in conflict with the provisions of a memorandum
20 of understanding reached pursuant to Chapter 10 (commencing
21 with Section 3500) of Division ~~4 of Title 1, 4~~, the memorandum
22 of understanding shall be controlling without further legislative
23 action, except that if those provisions of a memorandum of
24 understanding require the expenditure of funds, the provisions
25 shall not become effective unless approved by the Legislature in
26 the annual Budget Act.

27 (d) The subject of payment of punitive damages pursuant to this
28 section or any other provision of law shall not be a subject of meet
29 and confer under the provisions of Chapter 10 (commencing with
30 Section 3500) of Division ~~4 of Title 1, 4~~, or pursuant to any other
31 law or authority.

32 (e) Nothing in this section shall affect the provisions of Section
33 818 prohibiting the award of punitive damages against a public
34 entity. This section shall not be construed as a waiver of a public
35 entity's immunity from liability for punitive damages under Section
36 1981, 1983, or 1985 of Title 42 of the United States Code.

37 (f) (1) Except as provided in paragraph (2), a public entity shall
38 not pay a judgment, compromise, or settlement arising from a
39 claim or action against an elected official, if the claim or action is
40 based on conduct by the elected official by way of tortiously

1 intervening or attempting to intervene in, or by way of tortiously
2 influencing or attempting to influence the outcome of, any judicial
3 action or proceeding for the benefit of a particular party by
4 contacting the trial judge or any commissioner, court-appointed
5 arbitrator, court-appointed mediator, or court-appointed special
6 referee assigned to the matter, or the court clerk, bailiff, or marshal
7 after an action has been filed, unless he or she was counsel of
8 record acting lawfully within the scope of his or her employment
9 on behalf of that party. Notwithstanding Section 825.6, if a public
10 entity conducted the defense of an elected official against such a
11 claim or action and the elected official is found liable by the trier
12 of fact, the court shall order the elected official to pay to the public
13 entity the cost of that defense.

14 (2) If an elected official is held liable for monetary damages in
15 the action, the plaintiff shall first seek recovery of the judgment
16 against the assets of the elected official. If the elected official's
17 assets are insufficient to satisfy the total judgment, as determined
18 by the court, the public entity may pay the deficiency if the public
19 entity is authorized by law to pay that judgment.

20 (3) To the extent the public entity pays any portion of the
21 judgment or is entitled to reimbursement of defense costs pursuant
22 to paragraph (1), the public entity shall pursue all available
23 creditor's remedies against the elected official, including
24 garnishment, until that party has fully reimbursed the public entity.

25 (4) This subdivision shall not apply to any criminal or civil
26 enforcement action brought in the name of the people of the State
27 of California by an elected district attorney, city attorney, or
28 attorney general.

29 *(g) Notwithstanding subdivision (a), a public entity shall pay*
30 *for a judgment or settlement for treble damage antitrust awards*
31 *against a member of a regulatory board within the Department of*
32 *Consumer Affairs for an act or omission occurring within the scope*
33 *of the member's official capacity as a member of that regulatory*
34 *board.*

35 *(h) For purposes of this section, treble damages awarded*
36 *pursuant to the federal Clayton Act (Sections 12 to 27, inclusive,*
37 *of Title 15 of, and Sections 52 and 53 of Title 29 of, the United*
38 *States Code) for a violation of the federal Sherman Act (Sections*
39 *1 to 7, inclusive, of Title 15 of the United States Code) are not*
40 *punitive or exemplary damages under this division.*

1 ~~SECTION 1. Chapter 10 (commencing with Section 473) is~~
2 ~~added to Division 1 of the Business and Professions Code, to read:~~

3
4 ~~CHAPTER 10. OFFICE OF SUPERVISION OF OCCUPATIONAL~~
5 ~~BOARDS~~

6
7 ~~473. The following are policies of the state:~~

8 ~~(a) Occupational licensing laws should be construed and applied~~
9 ~~to increase economic opportunity, promote competition, and~~
10 ~~encourage innovation.~~

11 ~~(b) Regulators should displace competition through occupational~~
12 ~~licensing only where less restrictive regulation will not suffice to~~
13 ~~protect consumers from present, significant, and substantiated~~
14 ~~harms that threaten public health, safety, or welfare.~~

15 ~~(c) An occupational licensing restriction should be enforced~~
16 ~~against an individual only to the extent the individual sells goods~~
17 ~~and services that are included explicitly in the statute or regulation~~
18 ~~that defines the occupation's scope of practice.~~

19 ~~473.1. As used in this chapter:~~

20 ~~(a) "Covered board" means any entity listed in Section 101.~~

21 ~~(b) "Office" means the Office of Supervision of Occupational~~
22 ~~Boards established in Section 473.2.~~

23 ~~473.2. (a) There is hereby established an Office of Supervision~~
24 ~~of Occupational Boards within the department.~~

25 ~~(b) (1) Notwithstanding Section 109, the office shall be~~
26 ~~responsible for exercising active supervision over each covered~~
27 ~~board to ensure compliance with the policies in Section 473.~~

28 ~~(2) In exercising active supervision over covered boards under~~
29 ~~paragraph (1), the office shall independently do the following:~~

30 ~~(A) Play a substantial role in the development of a covered~~
31 ~~board's rules and policies to ensure they benefit consumers and~~
32 ~~do not serve the private interests of providers of goods and services~~
33 ~~regulated by the covered board.~~

34 ~~(B) Disapprove the use of any rule or policy of a covered board~~
35 ~~and terminate any enforcement action, including any action pending~~
36 ~~on January 1, 2019, that is not consistent with Section 473.~~

37 ~~(C) Exercise control over each covered board by reviewing and~~
38 ~~affirmatively approving only rules, policies, and enforcement~~
39 ~~actions that are consistent with Section 473.~~

1 ~~(D) Analyze existing and proposed rules and policies and~~
2 ~~conduct investigations to gain additional information to promote~~
3 ~~compliance with Section 473, including, but not limited to, less~~
4 ~~restrictive regulatory approaches.~~

5 ~~(3) In exercising active supervision over covered boards under~~
6 ~~paragraph (1), the office shall be staffed by not fewer than one~~
7 ~~attorney who does not provide general counsel to any covered~~
8 ~~board.~~

9 ~~(e) (1) Notwithstanding Section 109, the office shall review~~
10 ~~and approve or reject any rule, policy, enforcement action, or other~~
11 ~~occupational licensure action proposed by each covered board~~
12 ~~before the covered board may adopt or implement the rule, policy,~~
13 ~~enforcement action, or other occupational licensure action.~~

14 ~~(2) For purposes of paragraph (1), approval by the office shall~~
15 ~~be express and silence or failure to act shall not constitute approval.~~

16 ~~473.3. (a) Any person may file a complaint to the office about~~
17 ~~a rule, policy, enforcement action, or other occupational licensure~~
18 ~~action of a covered board that the person believes is not consistent~~
19 ~~with Section 473.~~

20 ~~(b) Not later than 90 days after the date on which the office~~
21 ~~receives a complaint filed under paragraph (1), notwithstanding~~
22 ~~Section 109, the office shall investigate the complaint, identify~~
23 ~~remedies, and instruct the covered board to take action as the office~~
24 ~~determines to be appropriate, and respond in writing to the~~
25 ~~complainant.~~

26 ~~(c) (1) There shall be no right to appeal a decision of the office~~
27 ~~under subdivision (b) unless the challenged rule, policy,~~
28 ~~enforcement action, or other occupational licensure action would~~
29 ~~prevent the complainant from engaging in a lawful occupation or~~
30 ~~employing or contracting others for the performance of a lawful~~
31 ~~occupation and the complainant has taken material steps in an~~
32 ~~attempt to engage in a lawful occupation or employ or contract~~
33 ~~others for the performance of a lawful occupation.~~

34 ~~(2) Any appeal authorized under paragraph (1) shall be to the~~
35 ~~superior court.~~

ASSEMBLY BILL

No. 2643

Introduced by Assembly Member Irwin

February 15, 2018

An act to amend Section 1682 of the Business and Professions Code, to amend Section 1367.71 of the Health and Safety Code, and to amend Section 10119.9 of the Insurance Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2643, as introduced, Irwin. Dentistry: general anesthesia: health care coverage.

The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California. 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 any dentist to fail to obtain the written informed consent of a patient prior to administering general anesthesia or conscious sedation. With respect to a minor, the act also requires that the written informed consent include a specified statement that, among other things, encourages the parent or guardian to explore all the options available for a child's anesthesia for his or her dental treatment.

This bill would revise the required written informed consent statement, applicable for minors, to specify that it is required in the case of general anesthesia. The bill would also revise the content of that statement to require it to include a provision to encourage exploring nonsurgical treatment options.

Existing law, the Knox-Keene Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and make a willful violation of

that act a crime. Existing law also provides for the regulation of policies of disability insurance by the Insurance Commissioner.

Existing law provides that specified health care service plan contracts and disability insurance policies and certificates are deemed to cover general anesthesia and associated facility charges for dental procedures, upon specified authorization for enrollees or insureds under 7 years of age, enrollees or insureds who are developmentally disabled, or enrollees or insureds whose health is compromised and for whom general anesthesia is medically necessary, if certain other conditions are present. Under existing law, these provisions apply to those procedures rendered in a hospital or surgery center.

This bill, with respect to contracts or policies issued, amended, or renewed on or after January 1, 2019, would remove the language that limits coverage to procedures rendered in a hospital or surgery center.

Because a willful violation of that requirement by a health care service plan would be a crime, 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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1682 of the Business and Professions
- 2 Code is amended to read:
- 3 1682. In addition to other acts constituting unprofessional
- 4 conduct under this chapter, it is unprofessional conduct for:
- 5 (a) Any dentist performing dental procedures to have more than
- 6 one patient undergoing conscious sedation or general anesthesia
- 7 on an outpatient basis at any given time unless each patient is being
- 8 continuously monitored on a one-to-one ratio while sedated by
- 9 either the dentist or another licensed health professional authorized
- 10 by law to administer conscious sedation or general anesthesia.
- 11 (b) Any dentist with patients recovering from conscious sedation
- 12 or general anesthesia to fail to have the patients closely monitored
- 13 by licensed health professionals experienced in the care and

1 resuscitation of patients recovering from conscious sedation or
2 general anesthesia. If one licensed professional is responsible for
3 the recovery care of more than one patient at a time, all of the
4 patients shall be physically in the same room to allow continuous
5 visual contact with all patients and the patient to recovery staff
6 ratio should not exceed three to one.

7 (c) Any dentist with patients who are undergoing conscious
8 sedation to fail to have these patients continuously monitored
9 during the dental procedure with a pulse oximeter or similar or
10 superior monitoring equipment required by the board.

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

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

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

22 "The administration and monitoring of general anesthesia may
23 vary depending on the type of procedure, the type of practitioner,
24 the age and health of the patient, and the setting in which anesthesia
25 is provided. Risks may vary with each specific situation. You are
26 encouraged to explore all the options available for your child's
27 anesthesia for his or her dental ~~treatment~~, *treatment, including*
28 *nonsurgical treatment options*, and consult with your dentist or
29 pediatrician as needed."

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

33 SEC. 2. Section 1367.71 of the Health and Safety Code is
34 amended to read:

35 1367.71. (a) Every health care service plan contract, other than
36 a specialized health care service plan contract, that is issued,
37 amended, renewed, or delivered on or after January 1, ~~2000~~, 2019,
38 shall be deemed to cover general anesthesia and associated facility
39 charges for dental procedures ~~rendered in a hospital or surgery~~
40 ~~center setting~~, when the clinical status or underlying medical

1 condition of the patient requires dental procedures that ordinarily
2 would not require general ~~anesthesia to be rendered in a hospital~~
3 ~~or surgery center setting.~~ *anesthesia*. The health care service plan
4 may require prior authorization of general anesthesia and associated
5 charges required for dental care procedures in the same manner
6 that prior authorization is required for other covered diseases or
7 conditions.

8 (b) This section shall apply only to general anesthesia and
9 associated facility charges for only the following enrollees, and
10 only if the enrollees meet the criteria in subdivision (a):

11 (1) Enrollees who are under seven years of age.

12 (2) Enrollees who are developmentally disabled, regardless of
13 age.

14 (3) Enrollees whose health is compromised and for whom
15 general anesthesia is medically necessary, regardless of age.

16 (c) Nothing in this section shall require the health care service
17 plan to cover any charges for the dental procedure itself, including,
18 but not limited to, the professional fee of the dentist. Coverage for
19 anesthesia and associated facility charges pursuant to this section
20 shall be subject to all other terms and conditions of the plan that
21 apply generally to other benefits.

22 (d) Nothing in this section shall be construed to allow a health
23 care service plan to deny coverage for basic health care services,
24 as defined in Section 1345.

25 (e) A health care service plan may include coverage specified
26 in subdivision (a) at any time prior to January 1, ~~2000~~; 2019.

27 SEC. 3. Section 10119.9 of the Insurance Code is amended to
28 read:

29 10119.9. (a) A disability insurance policy or certificate
30 covering hospital, surgical, or medical expenses, that meets the
31 definition of "health benefit plan" in subdivision (a) of Section
32 10198.6, that is issued, amended, renewed, or delivered on or after
33 January 1, ~~2000~~; 2019, shall be deemed to cover general anesthesia
34 and associated facility charges for dental procedures ~~rendered in~~
35 ~~a hospital or surgery center setting~~, when the clinical status or
36 underlying medical condition of the insured requires dental
37 procedures that ordinarily would not require general ~~anesthesia to~~
38 ~~be rendered in a hospital or surgery center setting.~~ *anesthesia*. The
39 disability insurance policy or certificate may require prior
40 authorization of general anesthesia and associated charges required

1 for dental care procedures in the same manner that prior
2 authorization is required for other covered diseases or conditions.

3 (b) This section shall apply only to general anesthesia and
4 associated facility charges for only the following insureds, and
5 only if the insureds meet the criteria in subdivision (a):

6 (1) Insureds who are under seven years of age.

7 (2) Insureds who are developmentally disabled, regardless of
8 age.

9 (3) Insureds whose health is compromised and for whom general
10 anesthesia is medically necessary, regardless of age.

11 (c) Nothing in this section shall require insurers to cover any
12 charges for the dental procedure itself, including the professional
13 fee of the dentist. Coverage for anesthesia and associated facility
14 charges pursuant to this section shall be subject to all other terms
15 and conditions of the policy or certificate that apply generally to
16 other benefits.

17 (d) Nothing in this section shall require insurers to cover
18 anesthesia or related facility charges for dental procedures that
19 ordinarily would require general anesthesia and that do not meet
20 the requirements of subdivision (a), (b), or (c).

21 (e) A disability insurance policy may include coverage specified
22 in subdivision (a) at any time prior to January 1, ~~2000~~ 2019.

23 SEC. 4. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

AMENDED IN SENATE JANUARY 22, 2018

SENATE BILL

No. 707

Introduced by Senator Cannella
(Coauthor: Assembly Member Mayes)

February 17, 2017

An act to add and repeal Section 14005.274 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 707, as amended, Cannella. Medi-Cal: Denti-Cal Advisory Group.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid *program* provisions. Existing law provides coverage for certain dental services, as specified, to Medi-Cal beneficiaries 17 years of age and under through the Denti-Cal program. Existing law requires the department to report to the Legislature, by October 1, 2017, on progress towards the goal of raising the Denti-Cal utilization rate among eligible child beneficiaries to 60% or greater and identify a date by which the department projects this utilization goal will be met.

This bill, until January 1, 2023, would establish the Denti-Cal Advisory Group in the department, as specified, for the purpose of studying the ~~polieies~~ *structure, policies*, and priorities of Denti-Cal with the goal of raising the Denti-Cal utilization rate among eligible child beneficiaries to 60% or ~~greater~~, *greater and improving the oral health of the Medi-Cal eligible population*, providing assistance and advice to the department, the Legislature, and the Governor to ensure that ~~proposed decisions relating to the Denti-Cal program are~~ *is* based on

the best available evidence, and studying and evaluating how Denti-Cal program policies align with and support the implementation of the state oral health plan. The bill would prohibit the advisory group from taking a position on legislation. *The bill would require the advisory group to report any of its findings to the Legislature, at least annually, and would require the department to post those findings on its Internet Web site.* The bill would make related legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Denti-Cal is the Medi-Cal dental health care component
4 program that was established soon after the 1966 creation of the
5 Medi-Cal program.

6 (2) According to an audit conducted by the California State
7 Auditor in 2014, only 43.9 percent of children enrolled in the
8 Denti-Cal program had seen a dentist in the previous year—a
9 utilization rate that was the 12th worst among states that submitted
10 data to the federal Centers for Medicare and Medicaid Services.
11 Eleven California counties had no Denti-Cal providers or no
12 providers willing to accept new child patients covered by
13 Denti-Cal.

14 (3) Denti-Cal's 13 million or more beneficiaries need the State
15 Department of Health Care Services and dental care providers to
16 improve their relationships.

17 (4) In any sector, public or private, good relationships are built
18 on a foundation of good customer service.

19 (b) Therefore, the Legislature establishes pursuant to this act
20 an evidence-based advisory group to guide Denti-Cal priorities,
21 to study policy decisions, and to increase annual Denti-Cal
22 utilization rates among children in the state to 60 percent or greater,
23 as is the case in approximately 20 percent of states.

24 SEC. 2. Section 14005.274 is added to the Welfare and
25 Institutions Code, to read:

26 14005.274. (a) There is hereby established in the department
27 the Denti-Cal Advisory Group. The duties of the advisory group
28 shall include all of the following:

1 (1) Studying the ~~policies~~ *structure, policies*, and priorities of
2 Denti-Cal, the state Medi-Cal dental services program, with the
3 goal of raising the Denti-Cal utilization rate among eligible child
4 beneficiaries to 60 percent or ~~greater~~. *greater and improving the*
5 *oral health of the Medi-Cal eligible population.*

6 (2) Providing assistance and advice to the department, the
7 Legislature, and the Governor regarding ~~proposed decisions relating~~
8 ~~to the Denti-Cal program to ensure that those decisions are the~~
9 *program is based on the best available evidence.*

10 (3) Studying and evaluating how Denti-Cal program policies
11 align with and support the implementation of the state oral health
12 plan.

13 (b) The advisory group shall *have knowledge and expertise in*
14 *evidence-based dental practice and the scientific literature, and*
15 *shall* consist of the following members:

16 (1) The state dental director.

17 (2) Eight members appointed by the Governor that shall include
18 the following:

19 (A) A representative from the California Dental Association.

20 (B) A representative from the California Dental Hygienists'
21 Association.

22 (C) A representative of a philanthropic health care foundation.

23 (D) A representative of the California Society of Pediatric
24 Dentistry.

25 (E) Two university professors or educators who are experts in
26 dental practice or the dental services field.

27 (F) A representative of a Medi-Cal dental managed care health
28 plan organization.

29 (G) A representative of a community clinic or health center
30 where dental services are provided.

31 (3) A maternal and child health advocate, appointed by the
32 Senate Committee on Rules, with experience in the link between
33 a mother's access to oral health care during pregnancy and
34 postpartum and the child's improved access to oral health care.

35 (4) A consumer advocate, appointed by the Speaker of the
36 Assembly, with experience in adult dental health.

37 (c) Before entering upon the discharge of his or her official
38 duties, each member of the advisory group appointed pursuant to
39 this section shall take and file an oath pursuant to Sections 1360
40 and 1363 of the Government Code.

1 (d) A member of the advisory group shall serve for a term of
2 three years. There shall be no limit on the number of terms a
3 member may serve. The terms of members may be staggered so
4 that the terms of all members will not expire at the same time.

5 (e) A member of the advisory group shall not be compensated
6 for his or her services, except that he or she shall be paid reasonable
7 per diem and reimbursement of reasonable expenses for attending
8 meetings and discharging other official responsibilities as
9 authorized by the department and this section.

10 (f) The advisory group shall not take a position on legislation.

11 (g) *(1) The advisory group may shall report any of its findings*
12 *to the—Legislature. Legislature, at least annually, and the*
13 *department shall post those findings on its Internet Web site.*

14 *(2) A report submitted to the Legislature pursuant to paragraph*
15 *(1) shall be submitted in compliance with Section 9795 of the*
16 *Government Code.*

17 (h) This section shall remain in effect only until January 1, 2023,
18 and as of that date is repealed, unless a later enacted statute that
19 is enacted before January 1, 2023, deletes or extends that date.

AMENDED IN SENATE APRIL 17, 2017

SENATE BILL

No. 762

Introduced by Senator Hernandez

February 17, 2017

An act to amend Section 704 of the Business and Professions Code, relating to ~~workforce development~~: *healing arts*.

LEGISLATIVE COUNSEL'S DIGEST

SB 762, as amended, Hernandez. ~~Health care workforce development~~: *Healing arts licensee: license activation fee: waiver.*

Existing law requires a healing arts board, as defined, to issue, upon application and payment of the normal renewal fee, an inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by the board. Existing law requires the holder of an inactive license or certificate to, among other things, pay the renewal fee in order to restore his or her license or certificate to an active status. Existing law requires the renewal fee to be waived for a physician and surgeon who certifies to the Medical Board of California that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation that provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

This bill would require the renewal fee to be waived for any healing arts licensee who certifies to his or her respective board that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation that provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

~~The federal Workforce Innovation and Opportunity Act of 2014 provides for workforce investment activities, including activities in which states may participate. Existing law contains various programs for job training and employment investment, including work incentive programs, as specified, and establishes local workforce investment boards to perform duties related to the implementation and coordination of local workforce investment activities. Existing law requires local workforce investment boards to spend a minimum percentage of specified funds for adults and dislocated workers on federally identified workforce training programs and allows the boards to leverage specified funds to meet the funding requirements, as specified.~~

~~This bill would state the intent of the Legislature to enact legislation relating to health care workforce development.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 704 of the Business and Professions Code
2 is amended to read:
3 704. In order for the holder of an inactive license or certificate
4 issued pursuant to this article to restore his or her license or
5 certificate to an active status, the holder of an inactive license or
6 certificate shall comply with ~~all~~ both the following:
7 (a) Pay the renewal fee; provided, that the renewal fee shall be
8 waived for a ~~physician and surgeon~~ *healing arts licensee* who
9 certifies to the ~~Medical Board of California~~ *board* that license
10 restoration is for the sole purpose of providing voluntary, unpaid
11 service to a public agency, not-for-profit agency, institution, or
12 corporation ~~which~~ *that* provides medical services to indigent
13 patients in medically underserved or critical-need population areas
14 of the state.
15 (b) If the board requires completion of continuing education for
16 renewers of an active license or certificate, complete continuing
17 education equivalent to that required for a single license renewal
18 period.
19 ~~SECTION 1. It is the intent of the Legislature to enact~~
20 ~~legislation relating to health care workforce development.~~

O

Introduced by Senator Skinner

February 5, 2018

An act to add Section 11142 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 984, as introduced, Skinner. State boards and commissions: representation: women.

Existing law establishes various boards and commissions within state government. Under existing law, it is the policy of the State of California that the composition of these state boards and commissions broadly reflect the general public, including ethnic minorities and women. Under existing law, the Governor and other appointing authorities are responsible for nominating to these boards and commissions persons of different backgrounds, abilities, interests, and opinions.

This bill would require the composition of state boards and commissions to be comprised of, at a minimum, 50% women. The bill would also require the Secretary of State to disclose on its Internet Web site the gender composition of each state board and commission.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11142 is added to the Government Code,
- 2 to read:
- 3 11142. (a) The composition of state boards and commissions
- 4 shall be, at a minimum, 50 percent women.

- 1 (b) The Secretary of State shall disclose on its Internet Web site
- 2 the gender composition of each state board and commission.

O

Introduced by Senator VidakFebruary 13, 2018

An act to add Section 714 to the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1137, as introduced, Vidak. Veterans: professional licensing benefits.

Existing law establishes the Department of Veterans Affairs, which is responsible for administering various programs and services for the benefit of veterans. Existing law establishes the Department of Consumer Affairs within the Business, Consumer Services, and Housing Agency. Existing law provides for a variety of state benefits to veterans.

This bill would require the Department of Veterans Affairs and the Department of Consumer Affairs to, in consultation with each other, take appropriate steps to increase awareness regarding professional licensing benefits available to veterans, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 714 is added to the Military and Veterans
- 2 Code, to read:
- 3 714. (a) The Department of Veterans Affairs and the
- 4 Department of Consumer Affairs shall both, in consultation with
- 5 each other, take appropriate steps to increase awareness regarding
- 6 professional licensing benefits available to veterans.

1 (b)The awareness efforts in subdivision (a) shall include, but
2 not be limited to, all of the following:

3 (1) Proactive information dissemination to veteran groups in
4 the state.

5 (2) Posting information and resources on each department's
6 respective Internet Web site.

7 (3) Including information about these benefits in any
8 communications that these agencies have with veterans when it is
9 appropriate.

AMENDED IN SENATE APRIL 10, 2018

SENATE BILL

No. 1148

Introduced by Senator Pan

February 14, 2018

An act to ~~amend Section 14132.22 of~~ *add Section 14132.22* to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1148, as amended, Pan. Medi-Cal: restorative dental services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law includes emergency and essential diagnostic and restorative dental services, and dental prophylaxis cleanings and dental examinations within the scope of benefits that may be provided to eligible recipients under the Medi-Cal program. Existing law authorizes specified Medi-Cal providers to recommend, after consultation with the beneficiary, and to receive reimbursement for, certain dental restorative materials other than the covered benefit of amalgam.

This bill additionally would authorize a provider of services ~~that includes the provision of dental restorative materials to provide for the use of~~ *for the treatment of dental caries to provide, and receive reimbursement for; silver diamine fluoride when used as a caries arresting agent after consultation and billed as specified, if the provider first consults with the beneficiary, including beneficiary and obtains written informed consent, and if the treatment is included as part of a comprehensive treatment plan, as specified. plan.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14132.225 is added to the Welfare and
2 Institutions Code, immediately following Section 14132.22, to
3 read:

4 14132.225. (a) A provider of services for the treatment of
5 dental caries may provide, and receive reimbursement for, silver
6 diamine fluoride when used as a caries arresting agent and when
7 billed pursuant to Code D1354 of the American Dental
8 Association's Current Dental Terminology, effective January 1,
9 2018, if all of the following conditions are met:

10 (1) There is a consultation with the beneficiary, or his or her
11 designee.

12 (2) The beneficiary, or his or her designee, signs a written
13 informed consent form that is approved by the department.

14 (3) The treatment is part of a comprehensive treatment plan.

15 (b) This section does not preclude the use of silver diamine
16 fluoride for preventive services, when appropriate.

17 SECTION 1. Section 14132.22 of the Welfare and Institutions
18 Code is amended to read:

19 14132.22. (a) For purposes of this section, dental restorative
20 materials are limited to composite resin, glass ionomer cement,
21 resin ionomer cement, and amalgam, as described on the Dental
22 Board of California's dental materials factsheet.

23 (b) A provider of services that includes the provision of dental
24 restorative materials to a beneficiary under this chapter may
25 recommend, after consultation with the beneficiary, a dental
26 restorative material other than the covered benefit of amalgam.

27 (c) A provider may claim and receive the reimbursement rate
28 for an amalgam restoration when using a different dental restorative
29 material.

30 (d) (1) A provider of services that includes the provision of
31 dental restorative materials to a beneficiary under this chapter may
32 provide for the use of silver diamine fluoride as a caries-arresting
33 agent, pursuant to paragraph (2), after consultation with the
34 beneficiary that includes appropriate informed consent required
35 by the department, and as part of a comprehensive treatment plan.

1 ~~(2) — The authorization provided by paragraph (1) applies to~~
2 ~~interim caries arresting medicament application, per tooth, for the~~
3 ~~conservative treatment of an active, nonsymptomatic carious lesion~~
4 ~~by topical application of a caries arresting or inhibiting medicament~~
5 ~~without mechanical removal of sound tooth structure, as described~~
6 ~~in Code D1354 of the American Dental Association's Current~~
7 ~~Dental Terminology, effective January 1, 2018.~~

O

Introduced by Senator HillFebruary 16, 2018

An act to amend Sections 5550.3 and 5651.1 of, and to repeal Section 111 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1465, as introduced, Hill. Professions and vocations: examinations.

Under existing law, the Department of Consumer Affairs is comprised of boards that license and regulate various professions and vocations. Existing law provides that these boards are established to ensure that private businesses and professions are regulated to protect the people of this state. Under existing law, any board has the authority to appoint commissioners on examination, to give the whole or any portion of any examination, as specified.

This bill would repeal the above provision authorizing any board to appoint commissioners for these purposes, and would make related, conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 111 of the Business and Professions Code
- 2 is repealed.
- 3 ~~111. Unless otherwise expressly provided, any board may, with~~
- 4 ~~the approval of the appointing power, appoint qualified persons,~~
- 5 ~~who shall be designated as commissioners on examination, to give~~

1 ~~the whole or any portion of any examination. A commissioner on~~
2 ~~examination need not be a member of the board but he shall have~~
3 ~~the same qualifications as one and shall be subject to the same~~
4 ~~rules.~~

5 SEC. 2. Section 5550.3 of the Business and Professions Code
6 is amended to read:

7 ~~5550.3. (a) Notwithstanding Section 111, the~~*The* board may
8 adopt guidelines for the delegation of its authority to grade the
9 examinations of applicants for licensure to any vendor under
10 contract to the board for provision of an architect's registration
11 examination. The guidelines shall be within the board's legal
12 authority to establish the standards for registration in this state,
13 and shall include, but not be limited to:

14 (1) Goals for the appropriate content, development, grading,
15 and administration of an examination, against which the vendor's
16 rules and procedures can be judged.

17 (2) Procedures through which the board can reasonably assure
18 itself that the vendor adequately meets the goals established by
19 the board.

20 (b) The board shall not delegate its authority to grade the
21 examinations of candidates for registration in this state to any
22 vendor or any party not in compliance ~~with Section 111 or with~~
23 ~~the guidelines established in subdivision (a).~~

24 SEC. 3. Section 5651.1 of the Business and Professions Code
25 is amended to read:

26 ~~5651.1. (a) Notwithstanding Section 111, the~~*The* board may
27 adopt guidelines for the delegation of its authority to grade the
28 examinations of applicants for licensure to any vendor under
29 contract to the board for provision of a landscape architect's license
30 examination. The guidelines shall be within the board's legal
31 authority to establish the standards for licensure in this state, and
32 shall include, but not be limited to:

33 (1) Goals for the appropriate content, development, grading,
34 and administration of an examination, against which the vendor's
35 rules and procedures can be judged.

36 (2) Procedures through which the board can reasonably assure
37 itself that the vendor adequately meets the goals established by
38 the board.

39 (b) The board shall not delegate its authority to grade the
40 examination of candidates for licensure in this state to any vendor

1 or any party not in compliance ~~with Section 111~~ or with the
2 guidelines established in subdivision (a).

O

Introduced by Senator Hill

February 16, 2018

An act to amend Sections 1917 and 1944 of, and to add Section 1941.5 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1482, as introduced, Hill. Dental hygienists.

Existing law, the Dental Practice Act, provides for the licensure and regulation of the practice of dental hygienists by the Dental Hygiene Committee of California within the jurisdiction of the Dental Board of California. Existing law repeals the committee on January 1, 2019, at which time the committee is subject to review by the appropriate policy committees of the Legislature. Existing law requires the committee to grant initial licensure as a registered dental hygienist to a person who satisfies specified requirements, including satisfactory performance on the state clinical examination or satisfactory completion of the dental hygiene examination given by the Western Regional Examining Board, or any other clinical dental hygiene examination approved by the committee.

This bill would instead require, within the preceding 5 years, satisfactory completion of the dental hygiene examination given by the Western Regional Examining Board or any other clinical or dental hygiene examination approved by the committee.

Existing law requires the committee to grant approval of educational programs for dental hygienists that meet specified standards and requirements.

This bill would require the committee to renew approval of educational programs for dental hygienists that certify to the committee that the program continues to meet the requirements prescribed by the

committee, would authorize the committee to conduct periodic surveys, evaluations, and site visits to educational programs, and would authorize the committee to place a noncompliant educational program on probation, issue a citation and fine, or have its approval withdrawn.

Existing law requires the committee to establish the amount of fees relating to the licensing of dental hygienists and imposes limitations on those fees.

This bill would also specify limitations for fees imposed for the committee to conduct a site visit to educational programs for dental hygienists and the fee for a retired license.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1917 of the Business and Professions
- 2 Code is amended to read:
- 3 1917. The committee shall grant initial licensure as a registered
- 4 dental hygienist to a person who satisfies all of the following
- 5 requirements:
- 6 (a) Completion of an educational program for registered dental
- 7 hygienists, approved by the committee, accredited by the
- 8 Commission on Dental Accreditation, and conducted by a
- 9 degree-granting, postsecondary institution.
- 10 (b) ~~Satisfactory performance on the state clinical examination;~~
- 11 ~~or~~ *Within the preceding five years*, satisfactory completion of the
- 12 dental hygiene examination given by the Western Regional
- 13 Examining Board or any other clinical *or* dental hygiene
- 14 examination approved by the committee.
- 15 (c) Satisfactory completion of the National Dental Hygiene
- 16 Board Examination.
- 17 (d) Satisfactory completion of the examination in California
- 18 law and ethics as prescribed by the committee.
- 19 (e) Submission of a completed application form and all fees
- 20 required by the committee.
- 21 (f) Satisfactory completion of committee-approved instruction
- 22 in gingival soft tissue curettage, nitrous oxide-oxygen analgesia,
- 23 and local anesthesia.
- 24 SEC. 2. Section 1941.5 is added to the Business and Professions
- 25 Code, to read:

1 1941.5. (a) The committee shall renew approval of educational
2 programs for a registered dental hygienist, a registered dental
3 hygienist in alternative practice, or a registered dental hygienist
4 in extended functions that certify to the committee on a form
5 prescribed by the committee that the program continues to meet
6 the requirements proscribed by the committee.

7 (b) The committee may conduct periodic surveys, evaluations,
8 and announced and unannounced site visits to existing and new
9 educational programs for a registered dental hygienist, a registered
10 dental hygienist in alternative practice, or a registered dental
11 hygienist in extended functions to ensure continued compliance
12 of educational program requirements and Commission on Dental
13 Accreditation standards for continued approval.

14 (c) An existing or new educational program for a registered
15 dental hygienist, a registered dental hygienist in alternative practice,
16 or a registered dental hygienist in extended functions that is found
17 to be noncompliant with the educational program requirements
18 and Commission on Dental Accreditation standards may be placed
19 on probation with terms, issued a citation and fine, or have its
20 approval withdrawn if compliance is not met within reasonable
21 specified timelines.

22 (d) The committee, or through an authorized representative,
23 may issue a citation containing fines and orders of abatement for
24 any approved educational program for a registered dental hygienist,
25 a registered dental hygienist in alternative practice, or a registered
26 dental hygienist in extended functions for any violation of this
27 section or the regulations adopted pursuant to this section.

28 SEC. 3. Section 1944 of the Business and Professions Code is
29 amended to read:

30 1944. (a) The committee shall establish by resolution the
31 amount of the fees that relate to the licensing of a registered dental
32 hygienist, a registered dental hygienist in alternative practice, and
33 a registered dental hygienist in extended functions. The fees
34 established by board resolution in effect on June 30, 2009, as they
35 relate to the licensure of registered dental hygienists, registered
36 dental hygienists in alternative practice, and registered dental
37 hygienists in extended functions, shall remain in effect until
38 modified by the committee. The fees are subject to the following
39 limitations:

1 (1) The application fee for an original license and the fee for
2 issuance of an original license shall not exceed two hundred fifty
3 dollars (\$250).

4 (2) The fee for examination for licensure as a registered dental
5 hygienist shall not exceed the actual cost of the examination.

6 (3) The fee for examination for licensure as a registered dental
7 hygienist in extended functions shall not exceed the actual cost of
8 the examination.

9 (4) The fee for examination for licensure as a registered dental
10 hygienist in alternative practice shall not exceed the actual cost of
11 administering the examination.

12 (5) The biennial renewal fee shall not exceed five hundred
13 dollars (\$500).

14 (6) The delinquency fee shall not exceed one-half of the renewal
15 fee. Any delinquent license may be restored only upon payment
16 of all fees, including the delinquency fee, and compliance with all
17 other applicable requirements of this article.

18 (7) The fee for issuance of a duplicate license to replace one
19 that is lost or destroyed, or in the event of a name change, shall
20 not exceed twenty-five dollars (\$25) or one-half of the renewal
21 fee, whichever is greater.

22 (8) The fee for certification of licensure shall not exceed one-half
23 of the renewal fee.

24 (9) The fee for each curriculum review, feasibility study review,
25 and site evaluation for educational programs for dental hygienists
26 who are not accredited by a committee-approved agency shall not
27 exceed two thousand one hundred dollars (\$2,100).

28 (10) The fee for each review or approval of course requirements
29 for licensure or procedures that require additional training shall
30 not exceed seven hundred fifty dollars (\$750).

31 (11) The initial application and biennial fee for a provider of
32 continuing education shall not exceed five hundred dollars (\$500).

33 (12) The amount of fees payable in connection with permits
34 issued under Section 1962 is as follows:

35 (A) The initial permit fee is an amount equal to the renewal fee
36 for the applicant's license to practice dental hygiene in effect on
37 the last regular renewal date before the date on which the permit
38 is issued.

39 (B) If the permit will expire less than one year after its issuance,
40 then the initial permit fee is an amount equal to 50 percent of the

1 renewal fee in effect on the last regular renewal date before the
2 date on which the permit is issued.

3 *(13) The fee for the committee to conduct a site visit to*
4 *educational programs for a registered dental hygienist, a registered*
5 *dental hygienist in alternative practice, or a registered dental*
6 *hygienist in extended functions to ensure compliance of educational*
7 *program requirements shall not exceed the actual cost incurred*
8 *by the committee for cost recovery of site visit expenditures.*

9 *(14) The fee for a retired license shall not exceed one-half of*
10 *the current license renewal fee.*

11 (b) The renewal and delinquency fees shall be fixed by the
12 committee by resolution at not more than the current amount of
13 the renewal fee for a license to practice under this article nor less
14 than five dollars (\$5).

15 (c) Fees fixed by the committee by resolution pursuant to this
16 section shall not be subject to the approval of the Office of
17 Administrative Law.

18 (d) Fees collected pursuant to this section shall be collected by
19 the committee and deposited into the State Dental Hygiene Fund,
20 which is hereby created. All money in this fund shall, upon
21 appropriation by the Legislature in the annual Budget Act, be used
22 to implement this article.

23 (e) No fees or charges other than those listed in this section shall
24 be levied by the committee in connection with the licensure of
25 registered dental hygienists, registered dental hygienists in
26 alternative practice, or registered dental hygienists in extended
27 functions.

28 (f) The fee for registration of an extramural dental facility shall
29 not exceed two hundred fifty dollars (\$250).

30 (g) The fee for registration of a mobile dental hygiene unit shall
31 not exceed one hundred fifty dollars (\$150).

32 (h) The biennial renewal fee for a mobile dental hygiene unit
33 shall not exceed two hundred fifty dollars (\$250).

34 (i) The fee for an additional office permit shall not exceed two
35 hundred fifty dollars (\$250).

36 (j) The biennial renewal fee for an additional office as described
37 in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

38 (k) The initial application and biennial special permit fee is an
39 amount equal to the biennial renewal fee specified in paragraph
40 (6) of subdivision (a).

- 1 *(l)* The fees in this section shall not exceed an amount sufficient
- 2 to cover the reasonable regulatory cost of carrying out this article.

PREVIOUS LEGISLATION OF DHCC INTEREST

Legislation	Topic	DHCC Vote	Status
Assembly Bill (AB) 15 (Wood)	Denti-Cal reimbursement rates	Support, if amended. Send Ltr. w/add'l codes	Dead
AB 224 (Thurmond)	Anesthesia & Sedation	Watch	Active, but no Action since 7/2017
AB 387 (Thurmond)	Minimum wage for interns	Oppose	Dead
AB 703 (Flora)	Fee waiver for initial license – military applicants	Support	Dead
AB 706 (Patterson)	License expiration at end of month after 2 years from issuance date	Watch	Dead
AB 753 (Caballero)	Improved access to Denti-Cal	Watch	Dead
AB 767 (Quirk-Silva)	Master Business License Act	Oppose	Active and in the Senate (BP&ED) as of 3/15/18
AB 1277 (Daly)	Infection Control in Dental Office Water Lines	Support	Approved (Ch. 413, Statutes of 2017)
Senate Bill (SB) 379 (Atkins)	Pupil Oral Health Assessment	Support	Approved (Ch. 772, Statutes of 2017)
SB 508 (Roth)	Riverside & San Bernardino Pilot Programs	Watch	Dead
SB 572 (Stone)	15-day grace period for violations	Oppose	Dead
SB 707 (Cannella)	Denti-Cal Advisory Group	Support	Active and in Assembly Pending Referral as of 1/30/2018



Friday, April 20, 2018

Dental Hygiene Committee of California

Legislative & Regulatory Subcommittee

Agenda Item LEG 6:

**Discussion and Possible Action, and
Recommendation to the Full Committee to Amend
CCR, Title 16, Division 11, § 1103 Definitions, to
Update Reference to the Commission on Dental
Accreditation's Most Current Revision to
Accreditation Standards for Dental Hygiene
Educational Programs**

DENTAL HYGIENE COMMITTEE OF CALIFORNIA

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MEMORANDUM

DATE	April 20, 2018
TO	Legislative and Regulatory Subcommittee
FROM	Anthony Lum, Executive Officer
SUBJECT	Agenda Item LEG 7 – Discussion and Possible Action, and Recommendation to the Full Committee to Amend CCR, Title 16, Division 11, § 1103 Definitions, to Update Reference to the Commission on Dental Accreditation's Most Current Revision to Accreditation Standards for Dental Hygiene Educational Programs

Background

The current version of the Commission on Dental Accreditation Standards (CODA) incorporated by reference in CCR § 1103(c) is dated February 6, 2015. Since that time, there have been a few revisions to the CODA standards in which the DHCC cannot reference. The intent of this agenda item is to obtain DHCC approval to update the accreditation standards to coincide with the date of the most recent revision. This would incorporate all of the revisions that may have occurred since February 6, 2015.

This agenda item is a carry-over from the November 2017 meeting because there was a scheduled CODA revision conducted in February 2018 where it was determined to be more efficient of DHCC resources to wait for the outcome of the February revisions before pursuing an amendment to CCR § 1103(c).

Committee Action Requested

Staff requests that the Legislative and Regulatory Subcommittee recommend to the Full Committee to approve the proposed amendment to CCR § 1103(c) and authorize the Interim Executive Officer to make any technical and non-substantive changes to the language and move forward with the rulemaking file.

Commission on Dental Accreditation

Accreditation Standards for Dental Hygiene Education Programs

Accreditation Standards for Dental Hygiene Education Programs

Commission on Dental Accreditation

211 East Chicago Avenue

Chicago, Illinois 60611

312/440-4653

www.ada.org/coda

Effective January 1, 2013

Last Revised: February 2018

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Commission on Dental Accreditation

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Accreditation Standards for Dental Hygiene Education Programs

Document Revision History

<i>Date</i>	<i>Item</i>	<i>Action</i>
<i>July 26, 2007</i>	<i>Accreditation Standards for Dental Hygiene Education Programs</i>	<i>Adopted</i>
<i>July 26, 2007</i>	<i>Standards to Ensure Program Integrity Examples of Evidence Modified: Standard 1-3</i>	<i>Approved and Implemented</i>
<i>February 1, 2008</i>	<i>Intent Statement Modified: Standard 3-3</i>	<i>Approved and Implemented</i>
<i>February 1, 2008</i>	<i>Revised Definition of Terms and Usage of Examples of Evidence</i>	<i>Adopted and Implemented</i>
<i>January 1, 2009</i>	<i>Accreditation Standards for Dental Hygiene Education Programs</i>	<i>Implemented</i>
<i>July 30, 2009</i>	<i>Revised Standard 2-17</i>	<i>Adopted</i>
<i>January 1, 2010</i>	<i>Revised Standard 2-17</i>	<i>Implemented</i>
<i>February 3, 2012</i>	<i>Revised Standards 2-16, 2-17, 2-19, 2-22, 2-25, 3-3, 3-7, 4-3, 4-5, 4-7</i>	<i>Adopted</i>
<i>August 8, 2012</i>	<i>Revised Standard, 3-7 Intent Statement Modified, 3-8</i>	<i>Adopted and Implemented</i>
<i>January 1, 2013</i>	<i>Revised Standards 2-16, 2-17, 2-19, 2-22, 2-25, 3-3, 3-7, 4-3, 4-5, 4-7</i>	<i>Implemented</i>
<i>August 9, 2013</i>	<i>Revised Standards 2-20, 3-7</i>	<i>Adopted and Implemented</i>
<i>August 1, 2014</i>	<i>Renumbered Standards 2-9 through 2-12 to be subsection a, b, c and d of 2-8</i>	<i>Adopted and Implemented</i>
<i>February 6, 2015</i>	<i>Revised Standards 2-4, 3-6, 3-7,b</i>	<i>Adopted and Implemented</i>
<i>February 6, 2015</i>	<i>Revised Standard 2-1</i>	<i>Adopted</i>

<i>August 6, 2015</i>	<i>New Standard 2-18</i>	<i>Adopted</i>
<i>January 1, 2016</i>	<i>Revised Standard 2-1, New Standard 2-18</i>	<i>Implemented</i>
<i>February 5, 2016</i>	<i>Revised Accreditation Status Definition</i>	<i>Adopted and Implemented</i>
<i>August 5, 2016</i>	<i>Revised Standards 2-15 and 4-4</i>	<i>Adopted and Implemented</i>
<i>August 5, 2016</i>	<i>Revised Standard 3-6</i>	<i>Adopted</i>
<i>January 1, 2017</i>	<i>Revised Mission Statement</i>	<i>Implemented</i>
<i>February 3, 2017</i>	<i>Revised Standards 2-8b and 4-4b</i>	<i>Adopted and Implemented</i>
<i>July 1, 2017</i>	<i>Revised Standard 3-6</i>	<i>Implemented</i>
<i>August 4, 2017</i>	<i>Revised Standards 2-14 and 3-7</i>	<i>Adopted and Implemented</i>
<i>February 2, 2018</i>	<i>Revised Definitions of Terms</i>	<i>Adopted and Implemented</i>

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Mission Statement of the Commission on Dental Accreditation

The Commission on Dental Accreditation serves the public and profession by developing and implementing accreditation standards that promote and monitor the continuous quality and improvement of dental education programs.

Commission on Dental Accreditation
Adopted August 5, 2016

Accreditation Status Definitions

1. Programs That Are Fully Operational:

Approval (without reporting requirements): An accreditation classification granted to an educational program indicating that the program achieves or exceeds the basic requirements for accreditation.

Approval (with reporting requirements): An accreditation classification granted to an educational program indicating that specific deficiencies or weaknesses exist in one or more areas of the program. Evidence of compliance with the cited standards must be demonstrated within eighteen (18) months if the program is between one and two years in length or two years if the program is at least two years in length. If the deficiencies are not corrected within the specified time period, accreditation will be withdrawn, unless the Commission extends the period for achieving compliance for good cause. Identification of new deficiencies during the reporting time prior will not result in a modification of the specified deadlines for compliance with prior deficiencies.

Reaffirmed: 8/10, 7/05; Revised: 2/16; 1/99; Adopted: 1/98

2. Programs That Are Not Fully Operational: A program which has not enrolled and graduated at least one class of students/residents and does not have students/residents enrolled in each year of the program is defined by the Commission as not fully operational. The accreditation classification granted by the Commission on Dental Accreditation to programs which are not fully operational is “initial accreditation.” When initial accreditation status is granted to a developing education program, it is in effect through the projected enrollment date. However, if enrollment of the first class is delayed for two consecutive years following the projected enrollment date, the program’s accreditation will be discontinued, and the institution must reapply for initial accreditation and update pertinent information on program development. Following this, the Commission will reconsider granting initial accreditation status.

Initial Accreditation is the accreditation classification granted to any dental, advanced dental or allied dental education program which is not yet fully operational. This accreditation classification provides evidence to educational institutions, licensing bodies, government or other granting agencies that, at the time of initial evaluation(s), the developing education program has the potential for meeting the standards set forth in the requirements for an accredited educational program for the specific occupational area. The classification “initial accreditation” is granted based upon one or more site evaluation visit(s).

Reaffirmed: 8/10; Revised: 7/08; Adopted: 2/02

3. Other Accreditation Actions:

Teach-Out: An action taken by the Commission on Dental Accreditation to notify an accredited program and the communities of interest that the program is in the process of voluntarily terminating its accreditation due to a planned discontinuance or program closure. The Commission monitors the program until students/residents who matriculated into the program prior to the reported discontinuance or closure effective date are no longer enrolled.

Discontinued: An action taken by the Commission on Dental Accreditation to affirm a program's reported discontinuance effective date or planned closure date and to remove a program from the Commission's accredited program listing, when a program either 1) voluntarily discontinues its participation in the accreditation program and no longer enrolls a first year class students/residents who matriculated prior to the program's reported discontinuance effective date or 2) is closed by the sponsoring institution.

Intent to Withdraw: A formal warning utilized by the Commission on Dental Accreditation to notify an accredited program and the communities of interest that the program's accreditation will be withdrawn if compliance with accreditation standards or policies cannot be demonstrated by a specified date. The warning is usually for a six-month period, unless the Commission extends for good cause. The Commission advises programs that the intent to withdraw accreditation may have legal implications for the program and suggests that the institution's legal counsel be consulted regarding how and when to advise applicants and students of the Commission's accreditation actions. The Commission reserves the right to require a period of non-enrollment for programs that have been issued the Intent to Withdraw warning.

Withdraw: An action taken by the Commission when a program has been unable to demonstrate compliance with the accreditation standards or policies within the time period specified. A final action to withdraw accreditation is communicated to the program and announced to the communities of interest. A statement summarizing the reasons for the Commission's decision and comments, if any, that the affected program has made with regard to this decision, is available upon request from the Commission office. In the event the Commission withdraws accreditation from a program, students currently enrolled in the program at the time accreditation is withdrawn and who successfully complete the program, will be considered graduates of an accredited program. Students who enroll in a program after the accreditation has been withdrawn will not be considered graduates of a Commission accredited program. Such graduates may be ineligible for certification/licensure examinations.

Revised 2/16; Reaffirmed: 8/10, 7/07, 7/01; CODA: 12/87:9

Denial: An action by the Commission that denies accreditation to a developing program (without enrollment) or to a fully operational program (with enrollment) that has applied for accreditation. Reasons for the denial are provided. Denial of accreditation is considered an adverse action.

Adopted: 8/11

Preface

The Accreditation Standards for Dental Hygiene Education Programs represent a revision of Requirements and Guidelines for Accredited Dental Hygiene Education Programs. These standards have been developed for the following reasons: (1) to protect the public welfare, (2) to serve as a guide for dental hygiene program development, (3) to serve as a stimulus for the improvement of established programs, and (4) to provide criteria for the evaluation of new and established programs. To be accredited by the Commission on Dental Accreditation, a dental hygiene program must meet the standards set forth in this document. These standards are national in scope and represent the minimum requirements for accreditation. The importance of academic freedom is recognized by the Commission; therefore, the standards are stated in terms which allow institution flexibility in the development of an educational program. It is expected that institutions which voluntarily seek accreditation will recognize the ethical obligation of complying with the spirit as well as the letter of these standards.

The Commission on Dental Accreditation

From the early 1940's until 1975, the Council on Dental Education was the agency recognized as the national accrediting organization for dentistry and dental-related educational programs. On January 1, 1975, the Council on Dental Education's accreditation authority was transferred to the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs, an expanded agency established to provide representation of all groups affected by its accrediting activities. In 1979, the name of the Commission was changed to the Commission on Dental Accreditation.

The Commission is comprised of 30 members. It includes a representative of the American Dental Hygienists' Association (ADHA) and other disciplines accredited by the Commission as well as public representatives.

Specialized Accreditation

Specialized accrediting agencies exist to assess and verify educational quality in particular professions or occupations to ensure that individuals will be qualified to enter those disciplines. A specialized accrediting agency recognizes the course of instruction which comprises a unique set of skills and knowledge, develops the accreditation standards by which such educational programs are evaluated, conducts evaluation of programs, and publishes a list of accredited programs that meet the national accreditation standards. Accreditation standards are developed in consultation with those affected by the standards who represent the broad communities of interest. The Commission on Dental Accreditation is the specialized accrediting agency recognized by the United States Department of Education to accredit programs which provide basic preparation for licensure or certification in dentistry and the related disciplines.

Dental Hygiene Accreditation

The first dental hygiene accreditation standards were developed by three groups: the American Dental Hygienists' Association, the National Association of Dental Examiners and the American Dental Association's Council on Dental Education. The standards were submitted to and approved by the American Dental Association House of Delegates in 1947, five years prior to the launching of the dental hygiene accreditation program in 1952. The first list of accredited dental hygiene programs was published in 1953, with 21 programs. Since then the standards for accreditation have been revised five times -- in 1969, 1973, 1979, 1991, 1998 and 2005.

In an effort to provide the communities of interest with appropriate input into the latest revision of the standards, the Commission on Dental Accreditation utilized the following procedures: conducting surveys of communities of interest, holding open hearings and distributing widely a draft of the proposed revision of the standards for review and comment. Prior to approving the revised standards in July 2007, the Commission carefully considered comments received from all sources. The revised accreditation standards were implemented in January 2009.

Statement of General Policy

Maintaining and improving the quality of dental hygiene education is a primary aim of the Commission on Dental Accreditation. In meeting its responsibilities as a specialized accrediting agency recognized by the dental profession and by the United States Department of Education, the Commission on Dental Accreditation:

1. Evaluates dental hygiene education programs on the basis of the extent to which program goals, institutional objectives and approved accreditation standards are met;
2. Supports continuing evaluation of and improvements in dental hygiene education programs through institutional self-evaluation;
3. Encourages innovations in program design based on sound educational principles;
4. Provides consultation in initial and ongoing program development.

As a specialized accrediting agency, the Commission relies on an authorized institutional accrediting agency's evaluation of the institution's objectives, policies, administration, financial and educational resources and its total educational effort. The Commission's evaluation will be confined to those factors which are directly related to the quality of the dental hygiene program. In evaluating the curriculum in institutions that are accredited by a U.S. Department of Education-recognized regional or national accrediting agency, the Commission will concentrate on those courses which have been developed specifically for the dental hygiene program and core courses developed for related disciplines. When an institution has been granted status or "candidate for accreditation" status by a regional or national accrediting agency, the Commission will accept that status as evidence that the general education and biomedical science courses included in the dental hygiene curriculum meet accepted standards, provided such courses are of appropriate level and content for the discipline.

The importance of institutional academic freedom is recognized by the Commission, and the Accreditation Standards allow institutions considerable flexibility in structuring their educational programs. The Commission encourages the achievement of excellence through curricular innovation and development of institutional individuality. Dependent upon its objectives, resources, and state practice act provisions, the institution may elect to extend the scope of the curriculum to include content and instruction in additional areas.

Programs and their sponsoring institutions are encouraged to provide for the educational mobility of students through articulation arrangements and career ladderling (e.g., between dental assisting education programs and dental hygiene education programs).

Institutions and programs are also strongly encouraged to develop mechanisms to award advanced standing for students who have completed coursework at other educational programs accredited by the Commission on Dental Accreditation or by use of appropriate qualifying or proficiency examinations.

This entire document constitutes the Accreditation Standards for Dental Hygiene Education Programs. Each standard is numbered (e.g., 1-1, 1-2) and in bold print. Where appropriate, standards are accompanied by statements of intent that explain the rationale, meaning and significance of the standard. Expanded guidance in the form of examples to assist programs in better understanding and interpreting the “must” statements within the standards follow. This format is intended to clarify the meaning and application of standards for both those responsible for educational programs and those who evaluate these programs for the Commission.

Definitions of Terms Used in Dental Hygiene Accreditation Standards

The terms used in this document indicate the relative weight that the Commission attaches to each statement. Definitions of these terms are provided.

Standard: Offers a rule or basis of comparison established in measuring or judging capacity, quantity, quality, content and value; criterion used as a model or pattern.

Must: Indicates an imperative need, duty or requirement; an essential or indispensable item; mandatory.

Should: Indicates a method to achieve the Standards.

Intent: Intent statements are presented to provide clarification to the dental hygiene education programs in the application of and in connection with compliance with the Accreditation Standards for Dental Hygiene Education Programs. The statements of intent set forth some of the reasons and purposes for the particular Standards. As such, these statements are not exclusive or exhaustive. Other purposes may apply.

Examples of evidence to demonstrate compliance include: Desirable condition, practice or documentation indicating the freedom or liberty to follow a suggested alternative.

Competent: The levels of knowledge, skills and values required by new graduates to begin the practice of dental hygiene.

Competencies: Written statements describing the levels of knowledge, skills and values expected of graduates.

Instruction: Describes any teaching, lesson, rule or precept; details of procedure; directives.

Basic Clinical Education: The patient care experiences required for all students in order to attain clinical competence and complete the dental hygiene program. This education is provided in the program's clinical facilities (on campus or extended campus facilities) as defined in the Accreditation Standards and is supervised and evaluated by program faculty according to predetermined criteria.

Laboratory or Preclinical Instruction: Indicates instruction in which students receive supervised experience performing functions using study models, manikins or other simulation methods; student performance is evaluated by faculty according to predetermined criteria.

Enriching Clinical Experiences: Clinical experiences that exceed the basic clinical education requirements of the program and that are provided to enhance the basic clinical education. Enriching experiences may be provided on campus and/or in extramural clinical facilities and may be supervised by non-program personnel according to predetermined learning objectives and evaluation criteria.

Distance Education: As defined by the United States Department of Education, distance education is “an educational process that is characterized by the separation, in time or place, between instructor and student. The term includes courses offered principally through the use of (1) television, audio or computer transmission; (2) audio or computer conferencing; (3) video cassettes or disks; or (4) correspondence.”

Patients with special needs: Those patients whose medical, physical, psychological, or social situations make it necessary to modify normal dental routines in order to provide dental treatment for that individual. These individuals include, but are not limited to, people with developmental disabilities, complex medical problems, and significant physical limitations.

Post-Degree Certificate: A certificate awarded to students who have previously earned a minimum of an associate’s degree and complete all requirements of the accredited educational program in dental hygiene.

Standard of Care: Level of clinical performance expected for the safe, effective and ethical practice of dental hygiene.

Dental Hygiene Diagnosis: Identification of an existing or potential oral health problem that a dental hygienist is qualified and licensed to treat.

The Commission’s accreditation standards have been stated, purposefully, in terms which allow flexibility, innovation and experimentation. Regardless of the method(s) used to provide instruction, the Commission expects that each accredited program will comply with the spirit as well as the letter of the accreditation standards.

Sponsoring Institution: The post-secondary entity that directly sponsors the dental hygiene program and provides immediate administration and local leadership. The sponsoring institution has the overall administrative control and responsibility for the conduct of the program.

STANDARD 1 - INSTITUTIONAL EFFECTIVENESS

Planning and Assessment

- 1-1 The program must demonstrate its effectiveness using a formal and ongoing planning and assessment process that is systematically documented by:**
- a) developing a plan addressing teaching, patient care, research and service which are consistent with the goals of the sponsoring institution and appropriate to dental hygiene education.**
 - b) implementing the plan;**
 - c) assessing the outcomes, including measures of student achievement;**
 - d) using the results for program improvement.**

Intent:

Assessment, planning, implementation and evaluation of the educational quality of a dental hygiene education program (inclusive of distance education modalities/programs), that is broad-based, systematic, continuous and designed to promote achievement of program goals will maximize the academic success of the enrolled students in an accountable and cost effective manner. The Commission on Dental Accreditation expects each program to define its own goals for preparing individuals in the discipline and that one of the program goals is to comprehensively prepare competent individuals in the discipline.

Examples of evidence to demonstrate compliance may include:

- program completion rates
- employment rates
- success of graduates on state licensing examinations
- success of graduates on national boards
- surveys of alumni, students, employers, and clinical sites
- other benchmarks or measures of learning used to demonstrate effectiveness
- examples of program effectiveness in meeting its goals
- examples of how the program has been improved as a result of assessment
- ongoing documentation of change implementation
- mission, goals and strategic plan document
- assessment plan and timeline

Financial Support

- 1-2 The institution must have a strategic plan which identifies stable financial resources sufficient to support the program's stated mission, goals and objectives. A financial statement document must be submitted providing revenue and expense data for the dental hygiene program.**

Intent:

The institution should have the financial resources required to develop and sustain the program on a continuing basis. The program should employ sufficient faculty, purchase and maintain equipment, procure supplies, reference material and teaching aids as reflected in annual budget appropriations. Financial allocations should ensure that the program will be in a competitive position to recruit and retain qualified faculty. Annual appropriations should provide for innovations and changes, including technological advances, necessary to reflect current concepts of education in the discipline. The Commission will assess the adequacy of financial support on the basis of current appropriations and the stability of sources of funding for the program.

Examples of evidence to demonstrate compliance may include:

- program's mission, goals, objectives and strategic plan
- institutional strategic plan
- revenue and expense statements for the program for the past three years
- revenue and expense projections for the program for the next three years

- 1-3 The sponsoring institution must ensure that support from entities outside of the institution does not compromise the teaching, clinical and research components of the program.**

- 1-4 The authority and final responsibility for curriculum development and approval, student selection, faculty selection and administrative matters must rest within the sponsoring institution.**

Examples of evidence to demonstrate compliance may include:

- Written agreement(s)
- Contract(s)/Agreement(s) between the institution/program and sponsor(s) related to facilities, funding, faculty financial support

Institutional Accreditation

- 1-5 Programs must be sponsored by institutions of higher education that are accredited by an institutional accrediting agency (i.e., a regional or appropriate* national accrediting agency) recognized by the United States Department of Education for offering college-level programs.**

* Agencies whose mission includes the accreditation of institutions offering allied health education programs.

Intent:

Dental schools, four-year colleges and universities, community colleges, technical institutes, vocational schools, and private schools, which offer appropriate fiscal, facility, faculty and curriculum resources are considered appropriate settings for the program. The institution should offer appropriate fiscal, facility, faculty and curriculum resources to sponsor the dental hygiene educational program.

Examples of evidence to demonstrate compliance may include:

- Accreditation (or candidate status) from a recognized institutional (regional or national) accrediting agency, for example:
Commission on Higher Education, Middle States Association of Colleges and Schools; Commission on Institutions of Higher Education, New England Association of Schools and Colleges; Commission on Technical and Career Institutions, New England Association of Schools and Colleges; Commission on Institutions of Higher Education, North Central Association of Colleges and Schools; Commission on Colleges, Northwest Association of Schools and Colleges; Commission on Colleges, Southern Association of Colleges and Schools; Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges; Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges; Accrediting Bureau of Health Education Schools; Accrediting Commission of Career Schools and Colleges of Technology; Accrediting Commission of the Distance Education and Training Council; The Council on Occupational Education; Accrediting Council for Independent Colleges and Schools

- 1-6 All arrangements with co-sponsoring or affiliated institutions must be formalized by means of written agreements which clearly define the roles and responsibilities of each institution involved.**

Examples of evidence to demonstrate compliance may include:

- affiliation agreement(s)

Community Resources

- 1-7 There must be an active liaison mechanism between the program and the dental and allied dental professions in the community. The authority and final responsibility for curriculum development and approval, student selection, faculty selection and administrative matters must rest with the educational institution.**

Intent:

The purpose of an active liaison mechanism is to provide a mutual exchange of information for improving the program, recruiting qualified students and meeting employment needs of the community. The responsibilities of the advisory body should be defined in writing and the program director, faculty, and appropriate institution personnel should participate in the meetings as non-voting members to receive advice and assistance.

Examples of evidence to demonstrate compliance may include:

- policies and procedures regarding the liaison mechanism outlining responsibilities, appointments, terms and meetings
- membership list with equitable representation if the group represents more than one discipline
- criteria for the selection of advisory committee members
- an ongoing record of committee or group minutes, deliberations and activities

STANDARD 2 - EDUCATIONAL PROGRAM

Instruction

- 2-1** The curriculum must include at least two academic years of full-time instruction or its equivalent at the postsecondary college-level. The scope and depth of the curriculum must reflect the objectives and philosophy of higher education. The college catalog must list the degree awarded and course titles and descriptions.

In a two-year college setting, the graduates of the program must be awarded an associate degree. In a four-year college or university, graduates of the program must be awarded an associate degree, post-degree certificate, or baccalaureate degree.

Intent:

The dental hygiene curriculum is comprehensive in scope and depth and requires a minimum of two years of academic preparation. The curriculum should include additional coursework and experiences, as appropriate, to develop competent oral health care providers who can deliver optimal patient care within a variety of practice settings and meet the needs of the evolving healthcare environment.

In a four-year college setting that awards a certificate, admissions criteria should require a minimum of an associate degree. Institutions should provide students with opportunities to continue their formal education through affiliations with institutions of higher education that allow for transfer of course work. Affiliations should include safeguards to maximize credit transfer with minimal loss of time and/or duplication of learning experiences.

General education, social science and biomedical science courses included in associate degree dental hygiene curricula should parallel those offered in four-year colleges and universities. In baccalaureate degree curricula, attention is given to requirements for admission to graduate programs to establish a balance between professional and nonprofessional credit allocations.

Examples of evidence to demonstrate compliance may include:

- copies of articulation agreements
- curriculum documents
- course evaluation forms and summaries
- records of competency examinations
- college catalog

- 2-2 A process must be established to assure students meet the academic, professional and/or clinical criteria as published and distributed. Academic standards and institutional due process policies must be followed for remediation or dismissal. A college document must include institutional due process policies and procedures.**

Intent:

If a student does not meet evaluation criteria, provision should be made for remediation or dismissal. On the basis of designated criteria, both students and faculty can periodically assess progress in relation to the stated goals and objectives of the program.

Examples of evidence to demonstrate compliance may include:

- written remediation policy and procedures
- records of attrition/retention rates related to academic performance
- institutional due process policies and procedures

Admissions

- 2-3 Admission of students must be based on specific written criteria, procedures and policies. Previous academic performance and/or performance on standardized national tests of scholastic aptitude or other predictors of scholastic aptitude and ability must be utilized as criteria in selecting students who have the potential for successfully completing the program. Applicants must be informed of the criteria and procedures for selection, goals of the program, curricular content, course transferability and the scope of practice of and employment opportunities for dental hygienists.**

Intent:

The dental hygiene education curriculum is a postsecondary scientifically-oriented program which is rigorous and intensive. Because enrollment is limited by facility capacity, special program admissions criteria and procedures are necessary to ensure that students are selected who have the potential for successfully completing the program. The program administrator and faculty, in cooperation with appropriate institutional personnel, should establish admissions procedures which are non-discriminatory and ensure the quality of the program.

Examples of evidence to demonstrate compliance may include:

- admissions management policies and procedures
- copies of catalogs, program brochures or other written materials
- established ranking procedures or criteria for selection
- minutes from admissions committee
- periodic analysis supporting the validity of established admission criteria and procedures
- results from institutional research used in interpreting admissions data and criteria and/or correlating data with student performance

- graduation rates
- analysis of attrition
- employment rates

2-4 Admission of students with advanced standing must be based on the same standards of achievement required by students regularly enrolled in the program. Students with advanced standing must receive an appropriate curriculum that results in the same standards of competence required by students regularly enrolled in the program.

Intent:

Advanced standing refers to applicants that may be considered for admission to a training program whose curriculum has been modified after taking into account the applicant's past experience. Examples include transfer from a similar program at another institution, completion of training at a non-CODA accredited program, or documented practice experience in the given discipline. Acceptance of advanced standing students/residents will not result in an increase of the program's approved number of enrollees. Applicants for advanced standing are expected to fulfill all of the admission requirements mandated for students/residents in the conventional program and be held to the same academic standards. Advanced standing students/residents, to be certified for completion, are expected to demonstrate the same standards of competence as those in the conventional program.

Examples of evidence to demonstrate compliance may include:

- policies and procedures on advanced standing
- results of appropriate qualifying examinations
- course equivalency or other measures to demonstrate equal scope and level of knowledge

2-5 The number of students enrolled in the program must be proportionate to the resources available.

Intent:

In determining the number of dental hygiene students enrolled in a program (inclusive of distance sites), careful consideration should be given to ensure that the number of students does not exceed the program's resources, including patient supply, financial support, scheduling options, facilities, equipment, technology and faculty.

Examples of evidence to demonstrate compliance may include:

- sufficient number of clinical and laboratory stations based on enrollment
- clinical schedules demonstrating equitable and sufficient clinical unit assignments
- clinical schedules demonstrating equitable and sufficient radiology unit assignments
- faculty full-time equivalent (FTE) positions relative to enrollment
- budget resources and strategic plan
- equipment maintenance and replacement plan

- patient pool availability analysis
- course schedules for all terms

Curriculum

- 2-6 The dental hygiene program must define and list the competencies needed for graduation. The dental hygiene program must employ student evaluation methods that measure all defined program competencies. These competencies and evaluation methods must be written and communicated to the enrolled students.**

Intent:

The educational competencies for the dental hygiene education program should include the preparation of graduates who possess the knowledge, skills and values to begin the practice of dental hygiene. The evaluation methods used in the dental hygiene program should include process and end-product assessments of student performance, as well as a variety of objective testing measures. These mechanisms will provide student performance data related to measuring defined program competencies throughout the program for the students, faculty and college administration.

Examples of evidence to demonstrate compliance may include:

- competencies documentation demonstrating relationship between evaluation methods and program competencies
- process and product evaluation forms

- 2-7 Written course descriptions, content outlines, including topics to be presented, specific instructional objectives, learning experiences, and evaluation procedures must be provided to students at the initiation of each dental hygiene course.**

Intent:

The program should identify the dental hygiene fundamental knowledge and competencies that will be included in the curriculum based on the program goals, resources, current dental hygiene practice responsibilities and other influencing factors. Individual course documentation needs to be periodically reviewed and revised to accurately reflect instruction being provided as well as new concepts and techniques taught in the program.

- 2-8 The curriculum must include content in the following four areas: general education, biomedical sciences, dental sciences and dental hygiene science. This content must be integrated and of sufficient depth, scope, sequence of instruction, quality and emphasis to ensure achievement of the curriculum's defined competencies. A curriculum document must be submitted for each course included in the dental hygiene program for all four content areas.**

Intent:

Foundational knowledge should be established early in the dental hygiene program and of appropriate scope and depth to prepare the student to achieve competence in all components of dental hygiene practice. Content identified in each subject may not necessarily constitute a separate course, but the subject areas are included within the curriculum.

Curriculum content and learning experiences should provide the foundation for continued formal education and professional growth with a minimal loss of time and duplication of learning experiences. General education, social science, and biomedical science courses included in the curriculum should be equivalent to those offered in four-year colleges and universities.

2-8a General education content must include oral and written communications, psychology, and sociology.

Intent:

These subjects provide prerequisite background for components of the curriculum, which prepare the students to communicate effectively, assume responsibility for individual oral health counseling, and participate in community health programs.

2-8b Biomedical science content must include content in anatomy, physiology, chemistry, biochemistry, microbiology, immunology, general and maxillofacial pathology and/or pathophysiology, nutrition and pharmacology.

Intent:

These subjects provide background for dental and dental hygiene sciences. The subjects are to be of the scope and depth comparable to college transferable liberal arts course work. The program should ensure that biomedical science instruction serves as a foundation for student analysis and synthesis of the interrelationships of the body systems when making decisions regarding oral health services within the context of total body health.

Biomedical science instruction in dental hygiene education ensures an understanding of basic biological principles consisting of a core of information on the fundamental structures, functions and interrelationships of the body systems. The biomedical knowledge base emphasizes the orofacial complex as an important anatomical area existing in a complex biological interrelationship with the entire body.

Dental hygienists need to understand abnormal conditions to recognize the parameters of comprehensive dental hygiene care. The program should ensure that graduates have the level of understanding that assures that the health status of the patient will not be compromised by the dental hygiene interventions.

- 2-8c Dental sciences content must include tooth morphology, head, neck and oral anatomy, oral embryology and histology, oral pathology, radiography, periodontology, pain management, and dental materials.**

Intent:

These subjects provide the student with knowledge of oral health and disease as a basis for assuming responsibility for assessing, planning and implementing preventive and therapeutic services. Teaching methodologies should be utilized to assure that the student can assume responsibility for the assimilation of knowledge requiring judgment, decision making skills and critical analysis.

- 2-8d Dental hygiene science content must include oral health education and preventive counseling, health promotion, patient management, clinical dental hygiene, provision of services for and management of patients with special needs, community dental/oral health, medical and dental emergencies, legal and ethical aspects of dental hygiene practice, infection and hazard control management, and the provision of oral health care services to patients with bloodborne infectious diseases.**

Intent:

Dental hygiene sciences provide the knowledge base for dental hygiene and prepares the student to assess, plan, implement and evaluate dental hygiene services as an integral member of the health team. Content in provision of oral health care services to patients with bloodborne infectious diseases prepares the student to assess patients' needs and plan, implement and evaluate appropriate treatment.

- 2-9 The basic clinical education aspect of the curriculum must include a formal course sequence in scientific principles of dental hygiene practice, which extends throughout the curriculum and is coordinated and integrated with clinical experience in providing dental hygiene services.**

Intent:

Learning experiences and practice time in clinical procedures is necessary to assure sufficient opportunity to develop competence in all clinical procedures included in the curriculum. Didactic material on clinical dental hygiene should be presented throughout the curriculum.

- 2-10 The number of hours of clinical practice scheduled must ensure that students attain clinical competence and develop appropriate judgment. Clinical practice must be distributed throughout the curriculum.**

Intent:

Sufficient practice time and learning experiences should be provided during preclinical and clinical courses to ensure that students attain clinical competence. The number of hours devoted to clinical practice time should increase as the students progress toward the attainment of clinical competence.

The preclinical course should have at least six hours of clinical practice per week. As the first-year students begin providing dental hygiene services for patients, each student should be scheduled for at least eight to twelve hours of clinical practice time per week. In the final prelicensure year of the curriculum, each second-year student should be scheduled for at least twelve to sixteen hours of practice with patients per week in the dental hygiene clinic.

Examples of evidence to demonstrate compliance may include:

- program clinical experiences
- patient tracking data for enrolled and past students
- policies regarding selection of patients and assignment of procedures
- monitoring or tracking system protocols
- clinical evaluation system policy and procedures demonstrating student competencies
- clinic schedules for each term

2-11 The dental hygiene program must have established mechanisms to ensure a sufficient number of patient experiences that afford all students the opportunity to achieve stated competencies.

Intent:

A system should be developed and implemented to categorize patients according to difficulty level and oral health/disease status. This system should be used to monitor students' patient care experiences. Patient assignments should include maintenance appointments to monitor and evaluate the outcome of dental hygiene care. A system should be in place to monitor student patient care experiences at all program sites.

Examples of evidence to demonstrate compliance may include:

- program clinical and radiographic experiences
- patient tracking data for enrolled and past students
- policies regarding selection of patients and assignment of procedures
- monitoring or tracking system protocols
- clinical evaluation system policy and procedures demonstrating student competencies

Patient Care Competencies

2-12 Graduates must be competent in providing dental hygiene care for the child, adolescent, adult and geriatric patient.

Graduates must be competent in assessing the treatment needs of patients with special needs.

Intent:

An appropriate patient pool should be available to provide a wide scope of patient experiences that include patients whose medical, physical, psychological, or social

situations may make it necessary to modify procedures in order to provide dental hygiene treatment for that individual. Student experiences should be evaluated for competency and monitored to ensure equal opportunities for each enrolled student.

Clinical instruction and experiences with special needs patients should include instruction in proper communication techniques and assessing the treatment needs compatible with these patients.

Examples of evidence to demonstrate compliance may include:

- program clinical and radiographic experiences, direct and non-direct patient contact assignments, and off-site enrichments experiences
- patient tracking data for enrolled and past students
- policies regarding selection of patients and assignment of procedures
- student clinical evaluation mechanism demonstrating student competence in clinical skills, communication and practice management.

2-13 Graduates must be competent in providing the dental hygiene process of care which includes:

- a) comprehensive collection of patient data to identify the physical and oral health status;**
- b) analysis of assessment findings and use of critical thinking in order to address the patient's dental hygiene treatment needs;**
- c) establishment of a dental hygiene care plan that reflects the realistic goals and treatment strategies to facilitate optimal oral health;**
- d) provision of patient-centered treatment and evidence-based care in a manner minimizing risk and optimizing oral health;**
- e) measurement of the extent to which goals identified in the dental hygiene care plan are achieved;**
- f) complete and accurate recording of all documentation relevant to patient care.**

Intent:

The dental hygienist functions as a member of the dental team and plays a significant role in the delivery of comprehensive patient health care. The dental hygiene process of care is an integral component of total patient care and preventive strategies. The dental hygiene process of care is recognized as part of the overall treatment plan developed by the dentist for complete dental care.

Examples of evidence to demonstrate compliance may include:

- Program clinical and radiographic experiences
- Patient tracking data for enrolled and past students
- Policies regarding selection of patients and assignment of procedures
- Monitoring or tracking system protocols
- Clinical evaluation system policy and procedures demonstrating student competencies
- Assessment instruments
- Evidence-based treatment strategies

- Appropriate documentation
- Use of risk assessment systems and/or forms to develop a dental hygiene care plan

2-14 Graduates must be competent in providing dental hygiene care for all types of classifications of periodontal diseases including patients who exhibit moderate to severe periodontal disease.

Intent:

The total number and type of patients for whom each student provides dental hygiene care should be sufficient to ensure competency in all components of dental hygiene practice. A patient pool should be available to provide patient experiences in all classifications of periodontal patients, including both maintenance and those newly diagnosed. These experiences should be monitored to ensure equal opportunity for each enrolled student.

Examples of evidence to demonstrate compliance may include:

- program clinical and radiographic experiences
- patient tracking data for enrolled and past students
- policies regarding selection of patients and assignment of procedures
- monitoring or tracking system protocols
- clinical evaluation mechanism demonstrating student competence

2-15 Graduates must be competent in communicating and collaborating with other members of the health care team to support comprehensive patient care.

Intent:

The ability to communicate verbally and in written form is basic to the safe and effective provision of oral health services for diverse populations. Dental Hygienists should recognize the cultural influences impacting the delivery of health services to individuals and communities (i.e. health status, health services and health beliefs). Students should understand the roles of members of the health-care team and have educational experiences that involve working with other health-care professional students and practitioners.

Examples of evidence to demonstrate compliance may include:

- student experiences demonstrating the ability to communicate and collaborate effectively with a variety of individuals, groups and health care providers.
- examples of individual and community-based oral health projects implemented by students during the previous academic year
- evaluation mechanisms designed to assess knowledge and performance of interdisciplinary communication and collaboration

- 2-16 Graduates must demonstrate competence in:**
- a) assessing the oral health needs of community-based programs**
 - b) planning an oral health program to include health promotion and disease prevention activities**
 - c) implementing the planned program, and,**
 - d) evaluating the effectiveness of the implemented program.**

Intent:

Population based activities will allow students to apply community dental health principles to prevent disease and promote health.

Examples of evidence to demonstrate compliance may include:

- student projects demonstrating assessing, planning, implementing and evaluating community-based oral health programs
- examples of community-based oral health programs implemented by students during the previous academic year
- evaluation mechanisms designed to monitor knowledge and performance

- 2-17 Graduates must be competent in providing appropriate life support measures for medical emergencies that may be encountered in dental hygiene practice.**

Intent:

Dental hygienists should be able to provide appropriate basic life support as providers of direct patient care.

Examples of evidence to demonstrate compliance may include:

- evaluation methods/grading criteria such as classroom or clinic examination, station examination, performance on emergency simulations, basic life support certification/recognition

- 2-18 Where graduates of a CODA accredited dental hygiene program are authorized to perform additional functions required for initial dental hygiene licensure as defined by the program's state specific dental board or regulatory agency, program curriculum must include content at the level, depth, and scope required by the state. Further, curriculum content must include didactic and laboratory/preclinical/clinical objectives for the additional dental hygiene skills and functions. Students must demonstrate laboratory/preclinical/clinical competence in performing these skills.**

Intent: Functions allowed by the state dental board or regulatory agency for dental hygienists are taught and evaluated at the depth and scope required by the state. The inclusion of additional functions cannot compromise the length and scope of the educational program or content required in the Accreditation Standards and may require extension of the program length.

Ethics and Professionalism

- 2-19 Graduates must be competent in the application of the principles of ethical reasoning, ethical decision making and professional responsibility as they pertain to the academic environment, research, patient care and practice management.**

Intent:

Dental hygienists should understand and practice ethical behavior consistent with the professional code of ethics throughout their educational experiences.

Examples of evidence to demonstrate compliance may include:

- documents which articulate expected behavior of students such as policy manuals, college catalog, etc.
- evaluation of student experiences which promotes ethics, ethical reasoning and professionalism
- evaluation strategies to monitor knowledge and performance of ethical behavior

- 2-20 Graduates must be competent in applying legal and regulatory concepts to the provision and/or support of oral health care services.**

Intent:

Dental hygienists should understand the laws which govern the practice of the dental profession. Graduates should know how to access licensure requirements, rules and regulations, and state practice acts for guidance in judgment and action.

Examples of evidence to demonstrate compliance may include:

- evaluation mechanisms designed to monitor knowledge and performance concerning legal and regulatory concepts
- outcomes assessment mechanisms

Critical Thinking

- 2-21 Graduates must be competent in the application of self-assessment skills to prepare them for life-long learning.**

Intent:

Dental hygienists should possess self-assessment skills as a foundation for maintaining competency and quality assurance.

Examples of evidence to demonstrate compliance may include:

- written course documentation of content in self-assessment skills
- evaluation mechanisms designed to monitor knowledge and performance
- outcomes assessment mechanisms

2-22 Graduates must be competent in the evaluation of current scientific literature.

Intent:

Dental hygienists should be able to evaluate scientific literature as a basis for life-long learning, evidenced-based practice and as a foundation for adapting to changes in healthcare.

Examples of evidence to demonstrate compliance may include:

- written course documentation of content in the evaluation of current and classic scientific literature
- evaluation mechanisms designed to monitor knowledge and performance
- outcomes assessment mechanisms

2-23 Graduates must be competent in problem solving strategies related to comprehensive patient care and management of patients.

Intent:

Critical thinking and decision making skills are necessary to provide effective and efficient dental hygiene services. Throughout the curriculum, the educational program should use teaching and learning methods that support the development of critical thinking and problem solving skills.

Examples of evidence to demonstrate compliance may include:

- evaluation mechanisms designed to monitor knowledge and performance;
- outcomes assessment mechanisms demonstrating application of critical thinking skills;
- activities or projects that demonstrate student experiences with analysis of problems related to comprehensive patient care;
- demonstration of the use of active learning methods that promote critical appraisal of scientific evidence in combination with clinical application and patient factors.

Curriculum Management

2-24 The dental hygiene program must have a formal, written curriculum management plan, which includes:

- a) an ongoing curriculum review and evaluation process with input from faculty, students, administration and other appropriate sources;
- b) evaluation of the effectiveness of all courses as they support the program's goals and competencies;
- c) a defined mechanism for coordinating instruction among dental hygiene program faculty.

Intent:

To assure the incorporation of emerging information and achievement of appropriate sequencing, the elimination of unwarranted repetition, and the attainment of student competence, a formal curriculum review process should be conducted on an ongoing and regular basis. Periodic workshops and in-service sessions should be held for the dissemination of curriculum information and modifications.

Examples of evidence to demonstrate compliance may include:

- competencies documentation demonstrating relationship of course content to defined competencies of the program
- documentation of ongoing curriculum review and evaluation
- minutes of meetings documenting curriculum review and evaluation
- student evaluation of instruction
- curriculum management plan

STANDARD 3 - ADMINISTRATION, FACULTY AND STAFF

- 3-1 The program must be a recognized entity within the institution's administrative structure which supports the attainment of program goals.**

Intent:

The position of the program in the institution's administrative structure should permit direct communication between the program administrator and institutional administrators who are responsible for decisions that directly affect the program. The administration of the program should include formal provisions for program planning, staffing, management, coordination and evaluation.

Examples of evidence to demonstrate compliance may include:

- institutional organizational flow chart
- short and long-range strategic planning documents
- examples of program and institution interaction to meet program goals
- dental hygiene representation on key college or university committees

Program Administrator

- 3-2 The dental hygiene program administrator must have a full-time appointment as defined by the institution, whose primary responsibility is for operation, supervision, evaluation and revision of the program.**

Intent:

To allow sufficient time to fulfill administrative responsibilities, teaching contact hours should be limited and should not take precedent over administrative responsibilities.

Examples of evidence to demonstrate compliance may include:

- program administrator position description and/or contract
- faculty schedules including contact hours and supplemental responsibilities
- policies of the institution which define teaching load for full-time faculty and administrators
- copies of union regulations and/or collective bargaining agreements

- 3-3 The program administrator must be a dental hygienist who is a graduate of a program accredited by the Commission on Dental Accreditation and possesses a masters or higher degree or is currently enrolled in a masters or higher degree program or a dentist who has background in education and the professional experience necessary to understand and fulfill the program goals.**

Intent:

The program administrator's background should include administrative experience, instructional experience, and professional experience in clinical practice either as a dental hygienist or working with a dental hygienist. The term of interim/acting program administrator should not exceed a two year period.

Examples of evidence to demonstrate compliance may include:

- curriculum vitae of program administrator

3-4 The program administrator must have the authority and responsibility necessary to fulfill program goals including:

- a) curriculum development, evaluation and revision;
- b) faculty recruitment, assignments and supervision;
- c) input into faculty evaluation;
- d) initiation of program or department in-service and faculty development;
- e) assessing, planning and operating program facilities;
- f) input into budget preparation and fiscal administration;
- g) coordination, evaluation and participation in determining admission criteria and procedures as well as student promotion and retention criteria.

Examples of evidence to demonstrate compliance may include:

- program administrator position description

Faculty

3-5 The number and distribution of faculty and staff must be sufficient to meet the dental hygiene program's stated purpose, goals and objectives.

Intent:

Student contact loads should allow the faculty sufficient time for class preparation, student evaluation and counseling, development of subject content and appropriate evaluation criteria and methods, program development and review, and professional development.

Examples of evidence to demonstrate compliance may include:

- faculty schedules including student contact loads and supplemental responsibilities

3-6 The faculty to student ratios must be sufficient to ensure the development of competence and ensure the health and safety of the public. In preclinical, clinical and radiographic clinical and laboratory sessions, there must not be less than one faculty for every five students. In laboratory sessions for dental materials courses, there must not be less than one faculty for every ten students to ensure the

development of clinical competence and maximum protection of the patient, faculty and students.

Intent:

The adequacy of numbers of faculty should be determined by faculty to student ratios during laboratory, radiography and clinical practice sessions rather than by the number of full-time equivalent positions for the program. The faculty to student ratios in clinical and radiographic practice should allow for individualized instruction and evaluation of the process as well as the end results. Faculty are responsible for both ensuring that the clinical and radiographic services delivered by students meet current standards for dental hygiene care and for the instruction and evaluation of students during their performance of those services.

Examples of evidence to demonstrate compliance may include:

- faculty teaching commitments
- class schedules
- listing of ratios for clinical, radiographic and laboratory courses

3-7 The full time faculty of a dental hygiene program must possess a baccalaureate or higher degree.

Part-time faculty providing didactic instruction must have earned at least a baccalaureate degree or be currently enrolled in a baccalaureate degree program.

All dental hygiene program faculty members must have:

- a) current knowledge of the specific subjects they are teaching.**
- b) documented background in current educational methodology concepts consistent with teaching assignments.**
- c) Faculty who are dental hygienists must be graduates of dental hygiene programs accredited by the Commission on Dental Accreditation.**

Intent:

Faculty should have background in current education theory and practice, concepts relative to the specific subjects they are teaching, clinical practice experience and, if applicable, distance education techniques and delivery. Dentists and dental hygienists who supervise students' clinical procedures should have qualifications which comply with the state dental or dental hygiene practice act. Individuals who teach and supervise dental hygiene students in clinical enrichment experiences should have qualifications comparable to faculty who teach in the dental hygiene clinic and are familiar with the program's objectives, content, instructional methods and evaluation procedures.

Examples of evidence to demonstrate compliance may include:

- faculty curriculum vitae with recent professional development activities listed
- evidence of participation in workshops, in-service training, self-study courses, on-line and credited courses

- attendance at regional and national meetings that address education
- mentored experiences for new faculty
- scholarly productivity
- maintenance of existing and development of new and/or emerging clinical skills

3-8 Opportunities must be provided for the program administrator and full-time faculty to continue their professional development.

Intent:

To assure competency in the discipline and educational theory, opportunities to attend professional development activities should be provided regularly for the program administrator and full-time faculty. Workshops should be offered to new faculty to provide an orientation to program policies, goals, objectives and student evaluation. This can be demonstrated through activities such as professional association involvement, research, publishing and clinical/practice experience.

Examples of evidence to demonstrate compliance may include:

- curriculum vitas with recent professional development activities listed
- examples of the program's or college's faculty development offerings
- records of formal in-service programs
- demonstration of funded support for professional development

3-9 A defined faculty evaluation process must exist that ensures objective measurement of the performance of each faculty member.

Intent:

An objective evaluation system including student, administration and peer evaluation can identify strengths and weaknesses for each faculty member (to include those at distance sites) including the program administrator. The results of evaluations should be communicated to faculty members on a regular basis to ensure continued improvement.

Examples of evidence to demonstrate compliance may include:

- sample evaluation mechanisms addressing teaching, patient care, research, scholarship and service
- faculty evaluation policy, procedures and mechanisms

3-10 Opportunities for promotion, tenure, and development must be the same for dental hygiene faculty as for other institutional faculty.

Intent:

The dental hygiene program faculty should be granted privileges and responsibilities as afforded all other institutional faculty.

Examples of evidence to demonstrate compliance may include:

- institution's promotion/tenure policy

- faculty senate handbook
- institutional policies and procedures governing faculty

Support Staff

- 3-11 Qualified institutional support personnel must be assigned to the program to support both the instructional program and the clinical facilities providing a safe environment for the provision of instruction and patient care.**

Intent:

Maintenance and custodial staff should be sufficient to meet the unique needs of the academic and clinical program facilities. Faculty should have access to instructional specialists, such as those in the areas of curriculum, testing, counseling, computer usage, instructional resources and educational psychology. Secretarial and clerical staff should be assigned to assist the administrator and faculty in preparing course materials, correspondence, maintaining student records, and providing supportive services for student recruitment and admissions activities. Support staff should be assigned to assist with the operation of the clinic facility including the management of appointments, records, billing, insurance, inventory, hazardous waste, and infection control.

Examples of evidence to demonstrate compliance may include:

- description of current program support/personnel staffing
- program staffing schedules
- staff job descriptions
- examples of how support staff are used to support students

- 3-12 Student assignments to clerical and dental assisting responsibilities during clinic sessions must be minimal and must not be used to compensate for limitations of the clinical capacity or to replace clerical or clinical staff.**

Intent:

Secretarial and clerical staff should be assigned to assist the administrator and faculty in preparing course materials, correspondence, maintaining student records, and providing supportive services for student recruitment and admissions activities. Support staff should be assigned to assist with the operation of the clinic facility including the management of appointments, records, billing, insurance, inventory, hazardous waste, and infection control.

Examples of evidence to demonstrate compliance may include:

- description of current program support/personnel staffing
- program staffing schedules
- staff job descriptions
- examples of how support staff are used to support students

STANDARD 4 - EDUCATIONAL SUPPORT SERVICES

Facilities

- 4-1 The program must provide sufficient and appropriately maintained facilities to support the academic and clinical purposes of the program that conform to applicable regulations.**

Clinical Facilities

The dental hygiene facilities must include the following:

- a) sufficient clinical facility with clinical stations for students including conveniently located hand washing sinks and view boxes and/or computer monitors; a working space for the patient's record adjacent to units; functional, modern equipment; an area that accommodates a full range of operator movement and opportunity for proper instructor supervision;**
- b) a number of clinical stations based on the number of students admitted to a class (If the number of stations is less than the number of students in the class, one clinical station is available for every student scheduled for each clinical session.);**
- c) a capacity of the clinic that accommodates individual student practice on a regularly scheduled basis throughout all phases of preclinical technique and clinical instruction;**
- d) a sterilizing area that includes sufficient space for preparing, sterilizing and storing instruments;**
- e) sterilizing equipment and personal protective equipment/supplies that follow current infection and hazard control protocol;**
- f) facilities and materials for students, faculty and staff that provide compliance with accepted infection and hazard control protocols;**
- g) space and furnishings for patient reception and waiting provided adjacent to the clinic;**
- h) patient records kept in an area assuring safety and confidentiality.**

Intent:

The facilities should permit the attainment of program goals and objectives. To ensure health and safety for patients, students, faculty and staff, the physical facilities and equipment should effectively accommodate the clinic and/or laboratory schedule. This Standard applies to all sites where students receive clinical instruction.

Radiography Facilities

- 4-2 Radiography facilities must be sufficient for student practice and the development of clinical competence.**

The radiography facilities must contain the following:

- a) an appropriate number of radiography exposure rooms which include: modern dental radiography units; teaching manikin(s); and conveniently located hand-washing sinks;**
- b) modern processing and/or scanning equipment;**
- c) an area for mounting and viewing radiographs;**
- d) documentation of compliance with applicable local, state and federal regulations.**

Regardless of the number of machines provided, it must be demonstrated that time is available for all students to obtain required experience with faculty supervision and that acceptable faculty teaching loads are maintained.

Intent:

The radiography facilities should allow the attainment of program goals and objectives. Radiography facilities and equipment should effectively accommodate the clinic and/or laboratory schedules, the number of students, faculty and staff, and comply with applicable regulations to ensure effective instruction in a safe environment. This Standard applies to all sites where students receive clinical instruction.

Laboratory Facilities

- 4-3 A multipurpose laboratory facility must be provided for effective instruction and allow for required laboratory activities. If the laboratory capacity requires that two or more sections be scheduled, time for all students to obtain required laboratory experience must be provided.**

Laboratory facilities must contain the following:

- a) placement and location of equipment that is conducive to efficient and safe utilization;**
- b) student stations that are designed and equipped for students to work while seated including sufficient ventilation and lighting, necessary utilities, storage space, and an adjustable chair;**
- c) documentation of compliance with applicable local, state and federal regulations.**

Intent:

The laboratory facilities should include student stations with equipment and space for individual student performance of laboratory procedures with instructor supervision. This Standard applies to all sites where students receive clinical instruction.

Extended Campus Facilities

4-4 The educational institution must provide physical facilities and equipment which are sufficient to permit achievement of program objectives. If the institution finds it necessary to contract for use of an existing facility for basic clinical education and/or distance education, then the following conditions must be met in addition to all existing Standards:

- a) a formal contract between the educational institution and the facility;**
- b) a two-year notice for termination of the contract stipulated to ensure that instruction will not be interrupted or;**
- c) a contingency plan developed by the institution should the contract be terminated;**
- d) a location and time available for use of the facility compatible with the instructional needs of the dental hygiene program;**
- e) the dental hygiene program administrator retains authority and responsibility for instruction and scheduling of student assignments;**
- f) clinical instruction is provided and evaluated by calibrated dental hygiene program faculty;**
- g) all dental hygiene students receive comparable instruction in the facility;**
- h) the policies and procedures of the facility are compatible with the goals of the educational program.**

Examples of evidence to demonstrate compliance may include:

- contract with extended campus facility
- formal written contingency plan
- course and faculty schedules for clinical programs
- affiliation agreements and policies/objectives for all off-campus sites

Classroom Space

4-5 Classroom space which is designed and equipped for effective instruction must be provided for and readily accessible to the program.

Intent:

The classroom facilities should include an appropriate number of student stations with equipment and space for individual student performance in a safe environment.

Office Space

- 4-6 Office space which allows for privacy must be provided for the program administrator and faculty. Student and program records must be stored to ensure confidentiality and safety.**

Intent:

Office space for full- and part-time faculty should be allocated to allow for class preparation, student counseling and supportive academic activities.

Learning Resources

- 4-7 Instructional aids and equipment must be provided for student learning. Institutional library holdings must include or provide access to a diversified collection of current dental, dental hygiene and multidisciplinary literature and references necessary to support teaching, student learning needs, service, research and development. There must be a mechanism for program faculty to periodically review, acquire and select current titles and instructional aids.**

Intent:

The acquisition of knowledge, skill and values for dental hygiene students requires the use of current instructional methods and materials to support learning needs and development. All students, including those receiving education at distance sites, will be assured access to learning resources.

Examples of evidence to demonstrate compliance may include:

- a list of references on education, medicine, dentistry, dental hygiene and the biomedical sciences
- policies and procedures related to learning resource access
- timely electronic access to a wide variety of professional scientific literature
- skeletal and anatomic models and replicas, sequential samples of laboratory procedures, slides, films, video, and other media which depict current techniques
- a wide range of printed materials and instructional aids and equipment available for utilization by students and faculty
- current and back issues of major scientific and professional journals related to dentistry and dental hygiene

Student Services

- 4-8 There must be specific written due process policies and procedures for adjudication of academic and disciplinary complaints that parallel those established by the sponsoring institution.**

Intent:

All policies and procedures should protect the students as consumers and provide avenues for appeal and due process. Policies should ensure that student records accurately reflect work accomplished and are maintained in a secure manner.

Examples of evidence to demonstrate compliance may include:

- student rights policies and procedures
- student handbook or campus catalog
- ethical standards and policies to protect students as consumers
- student records

STANDARD 5 - HEALTH AND SAFETY PROVISIONS

Infectious Disease/Radiation Management

- 5-1 The program must document its compliance with institutional policy and applicable regulations of local, state and federal agencies including, but not limited to, radiation hygiene and protection, ionizing radiation, hazardous materials, and bloodborne and infectious diseases. Policies must be provided to all students, faculty, and appropriate support staff, and continuously monitored for compliance. Policies on bloodborne and infectious diseases must be made available to applicants for admission and patients.**

Intent:

The dental hygiene program should establish and enforce a mechanism to ensure sufficient preclinical/clinical/laboratory asepsis, infection and biohazard control and disposal of hazardous waste.

Policies and procedures on the use of ionizing radiation should include criteria for patient selection, frequency of exposing and retaking radiographs on patients, consistent with current, accepted dental practice. All radiographic exposure should be integrated with clinical patient care procedures.

Policies and procedures should be in place to provide for a safe environment for students, patients, faculty and staff. The confidentiality of information pertaining to the health status of each individual should be strictly maintained.

This Standard applies to all program sites where laboratory and clinical education is provided.

Examples of evidence to demonstrate compliance may include:

- protocols on preclinical/clinical/laboratory asepsis and infection control
- protocols on biohazard control and disposal of hazardous waste
- program policy manuals
- compliance records with applicable state and/or federal regulations
- policies and procedures on the use of ionizing radiation
- policies and procedures regarding individuals with bloodborne infectious diseases
- established post-exposure guidelines as defined by the Centers for Disease Control and Prevention

- 5-2 Students, faculty and appropriate support staff must be encouraged to be immunized against and/or tested for infectious diseases, such as mumps, measles, rubella, tuberculosis, varicella and hepatitis B prior to contact with patients and/or infectious objects or materials in an effort to minimize the risk to patients and dental personnel.**

Intent:

All individuals who provide patient care or have contact with patients should follow all standards of risk management thus ensuring a safe and healthy environment.

Examples of evidence to demonstrate compliance may include:

- policies and procedures regarding infectious disease immunizations
- immunization compliance records
- declinations forms

Emergency Management

- 5-3 The program must establish, enforce, and instruct students in preclinical/clinical/laboratory protocols and mechanisms to ensure the management of emergencies. These protocols must be provided to all students, faculty and appropriate staff. Faculty, staff and students must be prepared to assist with the management of emergencies.**

Examples of evidence to demonstrate compliance may include:

- accessible and functional emergency equipment, including oxygen
- instructional materials
- written protocol and procedures
- emergency kit(s)
- installed and functional safety devices and equipment
- first aid kit accessible for use in managing clinic and/or laboratory accidents

STANDARD 6 - PATIENT CARE SERVICES

- 6-1 The program must have policies and mechanisms in place that inform patients, verbally and in writing, about their comprehensive treatment needs. Patients accepted for dental hygiene care must be advised of the scope of dental hygiene care available at the dental hygiene facilities.**

Intent:

All dental hygiene patients should receive appropriate care that assures their right as a patient is protected. Patients should be advised of their treatment needs and the scope of care available at the training facility and appropriately referred for procedures that cannot be provided by the program. This Standard applies to all program sites where clinical education is provided.

Examples of evidence to demonstrate compliance may include:

- documentation of an ongoing review of a representative sample of patients and patient records to assess the appropriateness, necessity and quality of care provided
- quality assurance policy and procedures
- patient bill of rights

- 6-2 The program must have a formal written patient care quality assurance plan that includes:**

- a) standards of care that are patient-centered, focused on comprehensive care, and written in a format that facilitates assessment with measurable criteria;**
- b) an ongoing review of a representative sample of patients and patient records to assess the appropriateness, necessity and quality of the care provided;**
- c) mechanisms to determine the cause of treatment deficiencies;**
- d) patient review policies, procedure, outcomes and corrective measures.**

Intent:

The program should have a system in place for continuous review of established standards of patient care. This Standard applies to all program sites where clinical education is provided.

Examples of evidence to demonstrate compliance may include:

- documentation of an ongoing review of a representative sample of patients and patient records to assess the appropriateness, necessity and quality of care provided
- quality assurance policy and procedures
- patient bill of rights
- documentation of policies on scope of care provided, recalls and referrals

- description of the quality assurance process for the patient care program
- samples of outcomes assessment measures that assess patients' perceptions of quality of care, i.e., patient satisfaction surveys and results
- results of patient records review

6-3 The use of quantitative criteria for student advancement and graduation must not compromise the delivery of comprehensive dental hygiene patient care.

Intent:

The need for students to satisfactorily complete specific clinical requirements prior to advancement and graduation should not adversely affect the health and care of patients.

Examples of evidence to demonstrate compliance may include:

- patient bill of rights
- documentation that patients are informed of their rights
- continuing care (recall) referral policies and procedures

6-4 The program must develop and distribute a written statement of patients' rights to all patients, appropriate students, faculty, and staff.

Intent:

The primacy of care for the patient should be well established in the management of the program and clinical facility assuring that the rights of the patient are protected. A written statement of patient rights should include:

- considerate, respectful and confidential treatment;*
- continuity and completion of treatment;*
- access to complete and current information about his/her condition;*
- advance knowledge of the cost of treatment;*
- informed consent;*
- explanation of recommended treatment, treatment alternatives, the option to refuse treatment, the risk of no treatment, and expected outcomes of various treatments;*
- treatment that meets the standard of care in the profession.*

6-5 All students, faculty and support staff involved with the direct provision of patient care must be continuously recognized/certified in basic life support procedures, including healthcare provider cardiopulmonary resuscitation with an Automated External Defibrillator (AED).

Intent:

The need for students to be able to provide basic life support procedures is essential in the delivery of health care.

Examples of evidence to demonstrate compliance may include:

- continuous recognition records of students, faculty and support staff involved in the direct provision of patient care
- exemption documentation for anyone who is medically or physically unable to perform such services

6-6 The program's policies must ensure that the confidentiality of information pertaining to the health status of each individual patient is strictly maintained.

Intent:

The program should have a system in place to ensure patient confidentiality. The use of student employees as secretarial staff does not preclude the essential need for patient confidentiality.



Friday, April 20, 2018

Dental Hygiene Committee of California

Legislative & Regulatory Subcommittee

Agenda Item LEG 7:

**Discussion and Possible Action, and
Recommendation to the Full Committee to Adopt
CCR, Title 16, Division 11, § 1105.5 Radiographic
Decision-Making and Interim Therapeutic
Restoration (ITR) Course for RDH, RDHAP, and
RDHEF**

DENTAL HYGIENE COMMITTEE OF CALIFORNIA

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MEMORANDUM

DATE	April 20, 2018
TO	Legislative and Regulatory Subcommittee
FROM	Anthony Lum, Executive Officer
SUBJECT	Agenda Item LEG 7 – Discussion and Possible Action, and Recommendation to the Full Committee to Adopt CCR, Title 16, Division 11, § 1105.5 Radiographic Decision-Making and Interim Therapeutic Restoration Course for RDH, RDHAP, and RDHEF

Background

Assembly Bill (AB) 1174 (Ch. 662, statutes of 2014) created additional authorized duties of registered dental hygienists to: 1) Determine which radiographs to perform on a patient who has not received an initial examination by a supervising dentist for the dentist to make a diagnosis, 2) In a public Health setting, use telehealth for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, and 3) Place protective restorations which are identified as Interim Therapeutic Restorations (ITR) and defined as a direct provisional restoration placed to stabilize the tooth until the patient can be seen by a dentist.

Regulations to implement an ITR course to teach licensed RDH, RDHAP, and RDHEFs were to be promulgated by January 1, 2018; however, due to limited staff resources and the DHCC's increased workload from its 2018 Sunset Review, it was postponed until the necessary resources could be directed to address this issue.

Committee Action Requested

Staff requests that the Legislative and Regulatory Subcommittee recommend to the Full Committee to approve the proposed regulatory language for CCR § 1105.5 and authorize the Interim Executive Officer to make any technical and non-substantive changes to the language and move forward with the rulemaking file review and hearing for public comment.



Friday, April 20, 2018

Dental Hygiene Committee of California

Legislative and Regulatory Subcommittee Meeting

Agenda Item LEG 8:

Future Agenda Items



Friday, April 20, 2018

Dental Hygiene Committee of California

Legislative and Regulatory Subcommittee Meeting

Agenda Item LEG 9:

**Adjournment of the Legislative and Regulatory
Subcommittee Meeting**