

AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 564

Introduced by Assembly Member Lowenthal

February 21, 2001

An act to amend Section ~~1647.13~~ of 1680 of, and to add Sections 1647.125 and 2245.1 to, the Business and Professions Code, relating to dentistry.

LEGISLATIVE COUNSEL'S DIGEST

AB 564, as amended, Lowenthal. Dentistry: *oral* conscious sedation.

The Dental Practice Act regulates and licenses the practice of dentistry, including the use of oral conscious sedation by licensees for pediatric patients. ~~The act requires a minimum of 7 hours of approved training in the use of oral conscious sedation for minor patients for the renewal of a licensee's certification as an oral conscious sedation provider.~~

~~This bill would require 10 hours of approved training for a licensee in the use of oral conscious sedation for minor patients as a condition of the renewal of the licensee's certification as an oral conscious sedation provider.~~

This bill would require the Dental Board of California to conduct random inspections of oral sedation certificate holders' offices to make sure their equipment and facilities are in compliance with board standards.

This bill would make it unprofessional conduct for a dentist to fail to notify the board orally within 48 hours and in writing within 7 days of

any patient that was admitted to a hospital within 72 hours of dental treatment. This bill would also require individuals licensed by the Medical Practice Act to notify the board of any hospital admission related to dental treatment within 48 hours of the admission. Because a violation of the new Medical Practice Act provisions would be a crime, the bill would impose a state-mandated local program by creating a new crime.

This bill would also make legislative findings and declarations and express legislative intent regarding the use of ~~chloral hydrate~~ sedatives in pediatric dentistry.

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: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

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

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) The law requires that pediatric dentists ensure that drugs
3 and techniques used in oral conscious sedation to minors shall have
4 a margin of safety wide enough to render unintended loss of
5 consciousness unlikely.

6 (b) ~~Chloral hydrate is a sedative~~ Sedatives used in pediatric
7 dentistry, ~~which~~ can cause brain damage or death if improperly
8 administered.

9 (c) Dentists are *currently* not required to report incidents where
10 a patient ~~experiences loss of consciousness or the ability to~~
11 ~~physically and verbally respond to stimuli from the use of chloral~~
12 ~~hydrate and~~ requires emergency medical attention.

13 SEC. 2. It is the intent of the Legislature that all *dental and*
14 *medical personnel* shall report incidents involving ~~chloral hydrate~~
15 *oral sedation* that require medical assistance ~~within one business~~
16 ~~day of the event~~. The Dental Board of California shall randomly
17 check emergency medical equipment and ~~oximetry~~ *monitoring*
18 devices to ensure they meet state requirements.



1 ~~SEC. 3. Section 1647.13 of the Business and Professions~~
2 ~~Code is amended to read:~~

3 ~~1647.13. A certificate holder shall be required to complete a~~
4 ~~minimum of 10 hours of approved courses of study related to oral~~
5 ~~conscious sedation of minor patients as a condition of certification~~
6 ~~renewal as an oral conscious sedation provider. Those courses of~~
7 ~~study shall be accredited toward any continuing education~~
8 ~~required by the board pursuant to Section 1645.~~

9 *SEC. 3. Section 1647.125 is added to the Business and*
10 *Professions Code, to read:*

11 *1647.125. The board shall conduct random inspections of*
12 *oral sedation certification holders' offices to insure that facilities*
13 *and equipment requirements established by the board are being*
14 *met.*

15 *SEC. 4. Section 1680 of the Business and Professions Code is*
16 *amended to read:*

17 1680. Unprofessional conduct by a person licensed under this
18 chapter is defined as, but is not limited to, the violation of any one
19 of the following:

20 (a) The obtaining of any fee by fraud or misrepresentation.

21 (b) The employment directly or indirectly of any student or
22 suspended or unlicensed dentist to practice dentistry as defined in
23 this chapter.

24 (c) The aiding or abetting of any unlicensed person to practice
25 dentistry.

26 (d) The aiding or abetting of a licensed person to practice
27 dentistry unlawfully.

28 (e) The committing of any act or acts of gross immorality
29 substantially related to the practice of dentistry.

30 (f) The use of any false, assumed, or fictitious name, either as
31 an individual, firm, corporation, or otherwise, or any name other
32 than the name under which he or she is licensed to practice, in
33 advertising or in any other manner indicating that he or she is
34 practicing or will practice dentistry, except that name as is
35 specified in a valid permit issued pursuant to Section 1701.5.

36 (g) The practice of accepting or receiving any commission or
37 the rebating in any form or manner of fees for professional
38 services, radiograms, prescriptions, or other services or articles
39 supplied to patients.

- 1 (h) The making use by the licentiate or any agent of the
2 licentiate of any advertising statements of a character tending to
3 deceive or mislead the public.
- 4 (i) The advertising of either professional superiority or the
5 advertising of performance of professional services in a superior
6 manner. This subdivision shall not prohibit advertising permitted
7 by subdivision (h) of Section 651.
- 8 (j) The employing or the making use of solicitors.
- 9 (k) The advertising in violation of Section 651.
- 10 (l) The advertising to guarantee any dental service, or to
11 perform any dental operation painlessly. This subdivision shall not
12 prohibit advertising permitted by Section 651.
- 13 (m) The violation of any of the provisions of law regulating the
14 procurement, dispensing, or administration of dangerous drugs, as
15 defined in Article 7 (commencing with Section 4211) of Chapter
16 9, or controlled substances, as defined in Division 10
17 (commencing with Section 11000) of the Health and Safety Code.
- 18 (n) The violation of any of the provisions of this division.
- 19 (o) The permitting of any person to operate dental radiographic
20 equipment who has not met the requirements of Section 1656.
- 21 (p) The clearly excessive prescribing or administering of drugs
22 or treatment, or the clearly excessive use of diagnostic procedures,
23 or the clearly excessive use of diagnostic or treatment facilities, as
24 determined by the customary practice and standards of the dental
25 profession.
- 26 Any person who violates this subdivision is guilty of a
27 misdemeanor and shall be punished by a fine of not less than one
28 hundred dollars (\$100) or more than six hundred dollars (\$600),
29 or by imprisonment for a term of not less than 60 days or more than
30 180 days, or by both a fine and imprisonment.
- 31 (q) The use of threats or harassment against any patient or
32 licentiate for providing evidence in any possible or actual
33 disciplinary action, or other legal action; or the discharge of an
34 employee primarily based on the employee's attempt to comply
35 with the provisions of this chapter or to aid in the compliance.
- 36 (r) Suspension or revocation of a license issued, or discipline
37 imposed, by another state or territory on grounds which would be
38 the basis of discipline in this state.
- 39 (s) The alteration of a patient's record with intent to deceive.



- 1 (t) Unsanitary or unsafe office conditions, as determined by the
2 customary practice and standards of the dental profession.
- 3 (u) The abandonment of the patient by the licentiate, without
4 written notice to the patient that treatment is to be discontinued and
5 before the patient has ample opportunity to secure the services of
6 another dentist and provided the health of the patient is not
7 jeopardized.
- 8 (v) The willful misrepresentation of facts relating to a
9 disciplinary action to the patients of a disciplined licentiate.
- 10 (w) Use of fraud in the procurement of any license issued
11 pursuant to this chapter.
- 12 (x) Any action or conduct which would have warranted the
13 denial of the license.
- 14 (y) The aiding or abetting of a licensed dentist or dental
15 auxiliary to practice dentistry in a negligent or incompetent
16 manner.
- 17 (z) The failure to report to the board *by telephone within 48*
18 *hours and in writing within seven days* ~~either~~ *any of the following:*
19 (1) the death of his or her patient during the performance of any
20 dental procedure; ~~or~~; (2) the discovery of the death of a patient
21 whose death is ~~causally~~ related to a dental procedure performed by
22 him or her; *or (3) the admission to, or the treatment of, his or her*
23 *patient in a hospital within 72 hours of dental treatment.*
- 24 (aa) Participating in or operating any group advertising and
25 referral services which is in violation of Section 650.2.
- 26 (bb) The failure to use a fail-safe machine with an appropriate
27 exhaust system in the administration of nitrous oxide. The board
28 shall, by regulation, define what constitutes a fail-safe machine.
- 29 (cc) Engaging in the practice of dentistry with an expired
30 license.
- 31 (dd) Except for good cause, the knowing failure to protect
32 patients by failing to follow infection control guidelines of the
33 board, thereby risking transmission of blood-borne infectious
34 diseases from dentist or dental auxiliary to patient, from patient to
35 patient, and from patient to dentist or dental auxiliary. In
36 administering this subdivision, the board shall consider
37 referencing the standards, regulations, and guidelines of the State
38 Department of Health Services developed pursuant to Section
39 1250.11 of the Health and Safety Code and the standards,
40 guidelines, and regulations pursuant to the California



1 Occupational Safety and Health Act of 1973 (Part 1 (commencing
 2 with Section 6300), Division 5, Labor Code) for preventing the
 3 transmission of HIV, hepatitis B, and other blood-borne pathogens
 4 in health care settings. As necessary, the board shall consult with
 5 the California Medical Board, the Board of Podiatric Medicine,
 6 the Board of Registered Nursing, and the Board of Vocational
 7 Nursing and Psychiatric Technicians, to encourage appropriate
 8 consistency in the implementation of this subdivision.

9 The board shall seek to ensure that licentiates and others
 10 regulated by the board are informed of the responsibility of
 11 licentiates and others to follow infection control guidelines, and of
 12 the most recent scientifically recognized safeguards for
 13 minimizing the risk of transmission of blood-borne infectious
 14 diseases.

15 (ee) The utilization by a licensed dentist of any person to
 16 perform the functions of a registered dental assistant, registered
 17 dental assistant in extended functions, registered dental hygienist,
 18 or registered dental hygienist in extended functions who, at the
 19 time of initial employment, does not possess a current, valid
 20 license to perform those functions.

21 *SEC. 5. Section 2245.1 is added to the Business and*
 22 *Professions Code, to read:*

23 *2245.1. All individuals licensed under this chapter shall*
 24 *report hospital admissions related to dental treatment to the*
 25 *Dental Board of California within 48 hours of admission.*

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

