

Assembly Bill No. 564

CHAPTER 308

An act to amend Sections 1680 and 1682 of the Business and Professions Code, relating to dentistry.

[Approved by Governor September 18, 2001. Filed with Secretary of State September 19, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 564, 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.

This bill would require the Dental Board of California to submit a report to the Assembly Committee on Health and the Senate Business and Professions Committee on or before January 1, 2003, regarding reports it has received on deaths or hospitalizations as a result of dental treatment.

This bill would make it unprofessional conduct for a dentist to fail to notify the board in writing within 7 days of any patient that was removed to a hospital or emergency care center for medical treatment for more than 24 hours as a result of the administration of oral conscious sedation, conscious sedation, general anesthesia, or any dental treatment, unless the removal to a hospital or emergency care center is normal or expected based on the underlying dental condition, and would allow the board to inspect a dental office upon receipt of a report if the board finds it necessary. The bill would also give the board the authority to conduct an inspection of a dental office upon receipt of a report of an incident involving oral sedation that required medical assistance. The bill would make conforming changes.

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

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

SECTION 1. The Legislature finds and declares as follows:

(a) The law requires that dentists ensure that drugs and techniques used in dental treatment, particularly oral conscious sedation to minors shall have a margin of safety wide enough to render unintended loss of consciousness unlikely.



(b) Sedatives used in dentistry can cause injury or death if improperly administered.

(c) Currently, dentists are not required to report incidents where a patient requires hospitalization.

SEC. 2. It is the intent of the Legislature that all licensed dentists shall report incidents involving oral sedation that require medical assistance. The Dental Board of California shall have the authority, upon receipt of an incident report, to conduct an inspection of the dental office.

SEC. 3. The Dental Board of California shall submit a report to the Assembly Committee on Health and the Senate Business and Professions Committee on or before January 1, 2003, regarding all reports that the board has received on the subject of deaths or hospitalizations as a result of dental treatment.

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

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

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

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

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

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

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

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

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

(h) The making use by the licentiate or any agent of the licentiate of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner.



This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising in violation of Section 651.

(l) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 7 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.

(q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds which would be the basis of discipline in this state.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licentiate, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist and provided the health of the patient is not jeopardized.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.



(x) Any action or conduct which would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist or dental auxiliary to practice dentistry in a negligent or incompetent manner.

(z) The failure to report to the board in writing within seven days any of the following: (1) the death of his or her patient during the performance of any dental procedure; (2) the discovery of the death of a patient whose death is related to a dental procedure performed by him or her; or (3) except for a scheduled hospitalization, the removal to a hospital or emergency center for medical treatment for a period exceeding 24 hours of any patient to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, or any patient as a result of dental treatment. With the exception of patients to whom oral conscious sedation, conscious sedation, or general anesthesia was administered, removal to a hospital or emergency center that is the normal or expected treatment for the underlying dental condition is not required to be reported. Upon receipt of a report pursuant to this subdivision the board may conduct an inspection of the dental office if the board finds that it is necessary.

(aa) Participating in or operating any group advertising and referral services which is in violation of Section 650.2.

(bb) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall, by regulation, define what constitutes a fail-safe machine.

(cc) Engaging in the practice of dentistry with an expired license.

(dd) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from dentist or dental auxiliary to patient, from patient to patient, and from patient to dentist or dental auxiliary. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the California Medical Board, the Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates and others to



follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

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

SEC. 5. Section 1682 of the Business and Professions Code is amended to read:

1682. In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for:

(a) Any dentist performing dental procedures to have more than one patient undergoing conscious sedation or general anesthesia on an outpatient basis at any given time unless each patient is being continuously monitored on a one-to-one ratio while sedated by either the dentist or another licensed health professional authorized by law to administer conscious sedation or general anesthesia.

(b) Any dentist with patients recovering from conscious sedation or general anesthesia to fail to have the patients closely monitored by licensed health professionals experienced in the care and resuscitation of patients recovering from conscious sedation or general anesthesia. If one licensed professional is responsible for the recovery care of more than one patient at a time, all of the patients shall be physically in the same room to allow continuous visual contact with all patients and the patient to recovery staff ratio should not exceed three to one.

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

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

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

