

Assembly Bill No. 1386

CHAPTER 539

An act to amend Sections 1646.4, 1646.5, 1647, 1647.1, 1647.2, 1647.3, 1647.10, 1647.11, 1647.12, and 1647.14 of, to add Article 2.86 (commencing with Section 1647.18) to Chapter 4 of Division 2 of, and to repeal Section 1647.4 of, the Business and Professions Code, relating to dentistry, and making an appropriation therefor.

[Approved by Governor October 5, 2005. Filed with
Secretary of State October 5, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, Laird. Dentistry: oral conscious sedation.

Existing law provides for the licensing and regulation of dentists by the Dental Board of California. Existing law prohibits a dentist from administering or supervising the administration of general anesthesia, as defined, on an outpatient basis for dental patients unless the dentist has a general anesthesia permit from the Board of Dental Examiners. Existing law requires a permittee to meet specified requirements, including permitting onsite inspection and evaluation at least once every 6 years and completing 15 hours of approved courses of study related to general anesthesia as a condition of renewal.

This bill would instead require an onsite inspection and evaluation at least once every 5 years, and would require a permittee to complete 24 hours of approved courses of study related to general anesthesia as a condition of renewal.

Existing law generally prohibits a dentist from administering or ordering the administration of conscious sedation, as defined, on an outpatient basis unless the dentist has a general anesthesia permit or has a conscious sedation permit from the board. Existing law sets forth specified requirements that must be met in order to receive a conscious sedation permit, including educational requirements, and sets forth certain activities that constitute unprofessional conduct with respect to conscious sedation.

This bill would revise the definition of conscious sedation and oral conscious sedation, and would specify that a patient whose only response is reflex withdrawal from painful stimuli is not in a state of conscious sedation or oral conscious sedation.

Existing law authorizes a dentist without a permit to administer, or order the administration of, oral conscious sedation for minor patients if he or she registers his or her name with the board and meets specified requirements, including certain advanced education or residency requirements. Existing law sets forth precautions for dentists to take applicable to the oral conscious sedation of minors. A violation of the

provisions governing the oral conscious sedation of minors constitutes unprofessional conduct.

This bill would revise the advanced education and residency requirements. The bill would also authorize a dentist without a permit to administer, or order the administration of, oral conscious sedation for adult patients if he or she registers his or her name with the board, pays an application fee, and meets specified requirements. The bill would set forth precautions for dentists to take applicable to the oral conscious sedation of adults. The bill would make a violation of the provisions governing the oral conscious sedation of adults unprofessional conduct, subject to revocation or suspension of the dentist's permit, certificate, or license, or all 3, or reprimand or probation. The bill would also require, in all cases of oral conscious sedation, that the drugs or techniques used have a margin of safety wide enough to render unintended loss of consciousness unlikely, and would require for very young or handicapped individuals incapable of the usually expected verbal response a minimally depressed level of consciousness to be maintained.

The bill would appropriate \$47,000 to the Department of Consumer Affairs from the State Dentistry Fund for processing applications for adult conscious sedation certificates.

This bill would delete obsolete related provisions.

Appropriation: yes.

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

SECTION 1. Section 1646.4 of the Business and Professions Code is amended to read:

1646.4. (a) Prior to the issuance or renewal of a permit for the use of general anesthesia, the board may, at its discretion, require an onsite inspection and evaluation of the licentiate and the facility, equipment, personnel, and procedures utilized by the licentiate. The permit of any dentist who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the board notifies the dentist of the failure, unless within that time period the dentist has retaken and passed an onsite inspection and evaluation. Every dentist issued a permit under this article shall have an onsite inspection and evaluation at least once every five years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit.

(b) The board may contract with public or private organizations or individuals expert in dental outpatient general anesthesia to perform onsite inspections and evaluations. The board may not, however, delegate its authority to issue permits or to determine the persons or facilities to be inspected.

SEC. 2. Section 1646.5 of the Business and Professions Code is amended to read:

1646.5. A permittee shall be required to complete 24 hours of approved courses of study related to general anesthesia as a condition of renewal of a permit. Those courses of study shall be credited toward any continuing education required by the board pursuant to Section 1645.

SEC. 3. Section 1647 of the Business and Professions Code is amended to read:

1647. (a) The Legislature finds and declares that a commendable patient safety record has been maintained in the past by dentists and those other qualified providers of anesthesia services who, pursuant to a dentist's authorization, administer patient sedation, and that the increasing number of pharmaceuticals and techniques used to administer them for patient sedation require additional regulation to maintain patient safety in the future.

(b) The Legislature further finds and declares all of the following:

(1) That previous laws enacted in 1980 contained separate and distinct definitions for general anesthesia and the state of consciousness.

(2) That in dental practice, there is a continuum of sedation used which cannot be adequately defined in terms of consciousness and general anesthesia.

(3) That the administration of sedation through this continuum results in different states of consciousness that may or may not be predictable in every instance.

(4) That in most instances, the level of sedation will result in a predictable level of consciousness during the entire time of sedation.

(c) The Legislature further finds and declares that the educational standards presently required for general anesthesia should be required when the degree of sedation in the continuum of sedation is such that there is a reasonable possibility that loss of consciousness may result, even if unintended. These degrees of sedation have been referred to as "deep sedation" and "light general anesthesia" in dental literature. However, achieving the degree of sedation commonly referred to as "light conscious sedation," where a margin of safety exists wide enough to render unintended loss of consciousness unlikely, requires educational standards appropriate to the administration of the resulting predictable level of consciousness.

SEC. 4. Section 1647.1 of the Business and Professions Code is amended to read:

1647.1. (a) As used in this article, "conscious sedation" means a minimally depressed level of consciousness produced by a pharmacologic or nonpharmacologic method, or a combination thereof, that retains the patient's ability to maintain independently and continuously an airway, and respond appropriately to physical stimulation or verbal command.

"Conscious sedation" does not include the administration of oral medications or the administration of a mixture of nitrous oxide and oxygen, whether administered alone or in combination with each other.

(b) The drugs and techniques used in conscious sedation shall have a margin of safety wide enough to render unintended loss of consciousness

unlikely. Further, patients whose only response is reflex withdrawal from painful stimuli shall not be considered to be in a state of conscious sedation.

(c) For the very young or handicapped individual, incapable of the usually expected verbal response, a minimally depressed level of consciousness for that individual should be maintained.

SEC. 5. Section 1647.2 of the Business and Professions Code is amended to read:

1647.2. (a) No dentist shall administer or order the administration of, conscious sedation on an outpatient basis for dental patients unless one of the following conditions is met:

(1) The dentist possesses a current license in good standing to practice dentistry in California and either holds a valid general anesthesia permit or obtains a permit issued by the board authorizing the dentist to administer conscious sedation.

(2) The dentist possesses a current permit under Section 1638 or 1640 and either holds a valid anesthesia permit or obtains a permit issued by the board authorizing the dentist to administer conscious sedation.

(b) A conscious sedation permit shall expire on the date specified in Section 1715 which next occurs after its issuance, unless it is renewed as provided in this article.

(c) This article shall not apply to the administration of local anesthesia or to general anesthesia.

(d) A dentist who orders the administration of conscious sedation shall be physically present in the treatment facility while the patient is sedated.

SEC. 6. Section 1647.3 of the Business and Professions Code is amended to read:

1647.3. (a) A dentist who desires to administer or order the administration of conscious sedation, shall apply to the board on an application form prescribed by the board. The dentist shall submit an application fee and produce evidence showing that he or she has successfully completed a course of training in conscious sedation that meets the requirements of subdivision (c).

(b) The application for a permit shall include documentation that equipment and drugs required by the board are on the premises.

(c) A course in the administration of conscious sedation shall be acceptable if it meets all of the following as approved by the board:

(1) Consists of at least 60 hours of instruction.

(2) Requires satisfactory completion of at least 20 cases of administration of conscious sedation for a variety of dental procedures.

(3) Complies with the requirements of the Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry of the American Dental Association.

SEC. 7. Section 1647.4 of the Business and Professions Code is repealed.

SEC. 8. Section 1647.10 of the Business and Professions Code is amended to read:

1647.10. As used in this article:

(a) “Oral conscious sedation” means a minimally depressed level of consciousness produced by oral medication that retains the patient’s ability to maintain independently and continuously an airway, and respond appropriately to physical stimulation or verbal command.

(1) The drugs and techniques used in oral conscious sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from painful stimuli would not be considered to be in a state of oral conscious sedation.

(2) For very young or handicapped individuals, incapable of the usually expected verbal response, a minimally depressed level of consciousness should be maintained.

(b) “Minor patient” means a dental patient under the age of 13 years.

(c) “Certification” means the issuance of a certificate to a dentist licensed by the board who provides the board with his or her name, and the location where the administration of oral conscious sedation will occur, and fulfills the requirements specified in Sections 1647.12 and 1647.13.

SEC. 9. Section 1647.11 of the Business and Professions Code is amended to read:

1647.11. (a) Notwithstanding subdivision (a) of Section 1647.2, a dentist may not administer oral conscious sedation on an outpatient basis to a minor patient unless one of the following conditions is met:

(1) The dentist possesses a current license in good standing to practice dentistry in California and either holds a valid general anesthesia permit, conscious sedation permit, or has been certified by the board, pursuant to Section 1647.12, to administer oral sedation to minor patients.

(2) The dentist possesses a current permit issued under Section 1638 or 1640 and either holds a valid general anesthesia permit, or conscious sedation permit, or possesses a certificate as a provider of oral conscious sedation to minor patients in compliance with, and pursuant to, this article.

(b) Certification as a provider of oral conscious sedation to minor patients expires at the same time the license or permit of the dentist expires unless renewed at the same time the dentist’s license or permit is renewed after its issuance, unless certification is renewed as provided in this article.

(c) This article shall not apply to the administration of local anesthesia or a mixture of nitrous oxide and oxygen or to the administration, dispensing, or prescription of postoperative medications.

SEC. 10. Section 1647.12 of the Business and Professions Code is amended to read:

1647.12. A dentist who desires to administer, or order the administration of, oral conscious sedation for minor patients, who does not hold a general anesthesia permit, as provided in Sections 1646.1 and 1646.2, or a conscious sedation permit, as provided in Sections 1647.2 and 1647.3, shall register his or her name with the board on a board-prescribed registration form. The dentist shall submit the registration fee and evidence showing that he or she satisfies any of the following requirements:

(a) Satisfactory completion of a postgraduate program in oral and maxillofacial surgery or pediatric dentistry approved by either the Commission on Dental Accreditation or a comparable organization approved by the board.

(b) Satisfactory completion of a periodontics or general practice residency or other advanced education in a general dentistry program approved by the board.

(c) Satisfactory completion of a board-approved educational program on oral medications and sedation.

SEC. 11. Section 1647.14 of the Business and Professions Code is amended to read:

1647.14. (a) A physical evaluation and medical history shall be taken before the administration of, oral conscious sedation to a minor. Any dentist who administers, or orders the administration of, oral conscious sedation to a minor shall maintain records of the physical evaluation, medical history, and oral conscious sedation procedures used as required by the board regulations.

(b) A dentist who administers, or who orders the administration of, oral conscious sedation for a minor patient shall be physically present in the treatment facility while the patient is sedated and shall be present until discharge of the patient from the facility.

(c) The drugs and techniques used in oral conscious sedation to minors shall have a margin of safety wide enough to render unintended loss of consciousness unlikely.

SEC. 12. Article 2.86 (commencing with Section 1647.18) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

Article 2.86. Use of Oral Conscious Sedation for Adult Patients

1647.18. As used in this article, the following terms have the following meanings:

(a) "Adult patient" means a dental patient 13 years of age or older.

(b) "Certification" means the issuance of a certificate to a dentist licensed by the board who provides the board with his or her name and the location at which the administration of oral conscious sedation will occur, and fulfills the requirements specified in Sections 1647.12 and 1647.13.

(c) "Oral conscious sedation" means a minimally depressed level of consciousness produced by oral medication that retains the patient's ability to maintain independently and continuously an airway, and respond appropriately to physical stimulation or verbal command. "Oral conscious sedation" does not include dosages less than or equal to the single maximum recommended dose that can be prescribed for home use.

(1) The drugs and techniques used in oral conscious sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from

painful stimuli would not be considered to be in a state of oral conscious sedation.

(2) For the handicapped individual, incapable of the usually expected verbal response, a minimally depressed level of consciousness for that individual should be maintained.

1647.19. (a) Notwithstanding subdivision (a) of Section 1647.2, a dentist may not administer oral conscious sedation on an outpatient basis to an adult patient unless the dentist possesses a current license in good standing to practice dentistry in California, and one of the following conditions is met:

(1) The dentist holds a valid general anesthesia permit, holds a conscious sedation permit, has been certified by the board, pursuant to Section 1647.20, to administer oral sedation to adult patients, or has been certified by the board, pursuant to Section 1647.12, to administer oral conscious sedation to minor patients.

(2) The dentist possesses a current permit issued under Section 1638 or 1640 and either holds a valid general anesthesia permit, or conscious sedation permit, or possesses a certificate as a provider of oral conscious sedation to adult patients in compliance with, and pursuant to, this article.

(b) Certification as a provider of oral conscious sedation to adult patients expires at the same time the license or permit of the dentist expires unless renewed at the same time the dentist's license or permit is renewed after its issuance, unless certification is renewed as provided in this article.

(c) This article shall not apply to the administration of local anesthesia or a mixture of nitrous oxide and oxygen, or to the administration, dispensing, or prescription of postoperative medications.

1647.20. A dentist who desires to administer, or order the administration of, oral conscious sedation for adult patients, who does not hold a general anesthesia permit, as provided in Sections 1646.1 and 1646.2, does not hold a conscious sedation permit, as provided in Sections 1647.2 and 1647.3, and has not been certified by the board, pursuant to Section 1647.12, to administer oral conscious sedation to minor patients, shall register his or her name with the board on a registration form prescribed by the board. The dentist shall submit the registration fee and evidence showing that he or she satisfies any of the following requirements:

(a) Satisfactory completion of a postgraduate program in oral and maxillofacial surgery approved by either the Commission on Dental Accreditation or a comparable organization approved by the board.

(b) Satisfactory completion of a periodontics or general practice residency or other advanced education in a general dentistry program approved by the board.

(c) Satisfactory completion of a board-approved educational program on oral medications and sedation.

(d) For an applicant who has been using oral conscious sedation in connection with the treatment of adult patients, submission of documentation as required by the board of 10 cases of oral conscious

sedation satisfactorily performed by the applicant on adult patients in any three-year period ending no later than December 31, 2005.

1647.21. A certificate holder shall be required to complete a minimum of seven hours of approved courses of study related to oral conscious sedation of adult patients as a condition of certification renewal as an oral conscious sedation provider. Those courses of study shall be accredited toward any continuing education required by the board pursuant to Section 1645.

1647.22. (a) A physical evaluation and medical history shall be taken before the administration of oral conscious sedation to an adult. Any dentist who administers, or orders the administration of, oral conscious sedation to an adult shall maintain records of the physical evaluation, medical history, and oral conscious sedation procedures used as required by the board regulations.

(b) A dentist who administers, or who orders the administration of, oral conscious sedation for an adult patient shall be physically present in the treatment facility while the patient is sedated, and shall be present until discharge of the patient from the facility.

(c) The drugs and techniques used in oral conscious sedation to adults shall have a margin of safety wide enough to render unintended loss of consciousness unlikely.

1647.23. The fee for an application for initial certification or renewal under this article shall not exceed the amount necessary to cover administration and enforcement costs incurred by the board in carrying out this article. The listed fee may be prorated based upon the date of the renewal of the dentist's license or permit.

1647.24. Any office in which oral conscious sedation of adult patients is conducted pursuant to this article shall, unless otherwise provided by law, meet the facilities and equipment standards set forth by the board in regulation.

1647.25. A violation of any provision of this article constitutes unprofessional conduct and is grounds for the revocation or suspension of the dentist's permit, certificate, license, or all three, or the dentist may be reprimanded or placed on probation. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part I of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

1647.26. The sum of forty-seven thousand dollars (\$47,000) is hereby appropriated for the 2005–06 fiscal year from the State Dentistry Fund to the Department of Consumer Affairs for the purpose of processing applications for adult conscious sedation certificates pursuant to this article.