

Senate Bill No. 853

CHAPTER 31

An act to amend Sections 101, 205, 1621, 1670.1, 1680, 1721, 1721.5, 1725, 1741, 1750.2, 1750.4, 1751, 1753, 1767, 1770, 1771, 4999.2, and 4999.7 of, to add Sections 1601.3 and 1616.6 to, to add Article 9 (commencing with Section 1900) to Chapter 4 of Division 2 of, to add and repeal Sections 1601.1 and 1616.5 of, to repeal Sections 1742.1, 1744, 1745, 1746, 1746.1, 1748, 1749, 1760, 1760.5, 1761, 1762, 1763, 1764, 1765, 1766, 1768, 1769, 1772, 1774, and 1775 of, and to repeal and add Sections 1742 and 1743 of, the Business and Professions Code, to amend Section 44876 of the Education Code, and to amend Sections 1348.8 and 128160 of the Health and Safety Code, relating to healing arts.

[Approved by Governor June 13, 2008. Filed with
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LEGISLATIVE COUNSEL'S DIGEST

SB 853, Perata. Dentistry: dental assistants and hygienists.

(1) Existing law provides for the licensure and regulation of the practice of dentistry by the Dental Board of California, and authorizes the board to appoint an executive officer. The provisions establishing the board and authorizing the board to appoint an executive officer, are inoperative as of July 1, 2008, and are repealed as of January 1, 2009.

This bill would provide that a new board, vested with the same powers as the previous board, including the authority to appoint an executive officer, shall be created on July 1, 2009. The bill would make that provision inoperative and repeal it as of January 1, 2012.

(2) Existing law, the Dental Practice Act, provides for the licensure and regulation of dental auxiliaries. Under that act, dental auxiliaries are defined as including, among others, dental assistants, registered dental hygienists, registered dental hygienists in extended functions, and registered dental hygienists in alternative practice. The act establishes the Committee on Dental Auxiliaries, which has a specified membership that includes 3 registered dental hygienist members, as specified, and makes it responsible for licensing those who practice as a dental auxiliary and makes the Dental Board of California responsible for all disciplinary actions against a dental auxiliary and for approving all of their continuing education requirements. Under the act, fees collected in connection with the practice of a dental auxiliary are deposited into the State Dental Auxiliary Fund, in the Professions and Vocations Fund. The act provides that specified conduct by a dentist or dental auxiliary constitutes unprofessional conduct.

This bill would abolish the Committee on Dental Auxiliaries and transfer its authority to the board. The bill would establish in the board a full-time

management level staff position to manage matters related to dental assisting. The bill would also abolish the State Dental Auxiliary Fund and would create the State Dental Assistant Fund, to which would be transferred funds in the State Dental Auxiliary Fund related to dental assistants for specified use, and in which would be deposited all funds from the regulation of dental assistants. The bill would make funds in the State Dental Assistant Fund subject to appropriation by the Legislature in the annual Budget Act.

The bill would also create, within the jurisdiction of the board, the Dental Hygiene Committee of California, which would have specified memberships and duties. The bill would establish criteria for licensure by the committee of a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions. The bill would set forth the committee's functions and duties, including issuing, reviewing, and revoking licenses, developing and administering examinations, determining fees and education programs and continuing education requirements for a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions, and adopting regulations.

This bill would create the State Dental Hygiene Fund in the Professions and Vocations Fund and would require that fees paid by dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions and certain fines be deposited into the fund. The bill would require a transfer into the fund of a designated amount of moneys related to dental auxiliaries from the State Dental Auxiliary Fund, for specified use. The bill would also require that the funds deposited in the State Dentistry Fund and the State Dental Hygiene Fund be subject to appropriation by the Legislature in the annual Budget Act. The bill would revise the licensure and examination fee provisions for dental assistants, dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions, as specified.

This bill would revise certain provisions related to unprofessional conduct by a dentist. The bill would also specify acts by dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions that would constitute unprofessional conduct and specify acts that would constitute crimes. The bill would require the Dental Hygiene Committee of California to establish a diversion program for licensees whose competency may be impaired due to drug or alcohol abuse and to establish diversion evaluation committees, with specified duties in that regard.

The bill would make its provisions operative on July 1, 2009, except as specified.

Because a violation of certain provisions of the bill would be a crime, the bill would create a state-mandated local program.

(3) 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.

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

SECTION 1. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary and Vocational Education.
- (l) The Structural Pest Control Board.
- (m) The Bureau of Home Furnishings and Thermal Insulation.
- (n) The Board of Registered Nursing.
- (o) The Board of Behavioral Sciences.
- (p) The State Athletic Commission.
- (q) The Cemetery and Funeral Bureau.
- (r) The State Board of Guide Dogs for the Blind.
- (s) The Bureau of Security and Investigative Services.
- (t) The Court Reporters Board of California.
- (u) The Board of Vocational Nursing and Psychiatric Technicians.
- (v) The Landscape Architects Technical Committee.
- (w) The Bureau of Electronic and Appliance Repair.
- (x) The Division of Investigation.
- (y) The Bureau of Automotive Repair.
- (z) The State Board of Registration for Geologists and Geophysicists.
- (aa) The Respiratory Care Board of California.
- (ab) The Acupuncture Board.
- (ac) The Board of Psychology.
- (ad) The California Board of Podiatric Medicine.
- (ae) The Physical Therapy Board of California.
- (af) The Arbitration Review Program.
- (ag) The Hearing Aid Dispensers Bureau.
- (ah) The Physician Assistant Committee.
- (ai) The Speech-Language Pathology and Audiology Board.
- (aj) The California Board of Occupational Therapy.
- (ak) The Osteopathic Medical Board of California.
- (al) The Bureau of Naturopathic Medicine.
- (am) The Dental Hygiene Committee of California.
- (an) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 2. Section 205 of the Business and Professions Code is amended to read:

205. (a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

- (1) Accountancy Fund.
- (2) California Board of Architectural Examiners' Fund.
- (3) Athletic Commission Fund.
- (4) Barbering and Cosmetology Contingent Fund.
- (5) Cemetery Fund.
- (6) Contractors' License Fund.
- (7) State Dentistry Fund.
- (8) State Funeral Directors and Embalmers Fund.
- (9) Guide Dogs for the Blind Fund.
- (10) Bureau of Home Furnishings and Thermal Insulation Fund.
- (11) California Board of Architectural Examiners-Landscape Architects Fund.
- (12) Contingent Fund of the Medical Board of California.
- (13) Optometry Fund.
- (14) Pharmacy Board Contingent Fund.
- (15) Physical Therapy Fund.
- (16) Private Investigator Fund.
- (17) Professional Engineers' and Land Surveyors' Fund.
- (18) Consumer Affairs Fund.
- (19) Behavioral Sciences Fund.
- (20) Licensed Midwifery Fund.
- (21) Court Reporters' Fund.
- (22) Structural Pest Control Fund.
- (23) Veterinary Medical Board Contingent Fund.
- (24) Vocational Nurses Account of the Vocational Nursing and Psychiatric Technicians Fund.
- (25) Electronic and Appliance Repair Fund.
- (26) Geology and Geophysics Fund.
- (27) Dispensing Opticians Fund.
- (28) Acupuncture Fund.
- (29) Hearing Aid Dispensers Fund.
- (30) Physician Assistant Fund.
- (31) Board of Podiatric Medicine Fund.
- (32) Psychology Fund.
- (33) Respiratory Care Fund.
- (34) Speech-Language Pathology and Audiology Fund.
- (35) Board of Registered Nursing Fund.
- (36) Psychiatric Technician Examiners Account of the Vocational Nursing and Psychiatric Technicians Fund.
- (37) Animal Health Technician Examining Committee Fund.
- (38) Structural Pest Control Education and Enforcement Fund.
- (39) Structural Pest Control Research Fund.
- (40) State Dental Hygiene Fund.

(41) State Dental Assistant Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

SEC. 3. Section 1601.1 is added to the Business and Professions Code, to read:

1601.1. (a) There shall be in the Department of Consumer Affairs the Dental Board of California in which the administration of this chapter is vested. The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. Of the eight practicing dentists, one shall be a member of a faculty of any California dental college and one shall be a dentist practicing in a nonprofit community clinic. The appointing powers, described in Section 1603, may appoint to the board a person who was a member of the prior board. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.

(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.

(c) The board shall have all authority previously vested in the existing board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.

(d) This section shall remain in effect only until January 1, 2012, and as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2012, deletes or extends that date. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 4. Section 1601.3 is added to the Business and Professions Code, to read:

1601.3. (a) All committees of the board have the authority to evaluate all suggestions or requests for regulatory changes related to their committee. Committees shall have the authority to hold informational hearings in order to report and make appropriate recommendations to the board, after consultation with departmental legal counsel and the board's chief executive officer. The committees shall include in any report regarding a proposed regulatory change, at a minimum, the specific language or the proposed change or changes and the reasons therefor and any facts supporting the need for the change.

(b) No part of this section shall restrict the Dental Hygiene Committee of California from adopting, amending, or revoking regulations authorized by Article 9 (commencing with Section 1900).

SEC. 5. Section 1616.5 is added to the Business and Professions Code, to read:

1616.5. (a) The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2012, and as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2012, deletes or extends that date.

SEC. 6. Section 1616.6 is added to the Business and Professions Code, to read:

1616.6. There is hereby established within the board a full-time management level staff position, under the direction of the executive officer, whose sole responsibilities shall be the management of matters related to dental assisting, including, but not limited to, education, examination, licensure, and enforcement.

SEC. 7. Section 1621 of the Business and Professions Code is amended to read:

1621. The board shall utilize in the administration of its licensure examinations only examiners whom it has appointed and who meet the following criteria:

(a) Possession of a valid license to practice dentistry in this state or possession of a valid license in one of the dental assistant categories licensed under this chapter.

(b) Practice as a licensed dentist or in a licensure category described in subdivision (a) for at least five years preceding his or her appointment.

(c) Hold no position as an officer or faculty member at any college, school, or institution that provides dental instruction in the same licensure category as that held by the examiner.

SEC. 8. Section 1670.1 of the Business and Professions Code is amended to read:

1670.1. (a) Any licentiate under this chapter may have his or her license revoked or suspended or be reprimanded or be placed on probation by the board for conviction of a crime substantially related to the qualifications, functions, or duties of a dentist or dental assistant licensed under this chapter, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(b) The board shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the qualifications, functions, or duties of a dentist or dental assistant licensed under this chapter is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or may decline to issue a license, 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 any provision of the Penal Code, including, but not limited to, Section

1203.4 of the Penal Code, allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 9. 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, 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 sexual abuse, misconduct, or relations with a patient that are 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 licensee or any agent of the licensee 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 Chapter 9 (commencing with Section 4000), 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 licensee 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 that 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 licensee, 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, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions 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 licensee.

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

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

(y) The aiding or abetting of a licensed dentist, dental assistant, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions 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 or dental hygiene procedure; (2) the discovery of the death of a patient whose death is related to a dental or dental hygiene 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 or dental hygiene 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. A dentist shall report to the board all deaths occurring in his or her practice with a copy sent to the Dental Hygiene Committee of California if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions. A dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions shall report to the Dental Hygiene Committee of California all deaths occurring as the result of dental hygiene treatment, and a copy of the notification shall be sent to the board.

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

(ab) 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.

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

(ad) 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, dental assistant, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to patient, from patient to patient, and from patient to dentist, dental assistant, registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health 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) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. The board shall review infection control guidelines, if necessary, on an annual basis and proposed changes shall be reviewed by the Dental Hygiene Committee of California to establish a consensus. The committee shall submit any recommended changes to the infection control guidelines for review to establish a consensus. As necessary, the board shall consult with the Medical Board of California, the California 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 all appropriate dental personnel are informed of the responsibility to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(ae) The utilization by a licensed dentist of any person to perform the functions of any dental assistant licensed under this chapter, registered dental hygienist, registered dental hygienist in alternative practice, 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.

(af) The prescribing, dispensing, or furnishing of dangerous drugs or devices, as defined in Section 4022, in violation of Section 2242.1.

SEC. 10. Section 1721 of the Business and Professions Code is amended to read:

1721. Except as provided in Sections 1721.5, 1944, and 1945, all funds received by the Treasurer under the authority of this chapter shall be placed in the State Dentistry Fund. Expenditure of those funds shall be subject to appropriation by the Legislature in the annual Budget Act. Subject to that appropriation, and except as provided in Sections 1721.5, 1944, and 1945, all disbursements by the board made in the transaction of its business and in the enforcement of this chapter shall be paid out of the fund upon claims against the state.

SEC. 11. Section 1721.5 of the Business and Professions Code is amended to read:

1721.5. (a) All funds received by the Treasurer pursuant to Section 1725 shall be placed in the State Dental Assistant Fund for the purposes of administering this chapter as it relates to dental assistants. Expenditure of these funds shall be subject to appropriation by the Legislature in the annual Budget Act.

(b) On July 1, 2009, all moneys in the State Dental Auxiliary Fund other than the moneys described in Section 1945 shall be transferred to the State Dental Assistant Fund. The board's authority to expend those funds, as appropriated in the 2008 Budget Act, shall continue in order to carry out the provisions of this chapter as they related to dental assistants for the 2008–09 fiscal year, including the payment of any encumbrances related to dental assistants incurred by the State Dental Auxiliary Fund.

SEC. 12. Section 1725 of the Business and Professions Code is amended to read:

1725. The amount of the fees prescribed by this chapter that relate to the licensing of dental assistants shall be established by board resolution and subject to the following limitations:

(a) The application fee for an original license shall not exceed twenty dollars (\$20). On and after January 1, 2010, the application fee for an original license shall not exceed fifty dollars (\$50).

(b) (1) The fee for examination for licensure as a registered dental assistant shall not exceed fifty dollars (\$50) for the written examination and shall not exceed sixty dollars (\$60) for the practical examination.

(2) On and after January 1, 2008, the following fees are established for registered orthodontic assistants, registered surgery assistants, registered restorative assistants, and registered dental assistants:

(A) The fee for application and for the issuance of a license shall not exceed fifty dollars (\$50).

(B) The fee for the practical examination shall not exceed the actual cost of the examination.

(C) The fee for a written examination shall not exceed the actual cost of the examination.

(c) The fee for examination for licensure as a registered dental assistant in extended functions or a registered restorative assistant in extended functions shall not exceed the actual cost of the examination.

(d) The biennial renewal fee for a dental assistant whose license expires on or after January 1, 1991, shall not exceed sixty dollars (\$60). On or after January 1, 1992, the board may set the renewal fee in an amount not to exceed eighty dollars (\$80).

(e) The delinquency fee shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee.

(f) The fee for issuance of a duplicate registration, license, or certificate to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25).

(g) The fee for each curriculum review and site evaluation for educational programs for registered dental assistants that are not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars (\$1,400).

(h) The fee for review of each approval application for a course that is not accredited by a board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars (\$300).

(i) No fees or charges other than those listed in subdivisions (a) through (h) above shall be levied by the board in connection with the licensure of dental assistants, dental assisting educational program site evaluations, and radiation safety course evaluations, pursuant to this chapter.

(j) Fees fixed by the board pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(k) Fees collected pursuant to this section shall be deposited in the State Dental Assistant Fund.

SEC. 13. Section 1741 of the Business and Professions Code is amended to read:

1741. As used in this article:

(a) "Board" means the Dental Board of California.

(b) "Direct supervision" means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.

(c) "General supervision" means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.

(d) “Dental assistant” means a person who may perform dental assisting or dental hygiene procedures authorized by this article.

SEC. 14. Section 1742 of the Business and Professions Code is repealed.

SEC. 15. Section 1742 is added to the Business and Professions Code, to read:

1742. The Legislature hereby finds and declares that dental assistants provide a dental care service that is vital to good dental health. It is the intent of the Legislature that the board create and implement an effective forum where dental assistant services and regulatory oversight of dental assistants can be heard and discussed in full and where all matters relating to dental assistants in this state can be discussed, including, but not limited to, all of the following matters:

(a) Requirements for dental assistant licensure and renewal.

(b) Allowable dental assistant duties, settings, and supervision levels.

(c) Appropriate standards of conduct and enforcement for dental assistants.

SEC. 16. Section 1742.1 of the Business and Professions Code is repealed.

SEC. 17. Section 1743 of the Business and Professions Code is repealed.

SEC. 18. Section 1743 is added to the Business and Professions Code, to read:

1743. (a) The board shall have the following duties and authority related to applications:

(1) Shall review and evaluate all applications for licensure in all dental assisting categories to ascertain whether a candidate meets the appropriate licensing requirements specified by statute and board regulations.

(2) Shall maintain application records, cashier application fees, and perform any other ministerial tasks as are incidental to the application process.

(3) May delegate any or all of the functions in this subdivision to its staff.

(4) Shall issue dental assistant licenses in all cases, except where there is a question as to a licensing requirement.

(b) The board shall develop or cause to be developed and administer examinations. The board shall set pass points for all dental assisting licensing examinations.

(c) The board shall be responsible for all aspects of the license renewal process, which shall be accomplished in accordance with this chapter and board regulations. The board may delegate any or all of its functions under this subdivision to its staff.

SEC. 19. Section 1744 of the Business and Professions Code is repealed.

SEC. 20. Section 1745 of the Business and Professions Code is repealed.

SEC. 21. Section 1746 of the Business and Professions Code is repealed.

SEC. 22. Section 1746.1 of the Business and Professions Code is repealed.

SEC. 23. Section 1748 of the Business and Professions Code is repealed.

SEC. 24. Section 1749 of the Business and Professions Code is repealed.

SEC. 25. Section 1750.2 of the Business and Professions Code is amended to read:

1750.2. (a) On and after January 1, 2010, the board shall license as a “registered orthodontic assistant,” “registered surgery assistant,” or “registered restorative assistant” any person who does either of the following:

(1) Submits written evidence of satisfactory completion of a course or courses approved by the board pursuant to subdivision (b) that qualifies him or her in one of these specialty areas of practice and obtains a passing score on both of the following:

(A) A written examination approved by the board and administered by the board or by an entity recommended by the board. The board may enter into a written agreement with a public or private organization for the administration of the examination. All aspects of the examination shall comply with Section 139.

(B) A practical examination for the specialty category for which the person is seeking licensure that is approved by the board and administered by the board or by an entity recommended by the board. The board may enter into a written agreement with a public or private organization for the administration of the examination. All aspects of the examination shall comply with Section 139.

(2) Completes a work experience pathway to licensure that meets the requirements set forth in Section 1750.4. This section permits the work experience pathway to licensure only for those assistants described in this subdivision and does not apply to dentists, dental hygienists, dental hygienists in alternative practice, or dental hygienists in extended functions.

(b) The board shall adopt regulations for the approval of specialty registration courses in the specialty areas specified in this section. The board shall also adopt regulations for the approval and recognition of core courses that teach basic dental science.

The regulations shall define the minimum education and training requirements necessary to achieve proficiency in the procedures authorized for each specialty registration, taking into account the combinations of classroom and practical instruction, clinical training, and supervised work experience that are most likely to provide the greatest number of opportunities for improving dental assisting skills efficiently.

(c) The board may approve specialty registration courses referred to in this section prior to January 1, 2010, and the board shall recognize the completion of these approved courses prior to January 1, 2010, but no specialty registrations shall be issued prior to January 1, 2010.

(d) The board may approve a course for the specialty registration listed in subdivision (b) that does not include instruction in coronal polishing.

(e) The board may approve a course that only includes instruction in coronal polishing as specified in paragraph (8) of subdivision (b) of Section 1750.3.

(f) A person who holds a specialty registration pursuant to this section shall be subject to the continuing education requirements established by the

board pursuant to Section 1645 and the renewal requirements of Article 6 (commencing with Section 1715).

SEC. 26. Section 1750.4 of the Business and Professions Code is amended to read:

1750.4. (a) A dentist who holds an active, current, and unrestricted license to practice dentistry under this chapter may train and educate his or her employees, or employees of the dental office, primary care clinic, or hospital where the dentist is practicing and directly supervises the employees, without charge or cost to the employees, in all of the allowable duties for the purpose of licensure in one of the specialty licensure categories set forth in Section 1750.2. A dentist may not begin the work experience training and education of an employee until his or her application for that particular employee is approved by the board. For purposes of this subdivision, an unrestricted license means a license that is not suspended, placed on probation, or restricted pursuant to subparagraph (B) or (C) of paragraph (3) of subdivision (a) of Section 1635.5.

(1) In order to train or educate pursuant to this subdivision, the dentist shall be subject to the following terms and conditions, which are applicable prior to commencing training for each employee:

(A) On a completed and signed application form approved by the board, the dentist shall provide the specialty dental assistant category in which the dentist will be training the employee and the name of the employee. When the board provides a requested application to an employer, the board shall also provide a copy of the regulations governing the education and training of the specialty assistants or provide access to the regulations on the board's Internet Web site.

(B) The education and training the dentist provides shall be in compliance with the regulations adopted by the board pursuant to subdivision (b) of Section 1750.2. Employees trained pursuant to this section shall be considered bona fide students, as described in Section 1626.5, as added by Section 6 of Chapter 655 of the Statutes of 1999. The dentist shall not allow the employee to begin the clinical training on patients until the employee has completed the didactic and preclinical training, which includes nonpatient training on typodonts and other laboratory models and as prescribed in regulations, and a minimum of 120 days as a dental assistant in California or another state, which may include graduation from a regional occupational center or regional occupation program pursuant to paragraph (1) of subdivision (b).

(C) The dentist shall pay a fee to the board to cover administrative costs not to exceed two hundred fifty dollars (\$250) for each employee he or she is training and educating. The fee shall be deposited in the State Dental Assistant Fund. If a dentist is training and educating an employee in more than one of the specialty licensure categories at the same time, the dentist shall pay the fee for each category in which the employee is being trained and educated.

(D) Prior to beginning employee training, the dentist shall complete a teaching methodology course approved by the board that is six hours in

length and covers educational objectives, content, instructional methods, and evaluation procedures. The dentist shall be exempt from this requirement if he or she holds any one of the following degrees, credentials, or positions:

- (i) A postgraduate degree in education.
- (ii) A Ryan Designated Subjects Vocational Education Teaching Credential.
- (iii) A Standard Designated Subjects Teaching Credential.
- (iv) A Community College Teaching Credential.
- (v) Is a faculty member of a dental school approved by the Commission on Dental Accreditation.

The dentist shall provide to the board proof of one of these designations or shall submit a certificate of course completion in teaching methodology.

(2) All duties performed by an employee pursuant to this section shall be done in the dentist's presence. The dentist shall ensure that any patient treated by a bona fide student is verbally informed of the student's status.

(3) The work experience pathway for the employee shall not exceed a term of 18 months, starting on the date that the board approves the application submitted by the dentist for that employee.

(4) Upon successful completion of the work experience pathway period, the dentist shall certify in writing that the employee has successfully completed the educational program covering all procedures authorized for the specialty category for which the employee is seeking licensure.

(5) With respect to this subdivision, the board:

(A) Shall approve the application form described in subparagraph (A) of paragraph (1). The application form shall not be required to comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(B) Shall have a maximum of 60 days from the date a completed application is received in which to approve or deny an application under this subdivision. Nothing in this section shall prohibit a dentist from appealing the denial of an application to the executive officer of the board.

(C) May inspect the dentist's facilities and practice at any time to ensure compliance with regulations adopted by the board pursuant to Section 1750.2.

(D) May revoke an approval for a dentist to provide training or education pursuant to this section if the dentist is disciplined by the board, fails to provide the training or education in accordance with the law and regulations governing the specialty licensure category, or fails to allow an inspection by the board, or other good cause. A dentist whose approval is revoked may appeal the revocation to the board's executive officer.

(E) May limit by regulations, approved by the board, the number of times a dentist may train or educate an individual employee in one or more of the specialty licensure categories.

(F) May limit by regulations, approved by the board, the number of employees a dentist may train during the same time period.

(G) May by regulations, approved by the board, require an applicant for licensure who has repeatedly failed to pass either the written or practical

examination for the specialty licensure category to complete additional training and education before he or she is allowed to retake the examination.

(b) As a condition for licensure for specialty registration under Section 1750.2, an applicant who completes a work experience pathway pursuant to this section shall do the following:

(1) Certify to the board that he or she has a minimum of 1600 hours of prior work experience as a dental assistant. The 1600 hours of required work experience may be obtained by working for multiple employers, if the applicant provides written evidence of work experience from each dentist employer. The employee may begin the work experience pathway before he or she completes 1600 hours of work experience, but may not apply for licensure until that work experience is completed. The board shall give credit toward the 1600 hours of work experience to persons who have graduated from a dental assisting program in a postsecondary institution, secondary institution, regional occupational center, or regional occupation program that is not approved by the board. The credit shall equal the hours spent in classroom training and internship on an hour-for-hour basis not to exceed 400 hours.

(2) Certify to the board that he or she has completed the educational program covering all procedures authorized for the specialty category for which the applicant is seeking licensure.

(3) Obtain a passing score on a written examination that is approved by the board and administered by the board or by an entity that is recommended by the board. The board may enter into a written agreement with a public or private organization for the administration of the examination. All aspects of the examination shall comply with Section 139.

(4) Obtain a passing score on the practical examination for the specialty category for which the employee is seeking licensure that is approved by the board and administered by the board or by an entity recommended by the board. The board may enter into a written agreement with a public or private organization for the administration of the examination. All aspects of the examination shall comply with Section 139.

SEC. 27. Section 1751 of the Business and Professions Code, as amended by Section 13 of Chapter 588 of the Statutes of 2007, is amended to read:

1751. (a) The board shall adopt regulations governing the procedures that dental assistants licensed under this chapter are authorized to perform consistent with and necessary to implement the provisions of this article, and the settings within which each may practice.

(b) The board shall conduct an initial review of the procedures, supervision level, settings under which they may be performed, and utilization of extended functions dental assistants by January 1, 2012. The board shall submit the results of its review to the Joint Committee on Boards, Commissions, and Consumer Protection. After the initial review, a review shall be conducted at least once every five to seven years thereafter and the board shall update regulations as necessary to keep them current with the state of dental practice.

(c) This section shall become operative on January 1, 2010.

SEC. 28. Section 1751 of the Business and Professions Code, as amended by Section 12 of Chapter 588 of the Statutes of 2007, is amended to read:

1751. (a) By September 15, 1993, the board consistent with this article, standards of good dental practice, and the health and welfare of patients, shall adopt regulations relating to the functions that may be performed by dental assistants licensed under this chapter under direct or general supervision, and the settings within which dental assistants licensed under this chapter may work. At least once every seven years thereafter, the board shall review the list of functions performable by dental assistants licensed under this chapter, the supervision level, and settings under which they may be performed, and shall update the regulations as needed to keep them current with the state of the practice.

(b) Under the supervision of a registered dental hygienist in alternative practice, a dental assistant may perform intraoral retraction and suctioning.

(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 29. Section 1753 of the Business and Professions Code is amended to read:

1753. (a) On and after January 1, 2010, the board shall license as a registered dental assistant in extended functions a person who submits written evidence, satisfactory to the board, of all of the following:

(1) Current licensure as a registered dental assistant, or completion of the requirements for licensure as a registered dental assistant, as provided in Section 1752.5.

(2) Successful completion of either of the following:

(A) An extended functions postsecondary program approved by the board in all of the procedures specified in Section 1753.1.

(B) An extended functions postsecondary program approved by the board on or before July 1, 2009, to teach the duties that registered dental assistants in extended functions were allowed to perform pursuant to board regulations prior to January 1, 2010, and a course approved by the board in the procedures specified in paragraphs (8) through (13) of subdivision (b) of Section 1753.1.

(3) Successful completion of board-approved courses in radiation safety and, within the last two years, courses in infection control, California dental law, and basic life support.

(4) Satisfactory performance on a written examination and a clinical or practical examination specified by the board. The board shall designate whether the written examination shall be administered by the board.

(b) On and after January 1, 2010, the board shall license as a registered restorative assistant in extended functions a person who submits written evidence, satisfactory to the board, of all of the following:

(1) Completion of 12 months of satisfactory work experience as a dental assistant in California or another state. The board shall give credit toward the 12 months of work experience to persons who have graduated from a dental assisting program in a postsecondary institution, secondary institution,

regional occupational center, or regional occupation program that are not approved by the board. The credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis, not to exceed 16 weeks.

(2) Successful completion of a board-approved course in radiation safety, and, within the last two years, courses in infection control, California dental law, and basic life support.

(3) Successful completion of a postsecondary program approved by the board for restorative dental assisting specialty registration specified in subdivision (c) of Section 1750.3.

(4) Successful completion of an extended functions postsecondary program approved by the board in all of the procedures specified in Section 1753.1.

(5) Satisfactory performance on a written examination and a clinical or practical examination specified by the board. The board shall designate whether the written examination shall be administered by the board.

(c) In approving extended functions postsecondary programs required to be completed for licensure pursuant to this section, the board shall require that the programs be taught by persons having prior experience teaching the applicable procedures specified in Section 1753.1, or procedures otherwise authorized by the board pursuant to Section 1751, in a dental school approved either by the Commission on Dental Accreditation or a comparable organization approved by the board. Approved programs shall include didactic, laboratory, and clinical modalities.

(d) The board may approve extended functions postsecondary programs referred to in this section prior to January 1, 2010, and the board shall recognize the completion of these approved programs prior to January 1, 2010.

SEC. 30. Section 1760 of the Business and Professions Code is repealed.

SEC. 31. Section 1760.5 of the Business and Professions Code is repealed.

SEC. 32. Section 1761 of the Business and Professions Code is repealed.

SEC. 33. Section 1762 of the Business and Professions Code is repealed.

SEC. 34. Section 1763 of the Business and Professions Code is repealed.

SEC. 35. Section 1764 of the Business and Professions Code is repealed.

SEC. 36. Section 1765 of the Business and Professions Code is repealed.

SEC. 37. Section 1766 of the Business and Professions Code is repealed.

SEC. 38. Section 1767 of the Business and Professions Code is amended to read:

1767. The board shall adopt regulations necessary to implement the provisions of this article.

SEC. 39. Section 1768 of the Business and Professions Code is repealed.

SEC. 40. Section 1769 of the Business and Professions Code is repealed.

SEC. 41. Section 1770 of the Business and Professions Code, as amended by Section 26 of Chapter 588 of the Statutes of 2007, is amended to read:

1770. (a) A licensed dentist may simultaneously utilize in his or her practice no more than three dental assistants in extended functions or

registered dental hygienists in extended functions licensed pursuant to Sections 1753 and 1918.

(b) This section shall become operative on January 1, 2010.

SEC. 42. Section 1770 of the Business and Professions Code, as amended by Section 25 of Chapter 588 of the Statutes of 2007, is amended to read:

1770. (a) A licensed dentist may simultaneously utilize in his or her practice no more than two dental assistants in extended functions or registered dental hygienists in extended functions licensed pursuant to Sections 1756 and 1918.

(b) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 43. Section 1771 of the Business and Professions Code is amended to read:

1771. Any person, other than a person who has been issued a license by the board, who holds himself or herself out as a registered dental assistant, registered restorative assistant, registered orthodontic assistant, registered surgery assistant, registered restorative assistant in extended functions, or registered dental assistant in extended functions, or uses any other term indicating or implying he or she is licensed by the board as such, is guilty of a misdemeanor.

SEC. 44. Section 1772 of the Business and Professions Code is repealed.

SEC. 45. Section 1774 of the Business and Professions Code is repealed.

SEC. 46. Section 1775 of the Business and Professions Code is repealed.

SEC. 47. Article 9 (commencing with Section 1900) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

Article 9. Dental Hygienists

1900. It is the intent of the Legislature by enactment of this article to permit the full utilization of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions in order to meet the dental care needs of all of the state's citizens.

1901. There is hereby created within the jurisdiction of the Dental Board of California a Dental Hygiene Committee of California in which the administration of this article is vested.

1902. For purposes of this article, the following definitions apply:

(a) "Committee" means the Dental Hygiene Committee of California.

(b) "Dental board" means the Dental Board of California.

(c) "Direct supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is required to be physically present in the treatment facility during the performance of those procedures.

(d) "General supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is not required to be

physically present in the treatment facility during the performance of those procedures.

(e) “Oral prophylaxis” means preventive and therapeutic dental procedures that include bacterial debridements with complete removal, supra and subgingivally, of calculus, soft deposits, plaque, and stains, and the smoothing of tooth surfaces. The objective of this treatment is to create an environment in which the patient can maintain healthy hard and soft tissues.

1903. (a) (1) The committee shall consist of nine members appointed by the Governor. Four shall be public members, one member shall be a practicing general or public health dentist who holds a current license in California, and four members shall be registered dental hygienists who hold current licenses in California. Of the registered dental hygienists members, one shall be licensed either in alternative practice or in extended functions, one shall be a dental hygiene educator, and two shall be registered dental hygienists. No public member shall have been licensed under this chapter within five years of the date of his or her appointment or have any current financial interest in a dental-related business.

(2) For purposes of this subdivision, a public health dentist is a dentist whose primary employer or place of employment is in any of the following:

(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.

(C) A clinic owned or operated by a public hospital or health system.

(D) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county’s role under Section 17000 of the Welfare and Institutions Code.

(b) Except for the initial term, members of the committee shall be appointed for a term of four years. All of the terms for the initial appointments shall expire on December 31, 2011.

(c) The committee shall elect a president, a vice president, and a secretary from its membership.

(d) No person shall serve as a member of the committee for more than two consecutive terms.

(e) A vacancy in the committee shall be filled by appointment to the unexpired term.

(f) Each member of the committee shall receive a per diem and expenses as provided in Section 103.

(g) The Governor shall have the power to remove any member from the committee for neglect of a duty required by law, for incompetence, or for unprofessional or dishonorable conduct.

(h) The committee, with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the committee and vested in him or her by this article.

1904. The committee shall meet at least two times each calendar year and shall conduct additional meetings in appropriate locations that are necessary to transact its business.

1905. (a) The committee shall perform the following functions:

(1) Evaluate all registered dental hygienist, registered dental hygienist in alternative practice, and registered dental hygienist in extended functions educational programs that apply for approval and grant or deny approval of those applications in accordance with regulations adopted by the committee. Any such educational programs approved by the dental board on or before June 30, 2009, shall be deemed approved by the committee. Any dental hygiene program accredited and in good standing by the Commission on Dental Accreditation shall be approved.

(2) Withdraw or revoke its prior approval of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions educational program in accordance with regulations adopted by the committee. The committee may withdraw or revoke a dental hygiene program approval if the program has been placed on probationary status by the Commission on Dental Accreditation.

(3) Review and evaluate all registered dental hygienist, registered dental hygienist in alternative practice, and registered dental hygienist in extended functions applications for licensure to ascertain whether the applicant meets the appropriate licensing requirements specified by statute and regulations, maintain application records, cashier application fees, issue and renew licenses, and perform any other tasks that are incidental to the application and licensure processes.

(4) Determine the appropriate type of license examination consistent with the provisions of this article, and develop or cause to be developed and administer examinations in accordance with regulations adopted by the committee.

(5) Determine the amount of fees assessed under this article, not to exceed the actual cost.

(6) Determine and enforce the continuing education requirements specified in this article.

(A) (i) If the committee determines that the public health and safety would be served by requiring all holders of licenses under this chapter to continue their education after receiving a license, it may require, as a condition to the renewal thereof, that a licensee submit assurances satisfactory to the committee that he or she will, during the succeeding two-year period, inform himself or herself of the developments in the practice of dental hygiene occurring since the original issuance of his or her license by pursuing one or more courses of study satisfactory to the committee or by other means deemed equivalent by the committee.

(ii) The committee shall adopt, amend, and revoke regulations providing for the suspension of a license at the end of the two-year period until compliance with the assurances provided for in this section is accomplished.

(B) The committee may also, as a condition of license renewal, require licensees to successfully complete a portion of the required continuing

education hours in specific areas adopted in regulations by the committee. The committee may prescribe this mandatory coursework within the general areas of patient care, health and safety, and law and ethics. The mandatory coursework prescribed by the committee shall not exceed seven and one-half hours per renewal period for dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions. Any mandatory coursework required by the committee shall be credited toward the continuing education requirements established by the committee pursuant to subparagraph (A).

(7) Deny, suspend, or revoke a license under this article, or otherwise enforce the provisions of this article. Any such proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all of the powers granted therein.

(8) Make recommendations to the board regarding scope of practice issues.

(9) Adopt, amend, and revoke rules and regulations to implement the provisions of this article, including the amount of required supervision by a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions of a registered dental assistant.

(b) The committee may employ employees and examiners that it deems necessary to carry out its functions and responsibilities under this article.

1905.1. Until January 1, 2010, the committee may contract with the dental board to carry out any of the provisions of this article. On and after January 1, 2010, the committee may contract with the dental board to perform investigations of applicants and licensees under this article.

1905.2. Recommendations by the committee pursuant to this article shall be approved, modified, or rejected by the board within 90 days of submission of the recommendation to the board. If the board rejects or significantly modifies the intent or scope of the recommendation, the committee may request that the board provide its reasons in writing for rejecting or significantly modifying the recommendation, which shall be provided by the board within 30 days of the request.

1906. (a) The committee shall adopt, amend, and revoke regulations to implement the requirements of this article.

(b) All regulations adopted by the committee shall comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) No regulation adopted by the committee shall impose a requirement or a prohibition directly upon a licensed dentist or on the administration of a dental office, unless specifically authorized by this article.

(d) Unless contrary to the provisions of this article, regulations adopted by the dental board shall continue to apply to registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions until other regulations are adopted by the committee. All references in those regulations to “board” shall mean the

committee, which shall solely enforce the regulations with respect to registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions.

1907. The following functions may be performed by a registered dental hygienist, in addition to those authorized pursuant to Sections 1908 to 1914, inclusive:

(a) All functions that may be performed by a registered dental assistant.

(b) All persons holding a license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions as of July 1, 2009, are authorized to perform the duties of a registered dental assistant specified in this chapter. All persons issued a license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions on or after July 1, 2009, shall qualify for and receive a registered dental assistant license prior to performance of the duties of a registered dental assistant specified in this chapter.

1908. (a) The practice of dental hygiene includes dental hygiene assessment and development, planning, and implementation of a dental hygiene care plan. It also includes oral health education, counseling, and health screenings.

(b) The practice of dental hygiene does not include any of the following procedures:

(1) Diagnosis and comprehensive treatment planning.

(2) Placing, condensing, carving, or removal of permanent restorations.

(3) Surgery or cutting on hard and soft tissue including, but not limited to, the removal of teeth and the cutting and suturing of soft tissue.

(4) Prescribing medication.

(5) Administering local or general anesthesia or oral or parenteral conscious sedation, except for the administration of nitrous oxide and oxygen, whether administered alone or in combination with each other, or local anesthesia pursuant to Section 1909.

1909. A registered dental hygienist is authorized to perform the following procedures under direct supervision of a licensed dentist, after submitting to the committee evidence of satisfactory completion of a course of instruction, approved by the committee, in the procedures:

(a) Soft-tissue curettage.

(b) Administration of local anesthesia.

(c) Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.

1909.5. Courses of instruction for direct supervision duties added to the scope of practice of dental hygiene on or after July 1, 2009, shall be submitted by the committee for approval by the dental board.

1910. A registered dental hygienist is authorized to perform the following procedures under general supervision:

(a) Preventive and therapeutic interventions, including oral prophylaxis, scaling, and root planing.

(b) Application of topical, therapeutic, and subgingival agents used for the control of caries and periodontal disease.

(c) The taking of impressions for bleaching trays and application and activation of agents with nonlaser, light-curing devices.

(d) The taking of impressions for bleaching trays and placements of in-office, tooth-whitening devices.

1911. (a) A registered dental hygienist may provide, without supervision, educational services, oral health training programs, and oral health screenings.

(b) A registered dental hygienist shall refer any screened patients with possible oral abnormalities to a dentist for a comprehensive examination, diagnosis, and treatment plan.

(c) In any public health program created by federal, state, or local law or administered by a federal, state, county, or local governmental entity, a registered dental hygienist may provide, without supervision, dental hygiene preventive services in addition to oral screenings, including, but not limited to, the application of fluorides and pit and fissure sealants. A registered dental hygienist employed as described in this subdivision may submit, or allow to be submitted, any insurance or third-party claims for patient services performed as authorized in this article.

1912. Any procedure performed or service provided by a registered dental hygienist that does not specifically require direct supervision shall require general supervision, so long as it does not give rise to a situation in the dentist's office requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable dental conditions that, if not immediately diagnosed and treated, would lead to serious disability or death.

1913. Unless otherwise specified in this chapter, a registered dental hygienist may perform any procedure or provide any service within the scope of his or her practice in any setting, so long as the procedure is performed or the service is provided under the appropriate level of supervision required by this article.

1914. A registered dental hygienist may use any material or device approved for use in the performance of a service or procedure within his or her scope of practice under the appropriate level of supervision, if he or she has the appropriate education and training required to use the material or device.

1915. No person other than a registered dental hygienist, registered dental hygienist in alternative functions, or registered dental hygienist in extended functions or a licensed dentist may engage in the practice of dental hygiene or perform dental hygiene procedures on patients, including, but not limited to, supragingival and subgingival scaling, dental hygiene assessment, and treatment planning, except for the following persons:

(a) A student enrolled in a dental or a dental hygiene school who is performing procedures as part of the regular curriculum of that program under the supervision of the faculty of that program.

(b) A dental assistant acting in accordance with the rules of the dental board in performing the following procedures:

- (1) Applying nonaerosol and noncaustic topical agents.
- (2) Applying topical fluoride.
- (3) Taking impression for bleaching trays.

(c) A registered dental assistant acting in accordance with the rules of the dental board in performing the following procedures:

- (1) Polishing the coronal surfaces of teeth.
- (2) Applying bleaching agents.
- (3) Activating bleaching agents with a nonlaser light-curing device.
- (4) Applying pit and fissure sealant.

(d) A registered dental assistant in extended functions acting in accordance with the rules of the dental board in applying pit and fissure sealants.

(e) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions licensed in another jurisdiction, performing a clinical demonstration for educational purposes.

1916. (a) An applicant for licensure under this article shall furnish fingerprint images for submission to state and federal criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation, in order to establish the identity of the applicant and for the other purposes described in this section.

(b) The committee shall submit the fingerprint images to the Department of Justice for the purposes of obtaining criminal offender record information regarding state and federal level convictions and arrests, including arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(c) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate the response to the committee.

(d) The Department of Justice shall provide a response to the committee pursuant to subdivision (p) of Section 11105 of the Penal Code.

(e) The committee shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code.

(f) The information obtained as a result of the fingerprinting shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure pursuant to Division 1.5 (commencing with Section 475) or Section 1628.5.

(g) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

1917. The committee shall license as a registered dental hygienist a person who satisfies all of the following requirements:

(a) Completion of an educational program for registered dental hygienists, approved by the committee, accredited by the Commission on Dental Accreditation, and conducted by a degree-granting, postsecondary institution.

(b) Satisfactory performance on a clinical examination and an examination in California law and ethics as prescribed by the committee.

(c) Satisfactory completion of a national written dental hygiene examination approved by the committee.

1917.1. (a) The committee may grant a license as a registered dental hygienist to an applicant who has not taken a clinical examination before the committee, if the applicant submits all of the following to the committee:

(1) A completed application form and all fees required by the committee.

(2) Proof of a current license as a registered dental hygienist issued by another state that is not revoked, suspended, or otherwise restricted.

(3) Proof that the applicant has been in clinical practice as a registered dental hygienist or has been a full-time faculty member in an accredited dental hygiene education program for a minimum of 750 hours per year for at least five years preceding the date of his or her application under this section. The clinical practice requirement shall be deemed met if the applicant provides proof of at least three years of clinical practice and commits to completing the remaining two years of clinical practice by filing with the committee a copy of a pending contract to practice dental hygiene in any of the following facilities:

(A) A primary care clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code.

(C) A clinic owned or operated by a public hospital or health system.

(D) A clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

(4) Satisfactory performance on a California law and ethics examination and any examination that may be required by the committee.

(5) Proof that the applicant has not been subject to disciplinary action by any state in which he or she is or has been previously licensed as a registered dental hygienist or dentist. If the applicant has been subject to disciplinary action, the committee shall review that action to determine if it warrants refusal to issue a license to the applicant.

(6) Proof of graduation from a school of dental hygiene accredited by the Commission on Dental Accreditation.

(7) Proof of satisfactory completion of the Dental Hygiene National Board Examination and of a state or regional clinical licensure examination.

(8) Proof that the applicant has not failed the examination for licensure to practice dental hygiene under this chapter more than once or once within five years prior to the date of his or her application for a license under this section.

(9) Documentation of completion of a minimum of 25 units of continuing education earned in the two years preceding application, including

completion of any continuing education requirements imposed by the committee on registered dental hygienists licensed in this state at the time of application.

(10) Any other information as specified by the committee to the extent that it is required of applicants for licensure by examination under this article.

(b) The committee may periodically request verification of compliance with the requirements of paragraph (3) of subdivision (a), and may revoke the license upon a finding that the employment requirement or any other requirement of paragraph (3) of subdivision (a) has not been met.

(c) The committee shall provide in the application packet to each out-of-state dental hygienist pursuant to this section the following information:

(1) The location of dental manpower shortage areas in the state.

(2) Any not-for-profit clinics, public hospitals, and accredited dental hygiene education programs seeking to contract with licensees for dental hygiene service delivery or training purposes.

(d) The committee shall review the impact of this section on the availability of actively practicing registered dental hygienists in California and report to the appropriate policy and fiscal committees of the Legislature by January 1, 2012. The report shall include a separate section providing data specific to registered dental hygienists who intend to fulfill the alternative clinical practice requirements of subdivision (a). The report shall include, but shall not be limited to, the following:

(1) The number of applicants from other states who have sought licensure.

(2) The number of registered dental hygienists from other states licensed pursuant to this section, the number of licenses not granted, and the reason why the license was not granted.

(3) The practice location of registered dental hygienists licensed pursuant to this section. In identifying a registered dental hygienist's location of practice, the committee shall use medical service study areas or other appropriate geographic descriptions for regions of the state.

(4) The number of registered dental hygienists licensed pursuant to this section who establish a practice in a rural area or in an area designated as having a shortage of practicing registered dental hygienists or no registered dental hygienists or in a safety net facility identified in paragraph (3) of subdivision (a).

(5) The length of time registered dental hygienists licensed pursuant to this section practiced in the reported location.

1917.2. (a) The committee shall license as a registered dental hygienist a third- or fourth-year dental student who is in good standing at an accredited California dental school and who satisfies the following requirements:

(1) Satisfactorily performs on a clinical examination and an examination in California law and ethics as prescribed by the committee.

(2) Satisfactorily completes a national written dental hygiene examination approved by the committee.

(b) A dental student who is granted a registered dental hygienist license pursuant to this section may only practice in a dental practice that serves patients who are insured under Denti-Cal, the Healthy Families Program, or other government programs, or a dental practice that has a sliding scale fee system based on income.

(c) Upon receipt of a license to practice dentistry pursuant to Section 1634, a registered dental hygienist license issued pursuant to this subdivision is automatically revoked.

(d) The dental hygienist license is granted for two years upon passage of the dental hygiene examination, without the ability for renewal.

(e) Notwithstanding subdivision (d), if a dental student fails to remain in good standing at an accredited California dental school, or fails to graduate from the dental program, a registered dental hygienist license issued pursuant to this section shall be revoked. The student shall be responsible for submitting appropriate verifying documentation to the committee.

(f) The provisions of this section shall be reviewed pursuant to Division 1.2 (commencing with Section 473). However, the review shall be limited to the fiscal feasibility and impact on the committee.

(g) This section shall become inoperative as of January 1, 2012.

1918. The committee shall license as a registered dental hygienist in extended functions a person who meets all of the following requirements:

(a) Holds a current license as a registered dental hygienist in California.

(b) Completes clinical training approved by the committee in a facility affiliated with a dental school under the direct supervision of the dental school faculty.

(c) Performs satisfactorily on an examination required by the committee.

1920. (a) A person who holds a current and active license as a registered dental hygienist in extended functions or a registered dental hygienist in alternative practice on July 1, 2009, shall automatically be issued a license as a registered dental hygienist, unless the person holds a current and active registered dental hygienist license.

(b) A registered dental hygienist license issued pursuant to this section shall expire on the same date as the person's registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions license, and shall be subject to the same renewal and other requirements imposed by law or regulation on a license.

1921. In addition to any other duties or functions authorized by law, a registered dental hygienist in extended functions or a registered dental hygienist in alternative practice may perform any of the duties or functions authorized to be performed by a registered dental hygienist.

1922. The committee shall license as a registered dental hygienist in alternative practice a person who demonstrates satisfactory performance on an examination in California law and ethics required by the committee and who meets either of the following requirements:

(a) Holds a current California license as a registered dental hygienist and meets the following requirements:

(1) Has been engaged in the practice of dental hygiene, as defined in Section 1908, as a registered dental hygienist in any setting, including, but not limited to, educational settings and public health settings, for a minimum of 2,000 hours during the immediately preceding 36 months.

(2) Has successfully completed a bachelor's degree or its equivalent from a college or institution of higher education that is accredited by a national agency recognized by the Council on Postsecondary Accreditation or the United States Department of Education, and a minimum of 150 hours of additional educational requirements, as prescribed by the committee by regulation, that are consistent with good dental and dental hygiene practice, including, but not necessarily limited to, dental hygiene technique and theory including gerontology and medical emergencies, and business administration and practice management.

(b) Has received a letter of acceptance into the employment utilization phase of the Health Manpower Pilot Project No. 155 established by the Office of Statewide Health Planning and Development pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code.

1924. A person licensed as a registered dental hygienist who has completed the prescribed classes through the Health Manpower Pilot Project (HMPP) and who has established an independent practice under the HMPP by June 30, 1997, shall be deemed to have satisfied the licensing requirements under Section 1922, and shall be authorized to continue to operate the practice he or she presently operates, so long as he or she follows the requirements for prescription and functions as specified in Sections 1922, 1925, 1926, 1927, 1928, 1930, and 1931, and subdivision (b) of Section 1929, and as long as he or she continues to personally practice and operate the practice or until he or she sells the practice to a licensed dentist.

1925. A registered dental hygienist in alternative practice may practice, pursuant to subdivision (a) of Section 1907, subdivision (a) of Section 1908, and subdivisions (a) of (b) of Section 1910, as an employee of a dentist or of another registered dental hygienist in alternative practice, as an independent contractor, as a sole proprietor of an alternative dental hygiene practice, as an employee of a primary care clinic or specialty clinic that is licensed pursuant to Section 1204 of the Health and Safety Code, as an employee of a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, as an employee of a clinic owned or operated by a public hospital or health system, or as an employee of a clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

1926. A registered dental hygienist in alternative practice may perform the duties authorized pursuant to subdivision (a) of Section 1907, subdivision (a) of Section 1908, and subdivisions (a) and (b) of Section 1910 in the following settings:

- (a) Residences of the homebound.
- (b) Schools.

(c) Residential facilities and other institutions.

(d) Dental health professional shortage areas, as certified by the Office of Statewide Health Planning and Development in accordance with existing office guidelines.

1927. A registered dental hygienist in alternative practice shall not do any of the following:

(a) Infer, purport, advertise, or imply that he or she is in any way able to provide dental services or make any type of dental health diagnosis beyond evaluating a patient's dental hygiene status, providing a dental hygiene treatment plan, and providing the associated dental hygiene services.

(b) Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

1928. A registered dental hygienist in alternative practice may submit or allow to be submitted any insurance or third-party claims for patient services performed as authorized pursuant to this article.

1929. (a) A registered dental hygienist in alternative practice may hire other registered dental hygienists in alternative practice to assist in his or her practice.

(b) A registered dental hygienist in alternative practice may hire and supervise dental assistants performing intraoral retraction and suctioning.

1930. A registered dental hygienist in alternative practice shall provide to the committee documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services.

1931. (a) (1) A dental hygienist in alternative practice may provide services to a patient without obtaining written verification that the patient has been examined by a dentist or physician and surgeon licensed to practice in this state.

(2) If the dental hygienist in alternative practice provides services to a patient 18 months or more after the first date that he or she provides services to a patient, he or she shall obtain written verification that the patient has been examined by a dentist or physician and surgeon licensed to practice in this state. The verification shall include a prescription for dental hygiene services as described in subdivision (b). Failure to comply with this paragraph or subdivision (b) shall be considered unprofessional conduct.

(b) A registered dental hygienist in alternative practice may provide dental hygiene services for a patient who presents to the registered dental hygienist in alternative practice a written prescription for dental hygiene services issued by a dentist or physician and surgeon licensed to practice in this state. The prescription shall be valid for a time period based on the dentist's or physician and surgeon's professional judgment, but not to exceed two years from the date it was issued.

(c) The committee shall seek to obtain an injunction against any registered dental hygienist in alternative practice who provides services pursuant to this section, if the committee has reasonable cause to believe that the services are being provided to a patient who has not received a prescription for those services from a dentist or physician and surgeon licensed to practice in this state.

1932. (a) The committee may, in its sole discretion, issue a probationary license to an applicant who has satisfied all requirements for licensure as a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions. The committee may require, as a term or condition of issuing the probationary license, that the applicant comply with certain additional requirements, including, but not limited to, the following:

- (1) Successfully completing a professional competency examination.
- (2) Submitting to a medical or psychological evaluation.
- (3) Submitting to continuing medical or psychological treatment.
- (4) Abstaining from the use of alcohol or drugs.
- (5) Submitting to random fluid testing for alcohol or controlled substance abuse.
- (6) Submitting to continuing participation in a committee-approved rehabilitation program.
- (7) Restricting the type or circumstances of practice.
- (8) Submitting to continuing education and coursework.
- (9) Complying with requirements regarding notifying the committee of any change of employer or employment.
- (10) Complying with probation monitoring.
- (11) Complying with all laws and regulations governing the practice of dental hygiene.
- (12) Limiting his or her practice to a supervised, structured environment in which his or her activities are supervised by a specified person.

(b) The term of a probationary license is three years. During the term of the license, the licensee may petition the committee for a modification of a term or condition of the license or for the issuance of a license that is not probationary.

(c) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all the powers granted in that chapter.

1933. A licensee shall be issued a substitute license upon request and payment of the required fee. The request shall be accompanied by an affidavit or declaration containing satisfactory evidence of the loss or destruction of the license certificate.

1934. A licensee who changes his or her address of record shall notify the committee within 30 days of the change. A licensee who changes his or her legal name shall provide the committee with documentation of the change within 10 days.

1935. If not renewed, a license issued under the provisions of this article, unless specifically excepted, expires at 12 midnight on the last day of the month of the legal birth date of the licensee during the second year of a two-year term. To renew an unexpired license, the licensee shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the committee and pay the renewal fee prescribed by this article.

1936. Except as otherwise provided in this article, an expired license may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the committee and payment of all accrued renewal and delinquency fees. If the license is renewed after its expiration, the licensee, as a condition precedent of renewal, shall also pay the delinquency fee prescribed by this article. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect until the expiration date provided in Section 1935 that next occurs after the effective date of the renewal.

1936.1. (a) If the committee determines that the public health and safety would be served by requiring all holders of licenses under this article to continue their education after receiving a license, the committee may require, as a condition of license renewal, that licensees submit assurances satisfactory to the committee that they will, during the succeeding two-year period, inform themselves of the developments in the practice of dental hygiene occurring since the original issuance of their licenses by pursuing one or more courses of study satisfactory to the committee, or by other means deemed equivalent by the committee. The committee shall adopt, amend, and revoke regulations providing for the suspension of the licenses at the end of the two-year period until compliance with the assurances provided for in this section is accomplished.

(b) The committee may also, as a condition of license renewal, require licensees to successfully complete a portion of the required continuing education hours in specific areas adopted in regulations by the committee. The committee may prescribe this mandatory coursework within the general areas of patient care, health and safety, and law and ethics. The mandatory coursework prescribed by the committee shall not exceed seven and one-half hours per renewal period. Any mandatory coursework required by the committee shall be credited toward the continuing education requirements established by the committee pursuant to subdivision (a).

(c) The providers of courses referred to in this section shall be approved by the committee. Providers approved by the dental board shall be deemed approved by the committee.

1937. A suspended license is subject to expiration and shall be renewed as provided in this article. The renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

1938. A revoked license is subject to expiration as provided in this article. A revoked license may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated and the delinquency fee, if any, accrued at the time of its revocation.

1939. A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued. The holder of the license may apply for and obtain a new license upon meeting all of the requirements of a new applicant prescribed in this article.

1940. (a) A licensee who desires an inactive license shall submit an application to the committee on a form provided by the committee.

(b) In order to restore an inactive license to active status, the licensee shall submit an application to the committee on a form provided by the committee, accompanied by evidence that the licensee has completed the required number of hours of approved continuing education in compliance with this article within the last two years preceding the date of the application.

(c) The holder of an inactive license shall continue to pay to the committee the required biennial renewal fee.

(d) Within 30 days of receiving a request either to restore an inactive license or to inactivate a license, the committee shall inform the applicant in writing whether the application is complete and accepted for filing or is deficient and, if so, the specific information required to complete the application.

1941. It is the intent of this article that the committee grant or renew approval of only those educational programs for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions that continuously maintain a high quality standard of instruction.

1943. (a) The committee may deny an application to take an examination for licensure as a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions at any time prior to licensure for any of the following reasons:

(1) The applicant committed an act that is a ground for license suspension or revocation under this code or that is a ground for the denial of licensure under Section 480.

(2) The applicant committed or aided and abetted the commission of any act for which a license is required under this chapter.

(3) Another state or territory suspended or revoked the license that it had issued to the applicant on a ground that constitutes a basis in this state for the suspension or revocation of licensure under this article.

(b) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all of the powers granted therein.

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental

hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license shall not exceed twenty dollars (\$20). On and after January 1, 2010, the application fee for an original license shall not exceed fifty dollars (\$50).

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

(3) For third- and fourth-year dental students, the fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

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

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

(6) The biennial renewal fee shall not exceed eighty dollars (\$80).

(7) The delinquency fee shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

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

(9) The fee for each curriculum review and site evaluation for educational programs for dental hygienists that are not accredited by a committee-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars (\$1,400).

(10) The fee for each review of courses required for licensure that are not accredited by a committee-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed three hundred dollars (\$300).

(11) The fee for a provider of continuing education shall not exceed five hundred dollars (\$500) per year.

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

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

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

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

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

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

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

1945. On July 1, 2009, a percentage of the funds in the State Dental Auxiliary Fund shall be transferred to the State Dental Hygiene Fund based on the number of registered dental hygienists, registered hygienists in alternative practice, and registered dental hygienists in extended functions licensed on June 30, 2009, compared to all dental auxiliaries licensed by the Committee on Dental Auxiliaries on June 30, 2009. The board's authority to expend those funds, as appropriated in the 2008 Budget Act, shall be vested in the committee to carry out the provisions of this chapter as they relate to dental hygienists for the 2008–09 fiscal year, including the payment of any encumbrances related to dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions incurred by the State Dental Auxiliary Fund. The remainder of the funds in the State Dental Auxiliary Fund shall be transferred to the State Dental Assistant Fund pursuant to Section 1721.5.

1947. A license issued under this article and a license issued under this chapter to a registered dental hygienist, to a registered dental hygienist in alternative practice, or to a registered dental hygienist in extended functions may be revoked or suspended by the committee for any reason specified in this article for the suspension or revocation of a license to practice dental hygiene.

1949. A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee for unprofessional conduct, incompetence, gross negligence, repeated acts of negligence in his or her profession, receiving a license by mistake, or for any other cause applicable to the licentiate provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all the powers granted therein.

1950. (a) A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee, for conviction of a crime substantially related to the licensee's qualifications, functions, or duties. The record of conviction or a copy certified by the clerk

of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of conviction.

(b) The committee shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the licensee's qualifications, functions, or duties is deemed to be a conviction within the meaning of this section.

(c) The committee may order a license suspended or revoked, or may decline to issue a license when any of the following occur:

(1) The time for appeal has elapsed.

(2) The judgment of conviction has been affirmed on appeal.

(3) An order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

1950.5. Unprofessional conduct by a person licensed under this article is defined as, but is not limited to, any one of the following:

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

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

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

(d) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dental hygiene.

(e) 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.

(f) 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.

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

(h) 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.

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

(j) Advertising in violation of Section 651.

(k) Advertising to guarantee any dental hygiene service, or to perform any dental hygiene procedure painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

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

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

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

(o) The use of threats or harassment against any patient or licensee 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.

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

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

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

(s) The abandonment of the patient by the licensee, 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 registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions and provided the health of the patient is not jeopardized.

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

(u) Use of fraud in the procurement of any license issued pursuant to this article.

(v) Any action or conduct that would have warranted the denial of the license.

(w) The aiding or abetting of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions to practice dental hygiene in a negligent or incompetent manner.

(x) The failure to report to the committee in writing within seven days any of the following: (1) the death of his or her patient during the performance of any dental hygiene procedure; (2) the discovery of the death of a patient whose death is related to a dental hygiene 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 as a result of dental or dental hygiene treatment. Upon receipt of a report pursuant to this subdivision, the committee may conduct an inspection of the dental hygiene practice office if the committee finds that it is necessary.

(y) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions shall report to the committee all deaths occurring in his or her practice with a copy sent to the dental board if the death occurred while working as an employee in a dental office. A dentist shall report to the dental board all deaths occurring in his or her practice with a copy sent to the committee if the death was the result of treatment by a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions.

1951. The committee may discipline a licensee by placing him or her on probation under various terms and conditions that may include, but are not limited to, the following:

(a) Requiring the licensee to obtain additional training or pass an examination upon completion of training, or both. The examination may be a written or oral examination, or both, and may be a practical or clinical examination, or both, at the option of the committee.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the committee, if warranted by the physical or mental condition of the licensee. If the committee requires the licensee to submit to an examination, the committee shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee.

(d) Requiring restitution of fees to the licensee's patients or payers of services, unless restitution has already been made.

(e) Providing the option of alternative community service in lieu of all or part of a period of suspension in cases other than violations relating to quality of care.

1952. It is unprofessional conduct for a person licensed under this article to do any of the following:

(a) Obtain or possess in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(b) Use a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or a dangerous drug as defined in Section 4022, or alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or injurious to himself or herself, to any person, or the public to the extent that the use impairs the licensee's ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a charge of violating any federal statute or rules, or any statute or rule of this state, regulating controlled substances, as defined

in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug, as defined in Section 4022, or be convicted of more than one misdemeanor, or any felony, involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice authorized by his or her license. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section; the committee may order the license suspended or revoked, or may decline to issue a license, 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 imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

1953. (a) A registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions who performs a service on a patient in a dental office shall identify himself or herself in the patient record by signing his or her name or identification number and initials next to the service performed, and shall date those treatment entries in the record.

(b) A repeated violation of this section constitutes unprofessional conduct.

1954. (a) It is unprofessional conduct for a person licensed under this article to perform, or hold himself or herself out as able to perform, professional services beyond the scope of his or her license and field of competence, as established by his or her education, experience, and training. This includes, but is not limited to, using an instrument or device in a manner that is not in accordance with the customary standards and practices of the dental hygiene profession.

(b) This section shall not apply to research conducted by accredited dental schools or dental hygiene schools, or to research conducted pursuant to an investigational device exemption issued by the United States Food and Drug Administration.

1955. (a) (1) A licensee who fails or refuses to comply with a request for a patient's dental hygiene records that is accompanied by that patient's written authorization for release of the records to the committee, within 15 days of receiving the request and authorization, shall pay to the committee a civil penalty of two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 15th day, up to a maximum of five thousand dollars (\$5,000) unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the dental hygiene records of a patient that is accompanied by that patient's written authorization for release of records to the committee together with a notice citing this section and describing the penalties for failure to comply with

this section. Failure to provide the authorizing patient's dental hygiene records to the committee within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the committee, of up to two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars (\$5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the committee in obtaining the patient's authorization. The committee shall pay the reasonable cost of copying the dental hygiene records.

(b) (1) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee shall pay to the committee a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the committee shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee is guilty of a misdemeanor punishable by a fine payable to the committee not to exceed five thousand dollars (\$5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the committee shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of patient records to the committee, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the committee a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced, up to ten thousand dollars (\$10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the committee against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the committee is guilty of a misdemeanor punishable by a fine payable to the committee not to exceed five thousand dollars (\$5,000). Any statute of limitations applicable to the filing of an accusation by the committee against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) and shall be reported to the State Department of Public Health and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

(d) A failure or refusal to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For the purposes of this section, a “health care facility” means a clinic or health care facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

1956. It is unprofessional conduct for a person licensed under this article to require, either directly or through an office policy, or knowingly permit the delivery of dental hygiene care that discourages necessary treatment, or permits clearly excessive, incompetent, unnecessary, or grossly negligent treatment, or repeated negligent acts, as determined by the standard of practice in the community.

1957. (a) A person whose license has been revoked or suspended, who has been placed on probation, or whose license was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the committee for reinstatement or modification of the penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

(1) At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.

(2) At least two years for early termination, or modification of a condition, of a probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination, or modification of a condition, of a probation of less than three years.

(b) The petition shall state any fact required by the committee.

(c) The petition may be heard by the committee, or the committee may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.

(d) In considering reinstatement or modification or penalty, the committee or the administrative law judge hearing the petition may consider the following:

- (1) All activities of the petitioner since the disciplinary action was taken.
- (2) The offense for which the petitioner was disciplined.
- (3) The petitioner's activities during the time the license, certificate, or permit was in good standing.
- (4) The petitioner's rehabilitative efforts, general reputation for truth, and professional ability.
- (e) The hearing may be continued from time to time as the committee or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.
- (f) The committee or the administrative law judge may impose necessary terms and conditions on the licentiate in reinstating a license, certificate, or permit or modifying a penalty.
- (g) A petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole.
- (h) A petition shall not be considered while there is an accusation or petition to revoke probation pending against the person.
- (i) The committee may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section. Nothing in this section shall be deemed to alter Sections 822 and 823.

1958. A person, company, or association is guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment in a county jail not less than 10 days nor more than one year, or by a fine of not less than one hundred dollars (\$100) nor more than one thousand five hundred dollars (\$1,500), or by both that fine and imprisonment, who does any of the following:

- (a) Assumes the title of "registered dental hygienist," "registered dental hygienist in alternative practice," or "registered dental hygienist in extended functions" or appends the letters "R.D.H.," "R.D.H.A.P.," or "R.D.H.E.F." to his or her name without having had the right to assume the title conferred upon him or her through licensure.
- (b) Assumes any title, or appends any letters to his or her name, with the intent to represent falsely that he or she has received a dental hygiene degree or a license under this article.
- (c) Engages in the practice of dental hygiene without causing to be displayed in a conspicuous place in his or her office his or her license under this article to practice dental hygiene.
- (d) Within 10 days after demand is made by the executive officer of the committee, fails to furnish to the committee the name and address of all persons practicing or assisting in the practice of dental hygiene in the office of the person, company, or association, at any time within 60 days prior to the demand, together with a sworn statement showing under and by what license or authority this person, company, or association and any employees are or have been practicing or assisting in the practice of dental hygiene. This sworn statement shall not be used in any prosecution under this section.

(e) Is under the influence of alcohol or a controlled substance while engaged in the practice of dental hygiene in actual attendance on patients to an extent that impairs his or her ability to conduct the practice of dental hygiene with safety to patients and the public.

1959. A person who holds a valid, unrevoked, and unsuspended certificate as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions under this article may append the letters “R.D.H.,” “R.D.H.A.P.,” or “R.D.H.E.F.” to his or her name.

1960. For the first offense, a person is guilty of a misdemeanor and shall be punishable by a fine of not less than two hundred dollars (\$200) nor more than three thousand dollars (\$3,000), or by imprisonment in a county jail for not to exceed six months, or by both that fine and imprisonment, and for the second or a subsequent offense is guilty of a felony and upon conviction thereof shall be punished by a fine of not less than two thousand dollars (\$2,000) nor more than six thousand dollars (\$6,000), or by imprisonment in the state prison, or by both that fine and imprisonment, who does any of the following:

(a) Sells or barter or offers to sell or barter a dental hygiene degree or transcript or a license issued under, or purporting to be issued under, laws regulating licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(b) Purchases or procures by barter a diploma, license, or transcript with intent that it shall be used as evidence of the holder’s qualification to practice dental hygiene, or in fraud of the laws regulating the practice of dental hygiene.

(c) With fraudulent intent, makes, attempts to make, counterfeits, or materially alters a diploma, certificate, or transcript.

(d) Uses, or attempts or causes to be used, any diploma, certificate, or transcript that has been purchased, fraudulently issued, counterfeited, or materially altered or in order to procure licensure as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions.

(e) In an affidavit required of an applicant for an examination or license under this article, willfully makes a false statement in a material regard.

(f) Practices dental hygiene or offers to practice dental hygiene, as defined in this article, either without a license, or when his or her license has been revoked or suspended.

(g) Under 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, practices, advertises, or in any other manner indicates that he or she practices or will practice dental hygiene, except a name specified in a valid permit issued pursuant to Section 1962.

1961. A person who willfully, under circumstances that cause risk of bodily harm, serious physical or mental illness, or death, practices, attempts to practice, advertises, or holds himself or herself out as practicing dental

hygiene without having at the time of so doing a valid, unrevoked, and unsuspended license as provided in this chapter, is guilty of a crime, punishable by imprisonment in a county jail for up to one year. The remedy provided in this section shall not preclude any other remedy provided by law.

1962. (a) An association, partnership, corporation, or group of three or more registered dental hygienists in alternative practice engaging in practice under a name that would otherwise be in violation of Section 1960 may practice under that name if the association, partnership, corporation, or group holds an unexpired, unsuspended, and unrevoked permit issued by the committee under this section.

(b) An individual registered dental hygienist in alternative practice or a pair of registered dental hygienists in alternative practice who practice dental hygiene under a name that would otherwise violate Section 1960 may practice under that name if the licensees hold a valid permit issued by the committee under this section. The committee shall issue a written permit authorizing the holder to use a name specified in the permit in connection with the holder's practice if the committee finds all of the following:

(1) The applicant or applicants are duly licensed registered dental hygienists in alternative practice.

(2) The place where the applicant or applicants practice is owned or leased by the applicant or applicants, and the practice conducted at the place is wholly owned and entirely controlled by the applicant or applicants and is an approved area or practice setting pursuant to Section 1926.

(3) The name under which the applicant or applicants propose to operate contains at least one of the following designations: "dental hygiene group," "dental hygiene practice," or "dental hygiene office," contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or members of the group, and is in conformity with Section 651 and not in violation of subdivisions (i) and (l) of Section 1680.

(4) All licensed persons practicing at the location designated in the application hold valid licenses and no charges of unprofessional conduct are pending against any person practicing at that location.

(c) A permit issued under this section shall expire and become invalid unless renewed in the manner provided for in this article for the renewal of certificates issued under this article.

(d) A permit issued under this section may be revoked or suspended if the committee finds that any requirement for original issuance of a permit is no longer being fulfilled by the permitholder. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

(e) If charges of unprofessional conduct are filed against the holder of a permit issued under this section, or a member of an association, partnership, group, or corporation to whom a permit has been issued under this section, proceedings shall not be commenced for revocation or suspension of the permit until a final determination of the charges of unprofessional conduct, unless the charges have resulted in revocation or suspension of a license.

1963. The committee may prefer a complaint for violation of any part of this article before any court of competent jurisdiction and may, by its officers, counsel and agents, assist in presenting the law or facts at the trial. The district attorney of each county in this state shall prosecute all violations of this article in their respective counties in which the violations occur.

1964. In addition to the other proceedings provided for in this article, on application of the committee, the superior court of any county shall issue an injunction to restrain an unlicensed person from conducting the practice of dental hygiene, as defined in this article.

1965. If a person has engaged in or is about to engage in an act that constitutes an offense against this chapter, the superior court of any county, on application of 10 or more persons holding licenses to practice dental hygiene issued under this article, may issue an injunction or other appropriate order restraining that conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

1966. (a) It is the intent of the Legislature that the committee seek ways and means to identify and rehabilitate licensees whose competency may be impaired due to abuse of dangerous drugs or alcohol, so that licensees so afflicted may be treated and returned to the practice of dental hygiene in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the committee establish a diversion program as a voluntary alternative approach to traditional disciplinary actions.

(b) One or more diversion evaluation committees shall be established by the committee. The committee shall establish criteria for the selection of each diversion evaluation committee. Each member of a diversion evaluation committee shall receive per diem and expenses as provided in Section 103.

1966.1. (a) The committee shall establish criteria for the acceptance, denial, or termination of licensees in a diversion program. Unless ordered by the committee as a condition of a licensee's disciplinary probation, only those licensees who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a diversion program.

(b) A licensee who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).

(c) A licensee under current investigation by the committee may also request entry into a diversion program by contacting the committee. The committee may refer the licensee requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licensee to enter into the diversion program, the committee may require the licensee, while under current investigation for any violations of this article or other violations, to execute a statement of understanding that states that the licensee understands that his or her violations of this article or other statutes, that would otherwise be the basis for discipline, may still be investigated and the subject of disciplinary action.

(d) If the reasons for a current investigation of a licensee are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 1681, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the committee shall close the investigation without further action if the licensee is accepted into the committee's diversion program and successfully completes the requirements of the program. If the licensee withdraws or is terminated from the program by a diversion evaluation committee, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the committee.

(e) Neither acceptance nor participation in the diversion program shall preclude the committee from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any licensee for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) All licensees shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when a diversion evaluation committee determines the licensee presents a threat to the public's health and safety shall result in the utilization by the committee of diversion treatment records in disciplinary or criminal proceedings.

(g) Any licensee terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the committee for acts committed before, during, and after participation in the diversion program. A licensee who has been under investigation by the committee and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the committee.

1966.2. Each diversion evaluation committee shall have the following duties and responsibilities:

(a) To evaluate those licensees who request to participate in the diversion program according to the guidelines prescribed by the committee and to consider the recommendations of any licensees designated by the committee to serve as consultants on the admission of the licensee to the diversion program.

(b) To review and designate those treatment facilities to which licensees in a diversion program may be referred.

(c) To receive and review information concerning a licensee participating in the program.

(d) To consider in the case of each licensee participating in a program whether he or she may safely continue or resume the practice of dental hygiene.

(e) To perform other related duties as the committee may by regulation require.

1966.3. Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a diversion evaluation

committee may convene in closed session to consider reports pertaining to any licensee requesting or participating in a diversion program. A diversion evaluation committee shall only convene in closed session to the extent that it is necessary to protect the privacy of a licensee.

1966.4. Each licensee who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a diversion evaluation committee and to bear all costs related to the program, unless the cost is waived by the committee. Any failure to comply with the provisions of a treatment program may result in termination of the licensee's participation in a program.

1966.5. (a) After a diversion evaluation committee, in its discretion, has determined that a licensee has been rehabilitated and the diversion program is completed, the diversion evaluation committee shall purge and destroy all records pertaining to the licensee's participation in the diversion program.

(b) Except as authorized by subdivision (f) of Section 1966.1, all committee and diversion evaluation committee records and records of proceedings pertaining to the treatment of a licensee in a program shall be kept confidential and are not subject to discovery or subpoena.

1966.6. The committee shall provide for the representation of any person making reports to a diversion evaluation committee or the committee under this article in any action for defamation for reports or information given to the diversion evaluation committee or the committee regarding a licensee's participation in the diversion program.

SEC. 48. Section 4999.2 of the Business and Professions Code is amended to read:

4999.2. (a) In order to obtain and maintain a registration, in-state or out-of-state telephone medical advice services shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all staff who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990.1), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all staff who provide telephone medical advice services from an out-of-state location are health care professionals, as identified in subparagraph (A), who are licensed, registered, or certified in the state

within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice.

(2) Ensuring that all registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter are licensed pursuant to Chapter 6 (commencing with Section 2700).

(3) Ensuring that the telephone medical advice provided is consistent with good professional practice.

(4) Maintaining records of telephone medical advice services, including records of complaints, provided to patients in California for a period of at least five years.

(5) Ensuring that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in subparagraph (A) of paragraph (1), unless the staff member is a licensed, certified, or registered professional.

(6) Complying with all directions and requests for information made by the department.

(b) To the extent permitted by Article VII of the California Constitution, the department may contract with a private nonprofit accrediting agency to evaluate the qualifications of applicants for registration pursuant to this chapter and to make recommendations to the department.

SEC. 49. Section 4999.7 of the Business and Professions Code is amended to read:

4999.7. (a) Nothing in this section shall limit, preclude, or otherwise interfere with the practices of other persons licensed or otherwise authorized to practice, under any other provision of this division, telephone medical advice services consistent with the laws governing their respective scopes of practice, or licensed under the Osteopathic Initiative Act or the Chiropractic Initiative Act and operating consistent with the laws governing their respective scopes of practice.

(b) For the purposes of this chapter, “telephone medical advice” means a telephonic communication between a patient and a health care professional in which the health care professional’s primary function is to provide to the patient a telephonic response to the patient’s questions regarding his or her or a family member’s medical care or treatment. “Telephone medical advice” includes assessment, evaluation, or advice provided to patients or their family members.

(c) For the purposes of this chapter, “health care professional” is a staff person described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600), as a psychologist pursuant to

Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990.1), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

SEC. 50. Section 44876 of the Education Code is amended to read:

44876. The qualifications for a dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions shall be a valid license issued by the Dental Hygiene Committee of California or by the Dental Board of California and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

SEC. 51. Section 1348.8 of the Health and Safety Code is amended to read:

1348.8. (a) Every health care service plan that provides, operates, or contracts for telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service is registered pursuant to Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990.1) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter

7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating in compliance with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(3) Ensure that every full service health care service plan provides for a physician and surgeon who is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that staff members handling enrollee or subscriber calls, who are not licensed, certified, or registered as required by paragraph (2), do not provide telephone medical advice. Those staff members may ask questions on behalf of a staff member who is licensed, certified, or registered as required by paragraph (2), in order to help ascertain the condition of an enrollee or subscriber so that the enrollee or subscriber can be referred to licensed staff. However, under no circumstances shall those staff members use the answers to those questions in an attempt to assess, evaluate, advise, or make any decision regarding the condition of an enrollee or subscriber or determine when an enrollee or subscriber needs to be seen by a licensed medical professional.

(5) Ensure that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in Section 4999.2 unless the staff member is a licensed, certified, or registered professional.

(6) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the director.

(7) Requires that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the health care service plan's enrollees or subscribers in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the health care service plan shall, upon the request of the director, provide the records to the director within 10 days of the request.

(8) Ensure that the telephone medical advice services are provided consistent with good professional practice.

(b) The director shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data regarding complaints filed with the department concerning telephone medical advice services.

(c) For the purposes of this section, “telephone medical advice” means a telephonic communication between a patient and a health care professional in which the health care professional’s primary function is to provide to the patient a telephonic response to the patient’s questions regarding his or her or a family member’s medical care or treatment. “Telephone medical advice” includes assessment, evaluation, or advice provided to patients or their family members.

SEC. 52. Section 128160 of the Health and Safety Code is amended to read:

128160. (a) Pilot projects may be approved in the following fields:

- (1) Expanded role medical auxiliaries.
- (2) Expanded role nursing.
- (3) Expanded role dental assistants, dental hygienists, dental hygienists in alternative practice, or dental hygienists in extended functions.
- (4) Maternal child care personnel.
- (5) Pharmacy personnel.
- (6) Mental health personnel.
- (7) Other health care personnel including, but not limited to, veterinary personnel, chiropractic personnel, podiatric personnel, geriatric care personnel, therapy personnel, and health care technicians.

(b) Projects that operate in rural and central city areas shall be given priority.

SEC. 53. The Legislature finds and declares that Section 47 of this act, which adds Article 9 (commencing with Section 1900) to Chapter 4 of Division 2 of the Business and Professions Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to encourage participation in a diversion evaluation program that would identify and rehabilitate dental hygiene licensees who may be impaired due to abuse of dangerous drugs or alcohol, in order to protect the public health and safety, it is necessary and appropriate to provide limited confidentiality to certain records and proceedings.

SEC. 54. (a) It is the intent of the Legislature that the Committee on Dental Auxiliaries, in cooperation with the Dental Board of California, the Department of Consumer Affairs, and the Department of Finance, carefully review this act and recommend appropriate changes to the fees paid by dental assistants, dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions and the funds into which those moneys are deposited. It is further the intent of the Legislature that these recommended changes be submitted to the Legislature with the Governor’s 2009 Budget Act.

(b) On July 1, 2009, the executive officer of the Committee on Dental Auxiliaries shall become the executive officer of the Dental Hygiene Committee of California. Beginning January 1, 2009, the executive officer of the Committee on Dental Auxiliaries shall use the six-month period until the Committee on Dental Auxiliaries sunsets to transition the duties of the Committee on Dental Auxiliaries relative to dental hygienists, dental hygienists in alternative practice, and dental hygienists in extended functions.

SEC. 55. This act shall become operative on July 1, 2009, except Section 54, which shall become operative on January 1, 2009.

SEC. 56. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.