

**Senate Bill No. 1479**

CHAPTER 257

An act to amend Sections 1695.5, 1697, and 1698 of the Business and Professions Code, relating to dentistry.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1479, Lewis. Dentists: licensure.

Existing law provides for the licensure and regulation of the practice of dentistry by the Board of Dental Examiners of California. Existing law requires the board to administer provisions of law relating to the establishment of diversion treatment programs for drugs or alcohol, and requires the board to establish criteria for the acceptance, denial, or termination of licentiates in a diversion program.

This bill would add provisions regarding the methods by which a person may participate in the diversion program, and would provide, among other things, that neither acceptance nor participation in the diversion program precludes the board from investigating or disciplining a participant for unprofessional conduct, except under certain prescribed circumstances.

Existing law provides for the confidentiality of all board and committee records of proceedings regarding treatment of a participant in the diversion program except in the case of a criminal proceeding.

This bill would also provide an exception to the requirement of confidentiality of the records if a participant withdraws or is terminated from the diversion program at a time when the diversion evaluation committee determines that he or she presents a threat to the public health and safety, and the bill would require each participant to sign an agreement of understanding regarding this exception.

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

SECTION 1. Section 1695.5 of the Business and Professions Code is amended to read:

1695.5. (a) The board shall establish criteria for the acceptance, denial, or termination of licentiates in a diversion program. Unless ordered by the board as a condition of licentiate disciplinary probation, only those licentiates who have voluntarily requested



diversion treatment and supervision by a committee shall participate in a diversion program.

(b) A licentiate 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 licentiate under current investigation by the board may also request entry into the diversion program by contacting the board's Diversion Program Manager. The Diversion Program Manager may refer the licentiate requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licentiate to enter into the diversion program, the Diversion Program Manager may require the licentiate, while under current investigation for any violations of the Dental Practice Act or other violations, to execute a statement of understanding that states that the licentiate understands that his or her violations of the Dental Practice Act 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 licentiate are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 1681 of the Business and Professions Code, 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 board shall close the investigation without further action if the licentiate is accepted into the board's diversion program and successfully completes the requirements of the program. If the licentiate 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 board.

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

(f) All licentiates 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 licentiate presents a threat to the public's health and safety shall result in the utilization by the board of diversion treatment records in disciplinary or criminal proceedings.

(g) Any licentiate terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the diversion program. A licentiate who has



been under investigation by the board and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the board.

SEC. 2. Section 1697 of the Business and Professions Code is amended to read:

1697. Each licentiate who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a committee and to bear all costs related to the program, unless the cost is waived by the board. Any failure to comply with the provisions of a treatment program may result in termination of the licentiate's participation in a program.

SEC. 3. Section 1698 of the Business and Professions Code is amended to read:

1698. (a) After a committee in its discretion has determined that a licentiate has been rehabilitated and the diversion program is completed, the committee shall purge and destroy all records pertaining to the licentiate's participation in a diversion program.

(b) Except as authorized by subdivision (f) of Section 1695.5, all board and committee records and records of proceedings pertaining to the treatment of a licentiate in a program shall be kept confidential and are not subject to discovery or subpoena.

