

# **\*\*\*WORKING DOCUMENT\*\*\***

## **Proposed General Provisions Regulation Changes**

**Dental Board proposed language for §1070 is as follows:**

### **§ 1070. General Provisions Governing All Dental Assistant Educational Programs and Courses.**

(a) The criteria in subdivisions (b) to (j), inclusive, shall be met by all registered dental assistant (RDA) programs, registered dental assistant in extended functions (RDAEF) programs, radiation safety courses, pit and fissure sealant courses, coronal polish courses, 8-hour infection control courses, orthodontic ultrasonic scaling courses, orthodontic assistant permit courses, and dental sedation assistant permit courses to secure and maintain approval by the Board as provided in this Article.

(1) The Board or its designee may approve, provisionally approve, or deny approval of any program or course for which an application to the Board for approval is required. All programs and courses shall be re-evaluated approximately every seven years, but may be subject to re-evaluation and inspection by the Board at any time to review and investigate compliance with this Article and the Dental Practice Act (Act). Re-evaluation shall include written documentation and may include a site visit that ensures compliance with all regulations. Results of re-evaluation shall be reported to the Board or its designee for final consideration and continuance of program or course approval, provisional approval or denial of approval.

(2) Program and course records shall be subject to inspection by the Board at any time.

(3) The Board may withdraw approval at any time that it determines that a program or course does not meet the requirements of this Article or any other requirement in the Act.

(A) The board may withdraw its approval of a course at any time, after giving the course provider written notice setting forth its reason for withdrawal and after affording a reasonable opportunity to respond within

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30 calendar days. Approval may be withdrawn for failure to comply with the provisions of the Dental Practice Act or the Boards regulations.

(4) When the Board provisionally approves a program, it shall state the reasons therefore. Provisional approval shall be limited to those programs which substantially comply with all existing standards for full approval. A program given provisional approval shall immediately notify each student of such status. If the Board denies approval of a program, the specific reasons therefore shall be provided to the program by the Board in writing within 90 days after such action.

Previous Staff input:

- **A Provision should be added that non-compliant programs shall be placed on a probation status. There's no middle ground right now. After a site-visit is conducted, if a program meets all the requirements, they get their approval letter. But if they are non-compliant, they don't get their approval letter and we let them know why. From that point on, it's left up to them to respond to the deficiencies. But they don't have approval, and they don't have denial of approval either.**
- ✓ **Look at what BPPE has in their regs to see how they issue their provisional approval**

## **BPPE Provisional Approval Regs:**

### **Chapter 2. Applications**

#### **Article 4. Processing of Applications**

##### **71400. Processing of Completed Applications.**

(d) Pursuant to section 94887 of the Code, the Bureau will either grant or deny an application.

(1) When specific minor deficiencies are identified during processing but the institution is substantially in compliance with the requirements of the Code and this Division, a conditional authorization to operate may be granted for a period not to exceed six (6) months, to permit the institution to correct those deficiencies identified. If those deficiencies are not corrected after the first period of conditional approval, or the condition upon which an approval may be granted is not satisfied, the conditional authorization to operate may be extended for a period not to exceed six (6) months if the program demonstrates to the Bureau a good faith effort and ability to correct the deficiencies. A conditional authorization to operate shall expire at the end of its stated period

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and the application shall be deemed denied, unless the deficiencies are removed prior to its expiration and an approval to operate has been granted before that date.

(2) For an applicant that seeks to offer degree programs only, the Bureau will grant a provisional approval to operate the institution if the application demonstrates, in addition to all other requirements for approval to operate, that the institution meets the requirements of section 94885.5 of the Code, and the plan is approved pursuant to section 71105.

(3) For an applicant that seeks to offer both degree and non-degree programs, in addition to any action taken by the Bureau pursuant to this section in granting an approval to operate an institution and any non-degree programs, the Bureau may grant a provisional approval to offer no more than two degree programs if the application demonstrates that the institution meets the requirements of section 94885.5 of the Code, and the plan is approved pursuant to section 71105, in addition to all other requirements for approval to operate.

### **DPA Provisional Approval Regs:**

#### **Section 1024.10. Provisional Approval of Foreign Dental School; Duration.**

Provisional approval may be granted to an institution that is substantially in compliance with the requirements of this article but that has specific deficiencies or weaknesses that are of such a nature that they can be corrected in a reasonable length of time. A provisional approval shall remain in effect for 24 months from the date on which it was issued unless the deficiencies are removed sooner and full approval has been granted before that date.

- **Question for the Council – Should provisions be added for the wait-time, for a program to correct their deficiencies before getting provisional approval?**
- **Look at Abandonment of Applications regs and take some of that language to come up with a provision for here.**
- **Infection control deficiencies – 30 days**
- **for all other deficiencies - 90 days**

#### **142. Abandonment date for application; Delinquency fee**

This section shall apply to the bureaus and programs under the direct authority of the director, and to any board that, with the prior approval of the director, elects to have the department administer one or more of the licensing services set forth in this section.

**(b) Notwithstanding any other provision of law, the abandonment date for an application that has been returned to the applicant as**

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incomplete shall be 12 months from the date of returning the application.

### **Section 1024.9. Abandonment of Application by Foreign Dental School.**

An application that has not been completed by the applicant in accordance with this article within one year after the application was initially filed shall be deemed abandoned. An application shall also be deemed abandoned if the institution has not paid the estimated site visit cost within 180 days of the board's written request for payment. If an application has been abandoned, the applicant may seek approval only by submitting a new application and fee.

### **Section 1004. Abandonment of Applications.**

(a) An application shall be deemed to have been abandoned in any of the following circumstances:

- (1) The applicant fails to submit the application, examination, or reexamination fee within 180 days after notification by the board that such fee is due and unpaid.
- (2) The applicant fails to take the licensing examination within two years after the date his application was received by the board.
- (3) The applicant, after failing the examination, fails to take a reexamination within two years after the date applicant was notified of such failure.

(b) An application submitted subsequent to the abandonment of a former application shall be treated as a new application.

## **• What constitutes a “patient of Record”? Research**

### **Business and Profession Code**

#### **1684.5. Treatment of patient who is not patient of record as unprofessional conduct; Treatment provided by dental auxiliaries**

(a) In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for any dentist to perform or allow to be performed any treatment on a patient who is not a patient of record of that dentist. A dentist may, however, after conducting a preliminary oral examination, require or permit any dental auxiliary to perform procedures necessary for diagnostic purposes, provided that the procedures are permitted under the auxiliary's authorized scope of practice.

Additionally, a dentist may require or permit a dental auxiliary to perform all of the following duties prior to any examination of the patient by the dentist, provided that the duties are authorized for the particular classification of dental auxiliary pursuant to Article 7 (commencing with Section 1740):

- (1) Expose emergency radiographs upon direction of the dentist.
- (2) If the dental auxiliary is a registered dental assistant in extended functions, a registered dental hygienist, or a registered dental hygienist in alternative practice, determine and perform radiographs for the specific purpose of aiding a dentist in completing a comprehensive diagnosis and treatment plan for a patient using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist pursuant to Sections 1753.55, 1910.5, and 1926.05. A dentist is not required to review

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patient records or make a diagnosis using telehealth.

(3) Perform extra-oral duties or functions specified by the dentist.

(4) Perform mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, malocclusions, existing restorations, and missing teeth.

(b) For purposes of this section, "patient of record" refers to a patient who has been examined, has had a medical and dental history completed and evaluated, and has had oral conditions diagnosed and a written plan developed by the licensed dentist.

(c) For purposes of this section, if dental treatment is provided to a patient by a registered dental assistant in extended functions, a registered dental hygienist, or a registered dental hygienist in alternative practice pursuant to the diagnosis and treatment plan authorized by a supervising dentist, at a location other than the dentist's practice location, it is the responsibility of the authorizing dentist that the patient or the patient's representative receive written notification that the care was provided at the direction of the authorizing dentist and that the notification include the authorizing dentist's name, practice location address, and telephone number. This provision shall not require patient notification for dental hygiene preventive services provided in public health programs as specified and authorized in Section 1911, or for dental hygiene care when provided as specified and authorized in Section 1926.

(d) A dentist shall not concurrently supervise more than a total of five registered dental assistants in extended functions, registered dental hygienists, or registered dental hygienists in alternative practice providing services pursuant to Sections 1753.55, 1910.5, and 1926.05.

(e) This section shall not apply to dentists providing examinations on a temporary basis outside of a dental office in settings including, but not limited to, health fairs and school screenings.

(f) This section shall not apply to fluoride mouth rinse or supplement programs administered in a school or preschool setting.

(5) All programs and courses shall be established at the postsecondary educational level or deemed equivalent thereto by the Board.

(b) The program or course director shall possess a valid, active, and current license issued by the Board or the dental hygiene committee, shall have been licensed for a minimum of 2 years, and possess the experience in the subject matter he or she is teaching. The program or course director shall provide guidance and be responsible for the administration of the

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program or course. Specifically, the program or course director shall be responsible for the following requirements:

(1) Provide guidance of didactic, laboratory and clinical assignments

(2) Calibrate faculty at least annually and when any of the following occurs:

(A) Changes in equipment

(B) Changes in course faculty

(C) Changes made to course curriculum, location, or facilities

(D) Changes in emergency procedures

(3) Maintain for a period of not less than 7 years copies of

(A) curricula

(B) program or course content outlines and examination records

(C) Educational objectives or outcomes,

(D) grading criteria

(E) copies of faculty credentials, licenses, and certifications, and

(F) individual student records, including those necessary to establish satisfactory completion of the program or course.

(4) Informing the Board of any major change to the program or course content, physical facilities, or faculty, within 30 ~~40~~ days of the change.

(5) Ensure that, all faculty involved in clinical instruction meet the requirements set forth in this Article, and has completed a 2-hour teaching methodology course in clinical instruction.

(6) Ensure that faculty receives course specific training related to their teaching responsibilities.

(7) Ensure that all staff and faculty involved in clinical instruction meet the requirements set forth in this Article.

(8) Issue certificates of completion to each student who has successfully completed the program or course and maintain a record of each certificate of completion for at least 7 years from the date of issuance.

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(c) Course faculty shall be authorized to provide instruction by the program or course director at the facility in which instruction is provided.

(d) No faculty or instructional staff member shall instruct in any procedure that he or she does not hold a license or permit in California to perform. Each faculty or instructional staff member shall possess a valid, active, and current license issued by the Board or the Dental Hygiene Committee of California, shall have been licensed or permitted for a minimum of two years, and possess experience in the subject matter he or she is teaching. An instructor who has held a license as a registered dental assistant or registered dental assistant in extended functions for at least two years, who then becomes a permit holder as an Orthodontic Assistant on or after January 1, 2010, shall not be required to have held such a permit for two years in order to instruct in the subject area. [An RDH licensed after January 1, 2006 must possess an RDA license in order to teach RDA duties.](#)

[\(1\)All faculty responsible for clinical evaluation shall have completed at least a 2-hour teaching methodology course in clinical evaluation.](#)

(e) Facilities and class scheduling shall provide each student with sufficient opportunity, with instructor supervision, to develop minimum competency in all duties for which the program or course is approved to instruct.

(1) The location and number of general use equipment and armamentaria shall ensure that each student has the access necessary to develop minimum competency in all of the duties for which the program or course is approved to instruct. The program or course provider may either provide the specified equipment and supplies or require that the student provide them. [Where a program or course requires a student to purchase their own equipment and supplies, such student shall be notified in writing what the specific equipment and supplies are.](#) Nothing in this Section shall preclude a dental office that contains the equipment required by this Section from serving as a location for laboratory instruction.

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(A) Each operatory shall contain functional equipment, including a power-operated chair for patient or simulation-based instruction in a supine position, operator and assistant stools, air-water syringe, adjustable light, oral evacuation equipment, work surface, handpiece connection, and adjacent hand-washing sink.

(B) Each operatory shall be of sufficient size to simultaneously accommodate one student, one instructor, and one patient or student partner.

(2) Clinical instruction shall be of sufficient duration to allow the procedures to be performed to clinical proficiency. Operatories shall be sufficient in number to allow a ratio of at least one operatory for every 6 students who are simultaneously engaged in clinical instruction.

(A) Prior to clinical assignments, students must demonstrate minimum competence in laboratory or preclinical performance of the procedures they will be expected to perform in their clinical experiences.

(f) The program or course shall establish written clinical, pre-clinical and laboratory protocols that comply with the Board's Minimum Standards for Infection Control (Cal. Code Regs., Title 16, Section 1005) and other federal, state, and local requirements governing infection control. The program or course shall provide these protocols to all students, faculty, and instructional staff to ensure compliance. Adequate space shall be provided for handling, processing, and sterilizing all armamentarium.

(g) A written policy on managing emergency situations shall be made available to all students, faculty, and instructional staff. All faculty and staff involved in the direct oversight of patient care activities shall be certified in Basic Life Support procedures, including cardiopulmonary resuscitation. Recertification intervals may not exceed two years. The program or course director shall ensure and document compliance by faculty and instructional staff. A program or course shall sequence curriculum in such a manner so as to ensure that students complete hands-on instruction in Basic Life Support prior to performing procedures on patients used for clinical instruction and evaluation.



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(1) Certification for Basic Life Support shall be through a provider that is approved by The American Red Cross, The American Heart Association or any other course approved by the board as equivalent.

(h) All patient's or their guardian must complete a health history form with consent acknowledging the procedure is being performed by a student of the program or course. Such documentation shall be maintained in the student records.

(i) A detailed program or course outline shall clearly state, in writing, the curriculum subject matter, hours of didactic, laboratory, and clinical instruction, general program or course objectives, instructional objectives, and, where applicable, the use of practical application. Objective evaluation criteria shall be used for measuring student progress toward attainment of specific program or course objectives. Students shall be provided with all of the following:

(1) Specific performance objectives and the evaluation criteria used for measuring levels of competence for each component of a given procedure including those used for examinations.

(2) Standards of performance that state the minimum number of satisfactory performances that are required for each performance-evaluated procedure.

(3) Standards of performance for laboratory, preclinical, and clinical functions, those steps that would cause the student to fail the task being evaluated, and a description of each of the grades that may be assigned during evaluation procedures.

(j) If an extramural dental facility is utilized, students shall, as part of an extramural organized program of instruction, be provided with planned, supervised clinical instruction. Laboratory and preclinical instruction shall be performed under the direct supervision of program or course faculty or instructional staff and shall not be provided in an extramural dental facility.

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(1) The program or course director, or a designated faculty member, shall be responsible for selecting extramural dental facility and evaluating student competence before and after the clinical assignment.

(2) Prior to student assignment in an extramural dental facility, the program or course director, or a designated faculty member, shall orient dentists and all licensed dental healthcare workers who may provide instruction, evaluation, and oversight of the student in the clinical setting. Orientation shall include, at a minimum, the objectives of the program or course, the student's preparation for the clinical assignment, and a review of procedures and criteria to be used by the dentist or the licensed personnel in the extramural dental facility in evaluating the student during the assignment, which shall be the same as the evaluation criteria used within the program or course.

(3) There shall be a written contract of affiliation between the program and each extramural dental facility that includes written affirmation of compliance with the regulations [contained within California Code of Regulations, Title 16, Division 10, Chapter 3, Article 2, Sections 1070 - 1075.](#)

[\(k\) Certificate of Completion. Program or course providers shall provide 2 original copies of a Certificate of completion within 30 days following their completion of the course. Certificates of completion shall contain an original embossed seal. Providers shall retain records of course completion for 7 years from the date of completion and provide records of completion to the Board within 30 days, upon written request.](#)

(1) A certificate, diploma, or other evidence of completion shall be issued to each student who successfully completes the program or course and shall include the following: the student's name, the name of the program or course, [the program approval or course provider number](#), the date of completion, and the signature of the program or course director or his or her designee.

[\(2\) A Registered Dental Assisting educational program that includes instructional content for either the orthodontic assistant permit or dental sedation assistant permit, or both, shall provide a certificate or certificates of completion to the graduate. The certificate holder shall be deemed an](#)

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eligible candidate for the permit examination process as having met all educational requirements for the permit examination.

- If the student is “assisting”, is he/she considered part of the ratio?
- Look back and see where we left off with this.

(a) “Clinical instruction” means instruction in which students receive supervised experience in performing procedures in a clinical setting on patients. Clinical procedures shall only be allowed upon successful demonstration and evaluation of all laboratory skills. There shall be at least 1 instructor for every 6 operators who are simultaneously engaged in clinical instruction.

At the March meeting during the Radiation Safety discussion, it was suggested to remove the word ~~student~~ and state “operators”. This would indicate that the patient is not part of the ratio.

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1750, 1750.2, 1750.4, 1752.1, 1752.4, 1752.6 and 1753, Business and Professions Code.

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## **Proposed General Provisions Regulation Changes**

**Current Dental Board language for §1070 is as follows:**

### **§ 1070. General Provisions Governing All Dental Assistant Educational Programs and Courses.**

(a) (1) The criteria in subdivisions (b) to (j), inclusive, shall be met by a dental assisting program or course and all orthodontic assisting and dental sedation assisting permit programs or courses to secure and maintain approval by the Board as provided in this Article.

(2) The Board may approve, provisionally approve, or deny approval of any program or course for which an application to the Board for approval is required. All Registered Dental Assistant (RDA) and Registered Dental Assistant in Extended Functions (RDAEF) programs and dental assisting educational courses shall be re-evaluated approximately every seven years, but may be subject to re-evaluation and inspection by the Board at any time to review and investigate compliance with this Article and the Dental Practice Act (Act). Re-evaluation may include a site visit or written documentation that ensures compliance with all regulations. Results of re-evaluation shall be reported to the Board or its designee for final consideration and continuance of program or course approval, provisional approval or denial of approval.

(3) Program and course records shall be subject to inspection by the Board at any time.

(4) The Board may withdraw approval at any time that it determines that a program or course does not meet the requirements of this Article or any other requirement in the Act.

(5) All programs and courses shall be established at the postsecondary educational level or deemed equivalent thereto by the Board.

(6) The Board or its designee may approve, provisionally approve, or deny approval to any such program. Provisional approval shall not be granted for

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a period which exceeds the length of the program. When the Board provisionally approves a program, it shall state the reasons therefore. Provisional approval shall be limited to those programs which substantially comply with all existing standards for full approval. A program given provisional approval shall immediately notify each student of such status. If the Board denies approval of a program, the specific reasons therefore shall be provided to the program by the Board in writing within 90 days after such action.

(b) The program or course director shall possess a valid, active, and current license issued by the Board or the dental hygiene committee. The program or course director shall actively participate in and be responsible for the administration of the program or course. Specifically, the program or course director shall be responsible for the following requirements:

(1) Maintaining for a period of not less than five years copies of curricula, program outlines, objectives, and grading criteria, and copies of faculty credentials, licenses, and certifications, and individual student records, including those necessary to establish satisfactory completion of the program or course.

(2) Informing the Board of any major change to the program or course content, physical facilities, or faculty, within 10 days of the change.

(3) Ensuring that all staff and faculty involved in clinical instruction meet the requirements set forth in this Article.

(c) Course faculty and instructional staff shall be authorized to provide instruction by the program or course director at the educational facility in which instruction is provided.

(d) No faculty or instructional staff member shall instruct in any procedure that he or she does not hold a license or permit in California to perform. Each faculty or instructional staff member shall possess a valid, active, and current license issued by the Board or the Dental Hygiene Committee of California, shall have been licensed or permitted for a minimum of two

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years, and possess experience in the subject matter he or she is teaching. An instructor who has held a license as a registered dental assistant or registered dental assistant in extended functions for at least two years, who then becomes a permit holder as an Orthodontic Assistant on or after January 1, 2010, shall not be required to have held such a permit for two years in order to instruct in the subject area.

(e) A certificate, diploma, or other evidence of completion shall be issued to each student who successfully completes the program or course and shall include the following: the student's name, the name of the program or course, the date of completion, and the signature of the program or course director or his or her designee.

(f) Facilities and class scheduling shall provide each student with sufficient opportunity, with instructor supervision, to develop minimum competency in all duties for which the program or course is approved to instruct.

(1) The location and number of general use equipment and armamentaria shall ensure that each student has the access necessary to develop minimum competency in all of the duties for which the program or course is approved to instruct. The program or course provider may either provide the specified equipment and supplies or require that the student provide them. Nothing in this Section shall preclude a dental office that contains the equipment required by this Section from serving as a location for laboratory instruction.

(2) Clinical instruction shall be of sufficient duration to allow the procedures to be performed to clinical proficiency. Operatories shall be sufficient in number to allow a ratio of at least one operatory for every five students who are simultaneously engaged in clinical instruction.

(A) Each operatory shall contain functional equipment, including a power-operated chair for patient or simulation-based instruction in a supine position, operator and assistant stools, air-water syringe, adjustable light, oral evacuation equipment, work surface, handpiece connection, and adjacent hand-washing sink.

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(B) Each operatory shall be of sufficient size to simultaneously accommodate one student, one instructor, and one patient or student partner.

(C) Prior to clinical assignments, students must demonstrate minimum competence in laboratory or preclinical performance of the procedures they will be expected to perform in their clinical experiences.

(g) The program or course shall establish written clinical and laboratory protocols that comply with the Board's Minimum Standards for Infection Control (Cal. Code Regs., Title 16, Section 1005) and other federal, state, and local requirements governing infection control. The program or course shall provide these protocols to all students, faculty, and instructional staff to ensure compliance. Adequate space shall be provided for handling, processing, and sterilizing all armamentarium.

(h) A written policy on managing emergency situations shall be made available to all students, faculty, and instructional staff. All faculty and staff involved in the direct oversight of patient care activities shall be certified in basic life support procedures, including cardiopulmonary resuscitation. Recertification intervals may not exceed two years. The program or course director shall ensure and document compliance by faculty and instructional staff. A program or course shall sequence curriculum in such a manner so as to ensure that students complete instruction in basic life support prior to performing procedures on patients used for clinical instruction and evaluation.

(i) A detailed program or course outline shall clearly state, in writing, the curriculum subject matter, hours of didactic, laboratory, and clinical instruction, general program or course objectives, instructional objectives, theoretical content of each subject, and, where applicable, the use of practical application. Objective evaluation criteria shall be used for measuring student progress toward attainment of specific program or course objectives. Students shall be provided with all of the following:

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(1) Specific performance objectives and the evaluation criteria used for measuring levels of competence for each component of a given procedure including those used for examinations.

(2) Standards of performance that state the minimum number of satisfactory performances that are required for each performance-evaluated procedure.

(3) Standards of performance for laboratory, preclinical, and clinical functions, those steps that would cause the student to fail the task being evaluated, and a description of each of the grades that may be assigned during evaluation procedures.

(j)(1) If an extramural dental facility is utilized, students shall, as part of an extramural organized program of instruction, be provided with planned, supervised clinical instruction. Laboratory and preclinical instruction shall be performed under the direct supervision of program or course faculty or instructional staff and shall not be provided in an extramural dental facility.

(2) The program or course director, or a designated faculty member, shall be responsible for selecting extramural dental facility and evaluating student competence before and after the clinical assignment.

(3) Prior to student assignment in an extramural dental facility, the program or course director, or a designated faculty or instructional staff member, shall orient dentists and all licensed dental healthcare workers who may provide instruction, evaluation, and oversight of the student in the clinical setting. Orientation shall include, at a minimum, the objectives of the program or course, the student's preparation for the clinical assignment, and a review of procedures and criteria to be used by the dentist or the licensed personnel in the extramural dental facility in evaluating the student during the assignment, which shall be the same as the evaluation criteria used within the program or course.



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(4) There shall be a written contract of affiliation between the program and each extramural dental facility that includes written affirmation of compliance with the regulations of this Article.

Note: Authority cited: Section 1614, Business and Professions Code.  
Reference: Sections 1750, 1750.2, 1750.4, 1752.1, 1752.4, 1752.6 and 1753, Business and Professions Code.