

**BOARD OF DENTAL EXAMINERS  
DISCIPLINARY GUIDELINES WITH MODEL LANGUAGE  
NOVEMBER 8, 1996**

These guidelines are for use by administrative law judges, attorneys and any licensee involved in settlement of disciplinary actions or statement of issues proceedings. It is emphasized that these are guidelines and the Board acknowledges that there may be departures in individual cases depending upon mitigating or aggravating circumstances. Probation conditions are divided into two categories: (1) Standard conditions, to be used in all cases of probation; and (2) Optional conditions, to be imposed dependent upon the circumstances and nature of an individual case. Optional conditions will be used to define the extent of the disciplinary action if a given case warrants a penalty above the minimum established but below the established maximum. In a Statement of Issues, optional conditions should also be used if a probationary license is issued depending upon the nature and circumstances of the matter.

STANDARD CONDITIONS OF PROBATION

1. Obey All Laws - Respondent shall comply with all conditions of probation and obey federal, state and local laws and all rules and regulations governing the practice of dentistry in California, and remain in full compliance with any court ordered criminal probation, payments and other requirements.
2. Quarterly Declarations - Respondent shall submit quarterly declarations under penalty of perjury on the Board's Quarterly Report of Compliance forms provided by the Board, stating whether there has been compliance with all the conditions of probation.
3. Probation Surveillance - Respondent shall comply with the Board's probation surveillance program.
4. Interviews - Respondent shall appear in person for interviews with a Board representative upon request at various intervals and with reasonable notice.
5. Change of Address - Respondent shall inform the Board in writing within 15 days of any change of place of practice or place of residence. Respondent shall at all times keep the Board informed of his or her address of business and residence which shall both serve as addresses of record. Under no circumstances shall a post office box serve as an address of record.

Respondent shall also immediately inform the Board, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

6. Cost Recovery - Respondent is hereby ordered to reimburse the Board the amount of

\$\_\_\_\_\_ within 90 days from the effective date of this decision for its investigative and prosecutorial costs up to the date of the hearing. Failure to reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the probationary order, unless the Board or its Executive Officer agrees in writing to payment by an installment plan because of financial hardship. However, full payment must be received no later than one year prior to the scheduled termination of probation.

7. License Surrender - Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily surrender his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.
8. Absence from State/Practice - In the event respondent should leave California to reside or practice outside the State, respondent must provide written notification to the Board of the dates of departure and return. Periods of residence or practice outside of California will not apply to the reduction of the probationary period. In the event respondent ceases to actively practice [dentistry] [dental auxiliary duties] in California, respondent must provide written notification of that fact to the Board. The period when the respondent is not practicing will not apply to the reduction of the probationary period. Absence from the state or absence from practice shall not relieve the respondent from fulfilling the conditions of probation requiring reimbursement of costs or restitution to patients or on behalf of patients.
9. Continuance of Probationary Term/Completion of Probation - If respondent violates the terms of this probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the revocation or suspension of the respondent's license. If, during the period of probation, an accusation and/or a petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation and/or a petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation and/or the petition to revoke probation has been acted upon by the Board. Upon successful completion of probation, respondent's license will be fully restored.

**OPTIONAL CONDITIONS OF PROBATION**  
**MODEL LANGUAGE**

1. Suspension - In those cases where suspension is warranted, the suspension must be a minimum of 20 days unless otherwise noted. In those cases involving fraud, false advertising or excessive billing, the minimum period of suspension shall be 30 days.

*Model Language*

Suspension - Commencing from the effective date of this decision, respondent shall be suspended from the practice of dentistry for a period of (*days or months*). Respondent shall not mislead patients regarding the reasons for suspension from practicing dentistry. During the suspension respondent shall not practice dentistry directly or indirectly, including the supervision of dental auxiliaries, nor shall respondent receive or have set aside for future receipt, any new monies derived from the practice of dentistry as defined by the provisions of Business and Professions Code Section 1625, which includes managing or conducting as manager, proprietor, conductor, lessor, or otherwise, a place where dental operations are performed.

If respondent operates his or her own office as a solo practice or as a one person professional corporation, said office is to be closed except for administrative purposes (making future appointments when suspension is over, opening mail, referring patients, accepting payments on account, and general office administration); and respondent shall not lease the dental office nor make any monetary gain from the practice earned during the period of time that the office is closed.

2. Remedial Education - In those instances where a licensee has demonstrated negligence and/or incompetence, or has been found guilty of performing work or attempting treatment beyond the scope of training and/or experience, the Board will impose a program of remedial education. This program shall specify the areas and hours of education required, and may also dictate the institution(s) where the education will be received. A remedial education program is usually required prior to allowing the licensee to return to the identified deficient area of practice, and will be based upon its prior approval by the Board. Continuing education courses used for renewal of licensure will not fulfill the remedial education requirement.

*Model Language*

Remedial Education - Within (*30 to 90 days*) of the effective date of this decision, respondent shall submit to the Board for its prior approval, an appropriate program of remedial education related to (*the cause of disciplinary action*) in an educational facility or program which must also to be approved by the Board. (*If appropriate, respondent shall be evaluated by a dental educational institution prior to submitting remedial education courses for approval.*) The exact number of hours and specific content of the program shall be

determined by the Board or its designee. Respondent shall successfully complete the remedial education program and may be required to pass an examination administered by the Board or its designee related to the program's content. *(If appropriate, respondent shall be restricted from the practice of {areas where a deficiency has been identified} until the remedial education program has been successfully completed.)* Respondent shall pay all costs of the remedial education program. The period of probation will be extended, if necessary, until such remedial education is completed. Continuing education courses used for the renewal of licensure will not be used for remedial education.

**NOTE:** This program is for dentists and auxiliaries who have demonstrated deficiencies in skill but do not constitute a present danger to patients in other areas of practice.

3. Examination - This condition concerns itself with those individuals who are very deficient in the practice of dentistry or who have had a prior revocation and are petitioning the Board for reinstatement of their license. This condition will also apply to licensees who have had prior restrictions on practicing in a particular area or specialty field.

Model Language

Examination - Within \_\_\_\_\_ months of the effective date respondent shall take and pass an examination in *(area(s) of identified deficiencies)(if licensure exam is required, it shall be taken on a regularly scheduled examination date and respondent must successfully pass the complete examination based upon the same standards of the initial licensure examination)*. Respondent shall pay all fees related to examination. If unsuccessful, respondent may not be reexamined prior to 60 days after failure of the examination and may not take the examination more than three times per year. If respondent fails the examination three times, a period of one year must pass prior to retaking the required examination. Under the condition of failure for three times, the respondent must also show evidence of remediation in the deficient area(s) prior to retaking the examination. Respondent must be successful with a score of 75% in each section of the examination in order to fulfill this requirement and may not practice until totally successful.

**(Continue with either one of these two options.)**

OPTION #1: Condition Precedent

Respondent shall not practice dentistry until respondent has passed the required examination and has been so notified by the Board or its designee in writing. This prohibition shall not bar respondent from practicing in a clinical training program approved by the Board, or its designee. Respondent's practice shall be restricted only to that which is required by the approved training program.

OPTION #2: Condition Subsequent

If respondent fails to pass the first examination, respondent shall be suspended from the practice of dentistry until a repeat examination has been successfully passed, as evidenced by written notice to respondent from the Board or its designee.

**NOTE:** The condition precedent option is particularly recommended in cases where respondent has been found guilty of gross negligence, incompetence or repeated negligence and is a present danger to patients.

4. Supervised Environment - This condition allows the Board to monitor the competency of respondent by use of a fellow practitioner. It is most appropriate in those cases involving incompetence, negligence, drug abuse, and sexual misconduct. The type of supervision needs to be clearly defined relative to the necessity for the presence of the supervisor. Direct supervision would require the physical presence of the supervisor during the time dental procedures are performed. General supervision does not require the physical presence of the supervising dentist. The type of required supervision depends on the severity of the violation(s).

Model Language

Supervised Environment - Within 60 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more proposed supervisors and a plan for each such supervisor by which respondent's practice would be supervised. Respondent shall not practice until receiving notification of Board approval of respondent's choice of a supervisor.

The plan of supervision shall be *(direct and require the physical presence of the supervising dentist in the dental office during the time dental procedures are performed.) (general and not require the physical presence of the supervising dentist during the time dental procedures are performed but does require an occasional random check of the work performed on the patient).* Additionally, the supervisor shall have full and random access to all patient records of respondent.

Each proposed supervisor shall be a California licensed dentist who shall submit written reports to the Board on a quarterly basis verifying that supervision has taken place as required and include an evaluation of respondent's performance. It shall be respondent's responsibility to assure that the required reports are filed in a timely manner.

The supervisor shall be independent, with no prior business or professional relationship with respondent and the supervisor shall not be in a familial relationship with or be an employee, partner or associate of respondent. If the supervisor terminates or is otherwise no longer available, respondent shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by the respondent.

**OPTION:** Additionally, respondent may be prohibited from engaging in solo practice as well as being required to work in a supervised environment.

5. Restricted Practice - This condition is directed toward those licensees who need to have their

practice restricted in a specific area/specialty due to physical/educational limits, or need to have their patient population restricted due to established harm. This condition is primarily intended to protect future patients from potential abuse and/or harm.

In those cases where practice is restricted by either scope of practice or by the age and/or gender of patients, the respondent must notify all current and prospective patients of the restriction.

Model Language

Restricted Practice - Respondent shall not practice in *(area of noted deficiency) (shall not treat {male}{female}{minors} patients {without the presence of another party})*. Within 30 days from the effective date of this decision, respondent shall submit to the Board, for prior approval, a plan to implement this restriction. Respondent shall, within 30 days of the effective date of the decision, submit to the Board for its approval name(s) of persons who will act as the third party present. The respondent shall execute a release authorizing the third party(s) present to divulge any information that the Board may request during interviews by the probation monitor on a periodic basis. Respondent shall submit proof satisfactory to the Board of compliance with this term of probation.

**NOTE:** Respondents found to have violation(s) or conviction(s) of sexual misconduct shall also be placed in a supervised environment.

6. Sale or Closure of an Office and/or Practice - If a dentist will be under suspension for a long period of time or if placed under a restricted/supervised practice setting, the dentist may need to sell and/or close the practice. Where a sale or closure may or could occur, conditions of probation should be levied which ensure:

1. The dentist provides for the continuity of care and the transfer of records for all patients;
2. The dentist refunds to patients any money paid for work not performed; and,
3. The dentist must not misrepresent to anyone the reasons for the sale/closure of the office and/or practice.

Model Language

Sale or Closure of an Office and/or Practice - If respondent sells or closes his or her office after the imposition of administrative discipline, respondent shall ensure the continuity of patient care and the transfer of patient records. Respondent shall also ensure that patients are refunded money for dental work not performed, and shall not misrepresent to anyone the reason for the sale or closure of the office and/or practice. The provisions of this condition in no way authorize the practice of dentistry by the respondent during any period of license suspension.

7. Restitution - Where there has been patient harm resulting from negligent or incompetent treatment or a determination has been made concerning fraudulent billing, restitution may be

warranted. Careful scrutiny should be made to ensure that proper restitution is made to either the patient or any other applicable entity. Reimbursement may be made within a specific time frame and/or on a payment schedule. Restitution should cover those amounts which were a direct result of the actions of respondent.

Model Language

Restitution - Within (30 to 90) days of the effective date of this decision, respondent shall make restitution to (*patient or entity*) in the amount of (*dollar amount*).

OPTION: A payment schedule may be made.

8. Community Service Condition of Probation - This may be a separate condition of probation. It may also be an alternative to all or part of the period of suspension unless the dentist has been found guilty of violations of quality of care. (B&P 1671(e)). If the violation relates to quality of care, the community service shall **not** be dentally related. This condition may also be imposed in addition to, as well as in lieu of, a period of suspension.

Model Language

Community Service (as a Condition of Probation) - Within 60 days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, a community service program for the (*first year of probation or a specified period of probation*) in which respondent shall provide volunteer services on a regular basis to a non-profit community or charitable facility or agency for at least (*number of hours per month/year for the first year or specified period of probation*). Such community service shall be (*dentally or non-dentally*) related.

OPTION: No later than 30 days from the effective date of the decision, respondent may submit for Board approval a community service program which would be in lieu of (*number of days*) days of suspension.

9. Patient Notification - Respondent shall notify all current and prospective patients of the (*inability to perform the dental procedure of \_\_\_\_\_*) (*inability to treat [female] [male] [minor] without the presence of a third party*). Respondent shall submit documentation which provides satisfactory evidence of compliance with this term of probation.

10. Psychiatric/Physical Evaluation - This condition shall be applied, but not limited to, any licensee who may be affected by a psychological/physical illness, or who is guilty of gross immorality/sexual misconduct and/or a substantially related conviction. This evaluation may be ordered and the results evaluated prior to allowing practice by the respondent.

Model Language

Psychiatric Evaluation - Within 60 days of the effective date of this decision, and on a periodic basis thereafter as required by the Board or its designee, respondent shall undergo a psychiatric evaluation by a licensed psychiatrist (*appointed or approved*) by the Board. Such evaluator shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to independently and safely practice dentistry and such other information as the Board may require. The cost of such evaluation shall be borne by respondent. Respondent shall execute a Release of Information form authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator. This evaluation shall be treated as confidential by the Board and is not subject to discovery. (*If appropriate, respondent shall not practice until notified by the Board of the determination that respondent is fit to safely practice dentistry.*)

If there is a need for ongoing psychiatric treatment respondent shall within 30 days of the requirement notice, submit to the Board for its prior approval the name and qualifications of a psychotherapist of respondent's choice. Respondent shall undergo and continue psychotherapy until further notice from the Board or its designee. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee indicating whether the respondent is capable of practicing dentistry safely.

OPTION: Respondent shall not engage in the practice of dentistry until notified by the Board or its designee of its determination that respondent is mentally fit to practice safely.

**NOTE:** This condition shall not apply if it is clear at the hearing that psychotherapy is a necessary condition of probation.

11. Psychotherapy - Where it has been determined at the hearing that psychotherapy is warranted, a treatment program requiring prior Board approval shall be instituted. The treatment program should identify the proposed therapist(s), duration of treatment, and results of treatment prior to termination to enable the Board to adequately assess the mental condition of the respondent.

Model Language

Psychotherapy - Within 60 days of the effective date of this decision, or within 60 days of a determination that psychotherapy is required, respondent shall submit a proposed therapist and plan of therapy to be approved by the Board. The cost of therapy shall be borne by respondent. The plan of therapy shall include the nature of the treatment and its proposed duration. The psychotherapist shall agree to submit quarterly reports to the Board regarding the progress and participation of respondent. The treatment program shall not be terminated except upon Board approval after submission of the results of the program by the psychotherapist.

12. Diversion - Where it has been determined that a treatment program relating to drug or alcohol impairment is warranted, this condition of probation should be imposed. This condition is to be imposed when there is a violation of alcohol/substance abuse laws and in stipulations where there is the probability that the cause of other types of violations was chemical dependency.

Model Language

Diversion Program - Within 30 days of the effective date of this Decision, respondent shall contact, in writing, the Program Manager of the Board's Diversion Program to schedule an assessment and evaluation by the Diversion Evaluation Committee (DEC). If the DEC determines that respondent is not appropriate for the program, this condition of probation will have been met. If accepted into the program, respondent shall fully comply with the terms and conditions of treatment as prescribed by the DEC. Any costs incurred will be the responsibility of respondent. Failure to successfully complete the DEC treatment program shall constitute a violation of probation.

13. Biological Fluid Testing - This probation condition will allow the Board to monitor the respondent in order to ascertain if he/she is substance and/or chemical free. It is to be required when the respondent has violated any alcohol or substance abuse prohibitions.

Model Language

Biological Fluid Testing - Respondent shall submit to random biological fluid testing at his/her own expense upon the demand of the Board or its designee.

14. Abstain from Use of Alcohol/Controlled Substances/Dangerous Drugs - This condition is necessary for compliance with any type of rehabilitation program. This condition is to be imposed when there is a violation of alcohol/substance abuse laws and in stipulations where there is the probability that the cause of other types of violations were caused by alcohol or substance abuse.

Model Language

For the entire term of probation respondent shall abstain from all use and possession of (*alcohol, controlled substances, and dangerous drugs*) unless legally prescribed for medically or dentally diagnosed health reasons for a bona fide illness or medical/dental condition.

15. Surrender/Partial Surrender of Drug Enforcement Agency Permit - In cases of substance abuse/or violation of statutes regulating the procurement, dispensing or administration of controlled substances and dangerous drugs, this condition must be imposed.

Model Language

Controlled Substances - Within 60 days of the effective date of this decision, respondent shall submit to the Board proof of surrender of respondent's Drug Enforcement Agency Permit. Respondent shall not apply for a new permit without prior written approval from the Board.

OR

Respondent shall not prescribe, administer, dispense, order, or possess any controlled substances as defined by the California Uniform Controlled Substances Act, (*except for those drugs listed in Schedule(s)\_\_\_\_\_*) of the Act and/or prescribed to respondent for a bona fide illness or condition by another practitioner. Respondent's DEA Permit shall be modified to reflect this restriction and proof submitted to the Board of this modification within 60 days.

AND/OR

Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by respondent during probation, showing all the following; (1) the name and address of the patient, (2) the date, (3) the character and quantity of controlled substances involved, and (4) the pathology and purpose for which the controlled substance was furnished.

Respondent shall maintain all records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Board or its designee, upon request.

16. Ethics - In those cases involving fraud, false advertising, excessive billing, or negligence this condition of probation will be imposed and may also be imposed in other cases if applicable.

Model Language

Ethics - Within 30 days of the effective date of this decision, respondent shall submit for prior Board approval a course in ethics which will be completed within the first year of probation. Units obtained for an approved course in ethics shall not be used for continuing education units required for renewal of licensure.

## RECOMMENDED PENALTIES

### B&P Refers to Business and Professions Code

Section 123 B&P    Subversion of Examinations.  
 Section 1680 B&P   General Unprofessional Conduct

Maximum Penalty: Revocation of license or Statement of Issues denying admission into examination.

Minimum Penalty: Revocation stayed, five years probation, 50 hours of non-dental community services, continuing education course in dental ethics, 100 hours of community service for each year of probation.

Section 125.6B&P   Refusal to Treat Patient

Maximum Penalty: Revocation

Minimum Penalty: Revocation, stayed, three years probation.

Section 125.9B&P   Failure to Comply with Citation

Maximum Penalty: Revocation

Minimum Penalty: Revocation, stayed, five years probation, 15 days actual suspension, compliance with citation, if applicable.

Section 480 B&P -        Denial of a License (See B&P 1680(w))  
 Section 498 B&P -        License Secured by Fraud or Misrepresentation  
 Section 1628.7 B&P -    Issuance of a Probationary License

Maximum Penalty: Revocation or denial of license.

Minimum Penalty: The license will be issued as a probationary license which would include terms set forth in Section 1628.7 as applicable.

If already a licensee, probation could be applicable depending upon the degree of fraud or misrepresentation and its relationship to the practice of dentistry.

Probationary terms may include any or all of the following:

1. Successfully complete a professional competency examination.
2. Submit to a medical or psychological evaluation.
3. Submit to continuing medical or psychological treatment.
4. Abstain from the use of alcohol or drugs.
5. Submit to random fluid testing for alcohol or controlled substance abuse.
6. Submit to continuing participation in a board approved rehabilitation program.
7. Restrict the type or circumstances of practice.
8. Submit to continuing education and course work.
9. Comply with requirements regarding notification to employer and changes of employment.
10. Comply with probation monitoring.
11. Comply with all laws and regulations governing the practice of dentistry.
12. Limit practice to a supervised structured environment in which the licensee's activities shall be supervised by another dentist.
13. Submit to total or partial restrictions on drug prescribing privileges.

Section 490 B&P Conviction of a Crime  
See Section 1670.1

Section 650 B&P Accepting or Receiving Rebates  
See Section 1680(g)

Section 650.2(i)B&P Patient Referral Service - Failure to Disclose

Maximum Penalty: Revocation of registration of dental referral service.

Minimum Penalty: Revocation stayed, two (2) years probation.

Section 651 B&P False, Misleading or Deceptive Public Communications

Penalty: See Section 1680(h)-(l)

Section 654.1B&P Prohibits Referral of Patients to Laboratories without Disclosure of Beneficial Interest

Section 654.2B&P Prohibits charges, billings, solicitations or referrals without disclosure of beneficial interest.

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, two (2) years probation, 50 hours of community service.

Section 725 B&P Excessive Prescribing or Administration of Drugs

Penalty: See Section 1680(p)

Section 726 B&P Sexual Abuse or Misconduct

Penalty: See Section 1680(e)

Section 732 B&P Failure to Refund Overpayments to Patients

Maximum Penalty: Revocation

Minimum Penalty: Revocation, stayed, five (5) years probation, refund to patient, 50 hours dentally related community service.

Section 810 B&P Insurance Fraud

Penalty: See Section 1680(a)

Section 822 B&P - Psychological/Physical Illness

Maximum Penalty: Revocation

Minimum Penalty: Revocation, stayed, standard conditions, indefinite probation, comply with recommendation of examining psychiatrist. May include actual suspension, or limited practice or practicing under a supervised setting.

Section 1611.5B&P Inspection of Books, Records, and Premises

Maximum Penalty: Revocation

Minimum Penalty: Revocation, stayed, three (3) years probation and compliance.

Section 1628. B&P Denial of Application to Take Examination or Licensure

Section 1628.7B&P Issuance of a Probationary License

Maximum Penalty: Denial.

Minimum Penalty: The license will be issued as a probationary license which would include terms set forth in Section 1628.7 as applicable.

**NOTE:** The Board has the authority to issue a probationary license after successful examination pursuant to 1628.7. The probationary terms may include, but are not limited to the following:

1. Successfully complete a professional competency examination.
2. Submit to a medical or psychological evaluation.
3. Submit to continuing medical or psychological treatment.
4. Abstain from the use of alcohol or drugs.
5. Submit to random fluid testing for alcohol or controlled substance abuse.
6. Submit to continuing participation in a board approved rehabilitation program.
7. Restrict the type or circumstances of practice.
8. Submit to continuing education and course work.
9. Comply with requirements regarding notification to employer and changes of employment.
10. Comply with probation monitoring.
11. Comply with all laws and regulations governing the practice of dentistry.
12. Limit practice to a supervised structured environment in which the licensee's activities shall be supervised by another dentist.
13. Submit to total or partial restrictions on drug prescribing privileges.

Section 1645 B&P Continuing Education Violations  
(Section 1680(n)B&P)

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, five (5) years probation, 30 days actual suspension, compliance within one (1) year, and community service where appropriate.

Section 1646.1B&P Administration of General Anesthesia (GA) Without a Permit/Failure to Renew a Permit

Section 1647.2B&P Administration of Conscious Sedation Without a Permit/Failure to Renew a Permit

Maximum Penalty: Revocation of Licensure and/or Denial of Permit

Minimum Penalty: Stayed revocation, five years probation, 60 days actual suspension if practicing without ever having been issued a permit. Must apply for GA permit if sedation privileges are to continue.

Section 1650B&P Duty to Register Place of Practice

Section 1658 B&P Additional Office  
(Section 1680(n) B&P)

Maximum Penalty: Revocation

Minimum Penalty: Reprimand with \$250 fine.

Section 1670 B&P Gross Negligence, Gross Incompetence, Repeated Acts of Negligence

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, five (5) years probation, plus 30 days actual suspension and restitution where appropriate. Options and additions where appropriate: (1) restriction of the scope of practice; (2) work only in a supervised environment; and (3) remedial education, with or without successful re-examination which is tailored to the specific area of incompetence or negligence; (4) take and pass an examination which may include the Board's licensure examination-clinical and/or written. If unsuccessful in examination, must cease the practice of dentistry and may not resume the practice of dentistry until successful in the examination.

Section 1670 B&P Battery upon a Patient (General Unprofessional Conduct)

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, seven (7) years probation, 30 days actual suspension, standard conditions. Psychiatric examination and treatment if necessary. Supervised structured environment, and community service.

Section 1670 B&P License Issued by Mistake

Penalty: Revocation

Section 1670.1 B&P Conviction of a Crime  
(Section 490 B&P)

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, five (5) years probation with terms and conditions depending upon the nature of the criminal offense. Comply with any criminal probation.

Section 1680(a) B&P      Obtaining Any Fee by Fraud or Misrepresentation  
 Section 810 B&P      Insurance Fraud

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, five (5) years probation, plus 30 days actual suspension, restitution and community service program.

Section 1680(b) B&P      Employment of Suspended or Unlicensed Dentist

Section 1680(c) B&P      Aiding or Abetting Unlicensed Practice

Section 1680(d) B&P      Aiding or Abetting Licensed Person to Practice Dentistry Unlawfully

Maximum Penalty: Revocation

Minimum Penalty: Stayed six-month suspension, five (5) years probation, 45 days actual suspension. Optional conditions can include restitution to patients, and community service program. These optional conditions are predicated upon the possibility of harm to the patient which was caused by the actions of the respondent.

Section 1680(e) B&P      Gross Immorality  
 (Section 726 B&P)

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, seven (7) years probation, 60 days suspension. *(If indicated, respondent shall not treat minor patients or other members of the patient population.)* Conditions of probation shall include psychiatric evaluation and treatment, and/or counseling program, semiannual psychotherapy reports submitted to the Board and the necessity of having an auxiliary present while treating patients where appropriate. The psychiatrist or psychologist rendering treatment must be approved by the Board. Options might include restricted practice setting. If the violation involved sexual misconduct with a minor, probation shall remain in effect until proof of complete rehabilitation is demonstrated.

Section 1680(f) B&P      Use of False or Fictitious Names

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, 15 days suspension, two (2) years probation with the requirement of corrective advertising as appropriate where the use of the name involved substantial deception of the public related to the practice of dentistry.

Section 1680(g) B&P      Accepting or Receiving Rebates  
(Section 650 B&P)

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, 30 days suspension, five (5) years probation and at least 50 hours of community service if the unlawful practice was extensive.

Section 1680(h) B&P      Use of Deceptive or Misleading Advertising Statements

Section 1680(l) B&P      Advertising of Professional Superiority

Section 1680(j) B&P      Employing or Making use of Solicitors

Section 1680(k) B&P      Any Advertising which Violates Section 651 of the Business and Professions Code

Section 1680(l) B&P      Advertising to Guarantee Any Dental Service or to Perform Dental Operations Painlessly

(Section 651 B&P)

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, three (3) years probation with corrective advertising as appropriate, and 100 hours of community services.

Section 1680(m) B&P      Violation of any Law Regulating the Dispensing or Administration of Dangerous Drugs or Controlled Substances

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, five (5) years probation, 60 days actual suspension and loss of DEA permit (complete or partial). Also, where appropriate, community service and working within a supervised setting.

Section 1680(o) B&P      Radiation Safety

Maximum Penalty: Revocation

Minimum Penalty: Reprimand, compliance within 30 days, where appropriate, suspension until the condition is corrected.

Section 1680(p) B&P      Clearly Excessive Prescribing or Treatment  
(Section 725 B&P)

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, five (5) years probation and restitution in those cases which result in economic harm to the patient. In those cases which additionally result in actual or potential future physical harm to the patient, there should be restitution, five (5) years of probation and 45 days of actual suspension and restriction or elimination of prescribing privileges, if applicable.

Section 1680(q) B&P      Use of Threats or Harassment  
 Section 1680(r) B&P      Suspension or Revocation by Another State

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation five (5) years probation, standard conditions. Impose similar conditions as indicated by other state.

Section 1680(s) B&P      Alteration of Patient Records

Maximum Penalty: Revocation

Minimum Penalty: Revocation, stayed, five (5) years probation, 30 days actual suspension, and correction of the condition. In appropriate cases, the suspension should be extended until the condition is corrected.

Section 1680(u)B&P      Abandonment of Patient

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, five (5) years of probation, 15 days actual suspension, restitution where appropriate and community service where feasible.

Section 1680(v) B&P      Misrepresenting the Facts Regarding Disciplinary Action

Maximum Penalty: Revocation

Minimum Penalty: If any period of suspension was levied in the original disciplinary action, that period of suspension should be doubled.

Section 1680(w) B&P      Fraud in the Procurement of Any License  
 Section 1680(x) B&P      Actions which would Warrant Denial of a License

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, one (1) year suspension. This penalty is only to be given if the dentist is otherwise qualified to practice in the State of California.

Section 1680(y) B&P      Aiding or Abetting Negligent or Incompetent Practice

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, five (5) years probation, plus 30 days actual suspension and restitution (where appropriate). Options and additions, where appropriate: (1) restriction of the scope of practice; (2) work only in a supervised environment; and (3) remedial education with or without successful re-examination which is tailored to the specific area of incompetence or negligence.

Section 1680(z) B&P      Failure to Report Patient Death

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, five (5) years probation, 30 days actual suspension.

Section 1680(aa)B&P      Violation of Business and Professions Code, Section 650.2

Maximum Penalty: Revocation.

Minimum Penalty: Revocation, stayed, two (2) years probation, six (6) months suspension from advertising through referral services, complete a course in ethics and 50 hours of community service.

Section 1680(bb)B&P      Failure to use a Fail-Safe Machine

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, five years probation and 30 days actual suspension and requirement to obtain and use correct machine.

Section 1680(cc)      Engaging in Practice of Dentistry with an Expired License

Maximum Penalty: Revocation

- Minimum Penalty: Stayed revocation, three (3) years probation with requirement for completion of the deficient continuing education units within 90 days, if applicable, and community service.
- Section 1680(dd) Safe and Sanitary Conditions
- Maximum Penalty: Revocation
- Minimum Penalty: Revocation, stayed, three (3) years probation, 30 days actual suspension, proof of correction of the condition.
- Section 1680(ee) The Use of Auxiliaries Beyond the Scope of the License
- Maximum Penalty: Revocation
- Minimum Penalty: Revocation, stayed, five (5) years probation, 30 days actual suspension.
- Section 1681 B&P (Section 1700(e)) Possession of or Abuse of Controlled Substances, Alcohol or Controlled Substances/Alcohol Conviction
- Maximum Penalty: Revocation
- Minimum Penalty: Stayed revocation, five (5) years probation, 30 days actual suspension, and loss of DEA permit (complete or partial), and/or maintain a controlled substance log, and psychotherapeutic treatment or counseling program with psychotherapist to be approved by the Board. Shall immediately submit to biological testing, at respondent's cost. Abstain from the use of alcoholic beverages and/or controlled substances. Also, where appropriate, a dentist should be restricted to working in a supervised setting. Dentist may also be required to participate in the Board's Drug Diversion Program if determined appropriate by the Board's Diversion Evaluation Committee.
- Section 1682 B&P Patients Undergoing Conscious Sedation or General Anesthesia
- Maximum Penalty: Revocation
- Minimum Penalty: Revocation stayed, five (5) years probation, 30 days actual suspension. Option where appropriate, can be the restriction of scope of practice.
- Section 1683 B&P Treatment Entries in Patient Records
- Maximum Penalty: Revocation
- Minimum Penalty: Revocation stayed, three (3) years probation, correction of condition.

