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Introduction

My name is **Dr. Bijal Joshi**

Practicing dentist for over 22 years, absolutely love
Dentistry

Practicing Lawyer as well and enjoy practicing
Business Transactional Law and helping Fellow
Dentists

**On a personal note, I am a full-time Mom to TWO
boys**

**Hobbies: Love hiking, traveling and spending time
with family and friend.**

My LAW Practice focus is mainly Representing Dentists in:

- **Practice Purchase Agreement**
- **Lease Agreements**
- **New Leases**
- **Partnerships**
- **Associate Agreements**
- **Real Estate Sales**
- **Corporations**

California Dental Practice Act

2024

(Mandatory Course)

Punjabi Dental Society

By:

Bijal Joshi, DDS, Esq.

California Dental Practice Act (CDPA)

- **Body of laws in California Business and Professions Code along with**
- **California Code of Regulations governs all Dental Professional:**
 - **Dentist**
 - **Oral and Maxillofacial Surgeons**
 - **Orthodontists**
 - **Unlicensed Dental Assistants**
 - **Registered Dental Assistants**
 - **Dental Hygienists**

CA Dental Practice Act Includes:

- **Definition** of dentistry, specialties
- **Education**, qualifications, exams
- Approved dental school criteria
 - Foreign dental schools need Commission on Dental Accreditation approval
- Committees and **Special permits**
- **Restorative materials fact sheet**: risks & efficacy, must update for all patients
 - Patients sign, provide and retain copies
- **Diversion** (addiction recovery without losing license)

CA DENTAL PRACTICE ACT INCLUDES:

- **Health and Safety codes**, infection control
- **Illegal acts, unprofessional conduct**, gross negligence
- **Prescription** and drugs
- **Criminal acts and Abuse** reporting
- **Ethics and Consent**

Dental Board of California Responsibility:

- **Licensure** of qualified dental health professionals
- **Enforcement** of the California Dental Practice Act
- **Improving the education** of consumers and licensees
- **Protect** the health and safety of dental care consumers by taking actions to **maintain appropriate standard of care.**

Dental Board of California Consists of:

15 members

- 1) eight practicing dentists**
- 2) one registered dental hygienist**
- 3) one registered dental assistant**
- 4) five public members**

California Dental Practice Act

- Not intended to replace professional oaths and codes of ethics
- BUT does **define actions and omissions** that may lead to **legal action and revocation of a license** to practice dentistry in State of California.

Cancun Trip 2023



The Mission Statement of the Dental Board of California (DBC):

“Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

LAWS WE MUST FOLLOW:

OSHA: occupational Safety and Health
Administration Laws

Based on CDC recommendation

Both Mandatory and not mandatory

****State Board laws**

Include CDC & OSHA & ADA standards

Civil & health Dept laws

FDA, EPA laws

Instructions for use

IF your license is on probation then you must obey all laws

- Obey all laws: Federal, State and Local laws and all rules and regulations governing practice of Dentistry in CA
- Quarterly reports signed under penalty of perjury stating compliance with all conditions of probations
- Comply with Boards probation period
- Address change notification, Name change and license status
- Meeting with interviewers as directed by Board
- Status of residency, practice or licensure outside of state
- Submit documentations requested by Board
- Probation monitoring cost
- License surrender
- Function as a licensee as directed by the board
- Control of probation terms
- Sale or closure of an office
- Notifications
- Community service
- Full compliance

What are the most cited violations by Dental Board?

- Failure to produce patient records within 15 days or less
- Failure to follow infection control guidelines
- Failure to comply with bloodborne requirements
 - OSHA and Board and Police share information.
- Unprofessional conduct: Inside and outside of Dental Practice/Profession

What is Dentistry?

- "the **evaluation, diagnosis, prevention, and/or treatment** (nonsurgical, surgical, or related procedures) **of diseases, disorders, and/or conditions of the oral cavity**, maxillofacial area, and/or the adjacent and associated structures and their impact on the human body; **provided by a dentist, within the scope of his/her education, training, and experience, in accordance with the ethics of the profession and applicable law**".

Dentistry is not the practice of:

- Prescription of weight loss medications.
- Administration of injections such as the Hepatitis B vaccine to staff or others.
- Everything we do as a Dentist must fall within the Scope of Dentistry and a Reasonable Standard of Care applies.

CASE: Orange County Pediatric Dental office

- In 2016, a dental unit waterline contamination at a pediatric practice in Anaheim, California led to Mycobacterium Abscesses infections in at least 71 children (over 150).
- Mimi Morales was the 7-year-old who quickly became the face of the outbreak that left 70 patients (98.5% of the 71 confirmed cases) requiring hospitalization and surgery (Singh, et al).
- After a root canal, Mimi developed a fever, and her mouth began to swell. An oral surgeon removed part of her jawbone and Mimi lost permanent teeth. Heavy doses of antibiotics with serious potential side effects usually used for bacteria resistant strains were prescribed to fight her infection for months.

How did they find out?

- One weekend over the summer, Dr. Negar Ashouri, a pediatric infectious disease specialist at CHOC hospital, happened to be on call when one of the first patients came into the hospital. The patient required surgery and eventually lab results revealed a mycobacterium infection.
- About a month later, Dr. Ashouri just so happened to be on call again, and another young girl came into the hospital with similar symptoms.
- When Dr. Ashouri saw the similarities, she called the family of the first patient and started putting the pieces together. Both had undergone procedures at the same practice in Anaheim.
- The doctor notified the county health department, and a full investigation was launched. More and more children started arriving in the hospital. They were given CT scans, blood tests, surgery, and month's worth of federally regulated intravenous antibiotics originally developed to treat leprosy.

My 10-year-old Son: Rohan



NEW LAW:

- **As of January 1, 2019, new infection control standard for procedure that expose dental pulp (root canal):**
 - **Irrigation must be “sterile or contain recognized disinfection or antibacterial properties.”**
 - **Not your regular water from dental unit**
 - **§1683**

SEXUAL HARRASSMENT PREVENTION TRAINING

- **January 1, 2022**
- **If < 5 employees, then not needed**
- **If >5 employees, then managers require 2 hrs Training**
- **Other employees require 1 hr**
- **Qualified providers can give the training.**

Sexual Harassment Cases:

- Case1: Peeping TOM watching female patients and staff on the video camera (with videos found on Dentist's laptop)
- Case2: Placing Instrument on patient's chest and kept touching patient's breast in pretense of picking up instruments
- Case3: Pediatric Dentist kissing underage patient age 12 on the lips
- ***in most cases there are more than one patients who are victims
- Multiple cases where dentists are accused of sexual harassment and lose their license.

When patient DO NOT come back for follow up or final restoration:

- **Call** the patient and **document**
- **Keep all the records** of the follow-up
- Send the patient **certified mail**

Patient refuses X-rays

- ***INFORMED PATIENT IN WRITING**
- ***DO NOT TREAT PATIENT**
- ***STANDARD OF CARE FOR DIAGNOSIS: X-RAYS. X-RAYS. X-RAYS**
- ***IT IS ILLEGAL TO PERFORM TREATMENT**

Patient's Perception Determines Litigation

COMMUNICATION

COMMUNICATION

COMMUNICATION

BEST WAY TO AVOID LITIGATION

Case: Difficult patient

1. Very difficult elderly patient
2. Nice one minute mean another minute
3. Told us about his personal family history and that he is isolated from his children
4. Did a lot of dental treatment over the years
5. Always unhappy about something
6. Bad mouths another dentist and wanted to sue them
7. At some point started being unrealistic about dental treatment
8. Patient complains to dental board

- Got a notice from dental board asking for all the patients records
- Must provide within 15 days via certified mail
- Dental board rejects patient's complaint
- **Why? Continuous Communication with patient and Documented all communications in the Patient records.**

WHO CAN REPORT DENTIST TO STATE BOARD

- **COLLEAGUES, CONSUMERS, LAW ENFORCEMENT, INSURANCE COMPANIES**
- **PATIENTS: NOT ANONYMOUS, PUBLIC RECORD CREATED**
- **COLLEAGUES: CAN BE ANONYMOUS**

Case: Insurance Fraud

- **Dentist performed procedures on patients who had healthy gums and teeth.**
- **On one patient, Dentist had done more than 18 root canals and crowns.**
- **Collected insurance money for unneeded procedures performed on more than two dozen patients.**
- **Dentist was charged with 28 counts of felony insurance fraud for allegedly carrying out the procedures.**

How was it discovered?

- Investigation began in **2012** when another dentist who bought the dentist's practice checked his records, which revealed **unnneeded dental treatments such as root canals and crowns were either performed or not performed but the insurance was billed.**
- The dentist who acquired Dr's practice later sued him and received a "substantial" settlement based on Fraud and misrepresentation
- The Dentist lost his license and was ordered to pay the settlements to insurance companies and patients.

***** always do your due diligence when purchasing a practice .** As a dental attorney I always advice my clients about what to look for and what to do before selling the practice.

My 9-year-old son: Prem



ALL LICENSED CLINICIANS: MUST IDENTIFY & POST **License in a CONSPICUOUS location**

- In Writing
- Must display name tag or license in office
 - Display degree
 - License type and Status
 - Board certification
 - Also, on website
- For supervising Physicians and Surgeons
 - Hours in facility

ADVERTISING

UNLAWFUL: when it contains
material misrepresentation of fact

Any form of false, misleading or
deceptive claim, image

Fee and discounts must be
accurate, precise with disclosure

DON'T LIE

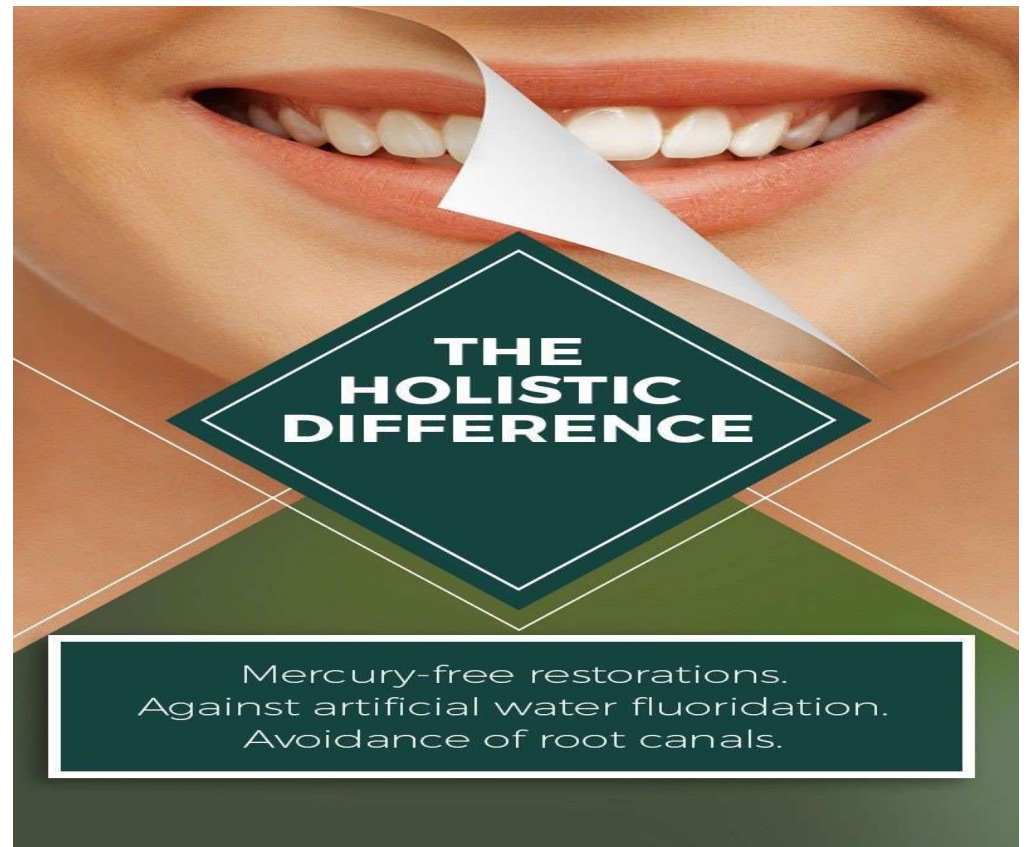
About DDS's identity

Training

Competence

Services

FEE



ILLEGAL DENTAL LICENSING:

ILLEGAL TO:

- **MISREPRESENT DDS credentials**
- **Sell, BUY or Counterfeit or fraudulently use dental degree, license or transcript**
- **Practicing without VALID license**

Why Dental Board are hard on UNLICENCED DDS?

MOST COMPLICATIONS ARE REPORTED in Patients

Poor Patient Management- poor pain managements, illegal drugs

Poor Infection Control- poor sterilization, risk of diseases

Poor quality Care- adverse outcome

What are the other Challenges?

Keep popping up

Protecting public and educating public

Results in Accidents, Injury and Death

CASE: Unlicensed Practice of Dentistry

- Undercover investigation by an officer into UNLICENSED practice of dentistry at a private residence.
- The undercover officer approached Mr. XYZ at the private residence and asked for a dentist. At that time, Mr. XYZ referred the officer to his father, who was not, and is not, licensed to practice dentistry in the State of California.
- Mr. XYZ told his father that officer was there for a dental exam.
- Father proceeded to examine and diagnose the undercover officer and offered to perform services for a fee in the future. He stated that he charged \$125 for a root canal to kill three nerves on the lower right molar and \$150 for a crown and \$25 for extraction.
- Father said to the officer, that he can't do the procedure, there is remodel work going on in the house.

Case: Details

- Father then stated that his son Mr. XYZ is a Dr. XYZ dentist and could perform the procedure at his clinic. Father stated that his son Dr. XYZ can do the procedure for \$1000 or could take insurance. Dr. XYZ stated he could NOT lower the price.
- Father then stated that if the officer could not wait, he could recommend his Friend, Mr. V, who was also not licensed to practice dentistry.
- Father asked Dr. XYZ for Mr. V's phone number and Dr. XYZ recited the phone number from his cell phone, which was then given to the officer.
- Then officer went to Mr. V's apartment and was seated on a reclined chair and saw there was a dental clinic set up. Mr. V examined and offered to do the procedure. Also gave the officer a menu with name of procedure and their cost.

What are the Violations?

- Practice illegal dentistry by NON-Dentist
- Aiding and Abetting illegal practice of dentistry BY DENTIST AND NON-DENTIST
- Biggest concern is Putting public at RISK
- Dentist could lose his license
- IS IT WORTH THE RISK?? NO

My Sons



WARNING:

It is a criminal offense to perform licensed Dentist duties with an expired, cancelled or inactive license!

How to become a licensed dentist?

How to Become a Licensed Dentist: 3 ways

- **Examinations:**

- PASS Western Regional Exam (WREB) OR
- PASS ADEX examination:

- **Consist of passing**

- Diagnostic Skills Examination/Objective Structured Clinical Examination (DSE OSCE) (computer based)
 - Prosthodontic (manikin based)
 - Endodontic (manikin based)
 - Restorative (live patient or manikin based using CompeDont tooth)
 - Periodontal Scaling (live patient, or manikin based, or DSE OSCE)
 - https://www.dbc.ca.gov/applicants/adex_examination.shtml

License By CREDENTIALS or RESIDENCY

- **CREDENTIALS:**

- License from another state and have a proof of active and good standing clinical practice for 5000 hrs/ 5 years
- Passed the national boards within 5 years and went to US Dental School

- **RESIDENCY:**

- complete 12-month GP residency or
- ADA'S Commission on Dental Accreditation approved advanced program within 2 years
- Must pass CA Law and Ethics exam
- Fingerprinting

License Renewal for Dentist

- **Every 2 years**, end of birthday Month
- If you don't renew, you are practicing without a license
 - **NO GRACE PERIOD**
- **Pay penalty after 30 days** lapse
- Employers are also responsible for your staff's licensure status

License Renewal for Dentist and Auxiliaries

- Can make address changes Online
- Can **Renew their state license Online**
- <https://www.breeze.ca.gov>
- Beginning in July 2021, license renewals are **online only via the BREEZE system** and the DBC has discontinued postcard notifications.
- Make sure you answer correctly regarding new criminal records, any DUI citations and your Federal Taxes are paid

Scope of Allied Dental Health Professionals

- A **licensed dentist** must provide **direction to all clinical activities of ADHP and is liable for their actions.**
 - Dental Assistants
 - Registered Dental Assistants
 - Dental Hygienist
 - Any Employees in the office

Dental Auxiliary DUTIES

- Allowed duties specifically listed
 - All other duties are NOT allowed
 - **NOT ALLOWED = Illegal**
 - DUTIES THAT SHOULD BE PERFORMED BY ONLY DENTIST
 - REQUIRE KNOWLEDGE, SKILL, TRAINING OF LICENSED DENTIST
- *** ALL Auxiliary duties and Supervision must be posted in office, visible to all employees.**

BEFORE A DENTIST EXAMINES A PATIENT

RDA/DA/RDH:

- Expose **Emergency radiographs** upon direction of the dentist.
- Perform **extra-oral duties** or functions specified by the dentist.
- Perform mouth-mirror **inspections of the oral cavity**, including
 - charting obvious lesions,
 - malocclusions,
 - existing restorations and
 - missing teeth.

AFTER A DDS PRELIMINARILY EXAMINES A PATIENT:

- procedures necessary for **Diagnostic purposes**,
- provided that the procedures are permitted under the **ADHP's authorized scope of practice**.

How to become a Registered Dental Assistant (RDA):

- **SCHOOLING** Complete approved educational course **or**
- **EXPERIENCE** May qualify after working as a DA for 15 months in a Dental Practice
- **PLUS** Pass Board approved written law and Ethics Exam
- X-ray safety certification
- Coronal Polishing certification

Optional Certifications for the RDA:

- Ultrasonic scaling for removal of orthodontic cement.
- Pit and fissure sealant placement.

How to be RDA-EXTENDED FUNTION (RDAEF)

- *RDA plus**

- *PASS WRITTEN EXAM**

- *PASS APPROVED COURSES IN advance training**

- *NO Clinical exam**

Fiji 2023



Dental Hygiene Board of California (DHBC)

- **Represents RDH**
- **RDHEF (extended function)**
- **RDHAP (Alternative Practice)**
- **9 members appointed by governor**
 - **4 Public**
 - **1 practicing dentist**
 - **4 RDHs**

What does Dental Hygiene Board of California (DHBC) do?

- **Develop and administer exams**
- **Adopt regulations**
- **Issue, review, revoke licenses**
- **Determine DH fees and CE regulations**
- **New DH schools must show that there is need before CODA**
- **Only DH Committee/Board with complete control over school accreditation**

Registered Dental Hygienist (RDH) Licensure

- **Graduate of Accredited Dental Hygiene School/Program**
- **Passed DH national Boards and State Boards**
- **No clinical Exam in California**
- **Completion of Board approved courses:**
 - **Local Anesthesia**
 - **Soft tissue Curettage**
 - **Nitrous**

RD Hygienist in alternative practice

- **B.S. Degree and RDH license**
- **Active DH clinical practice**
- **150 hours of approved educational Program**
- **Pass written exam prescribed by DHBC**

If RDH or RDA or Dentist has a criminal record in another state?

- **Now applying in California?**
- **Do they have to disclose this on their Application?**

YES/NO

Does that mean you won't get a license?

- **NO, it depends**
- **Most time will issue probationary license for 3 years**
- **Must follow all the conditions set by the Dental Board on your Probationary license**

CE requirement

- Dentist **50 units**
- RDH **25 units**
- **Mandatory:**
 - **Infection control (2hrs)**
 - **California Dental Practice Act (2hrs)**
 - **CPR/BLS (2 hrs)**, live course, skills assessment and written test)
 - Must be given by American Red Cross, American Heart Association or CERP OR PACE and American Safety Health Institute (Proposed)

CE Requirements: DA

- **Special Permit Holder: take subject specific CE courses required for permit renewal**
- **DA's must pass 3 courses within 12 months of hire:**
- **Infection control and radiation safety (8hrs) (1 time)**
- **CDPA (2 hrs) once**
- **CPR/BLS on a regular basis**
- **DENTIST is RESPONSIBLE for staff**

HOW LONG DO WE HAVE TO KEEP CE CERTIFICATES FOR?

- **3 RENEWAL PERIODS**
(6 YEARS) IN CASE OF AUDITS

PROPOSED CHANGES TO CE REQUIREMENT

- **ADOPT “Criterion-referenced passing score” for Law & ethics exam**
- **ADD Sexual Harassment prevention CE as acceptable for mandatory credit**
- **REQUIRE CE on Responsibility and Requirement of Prescribing Schedule II Opioid Drugs and Risks of addiction**

Mandatory CE

- ONLY 20% of the CE may be Primarily for dental Management, but also must benefit patient (**10 CREDITS**)
- 80% of the CE must be scientifically oriented courses directly related to dental practice must benefit Patients (**40 CREDITS**)
- **25 CE credits must BE LIVE (AND Remote)**
 - “Live” course could be online
 - Must be able to ask questions
- **25 CE Credits Remote/Home study/recorded/computer**

SUBJECTS **NOT ALLOWED FOR CE CREDITS**

- **Personal Wealth Management courses**
- **“Marketing” courses**
- **Subjects not related to dentistry**
- **Health and Fitness for Dentist**
- **Dance or Sports classes**

*****CE Course must be related to dentistry and that will benefit Patients.**

Case: Patient abandonment, sexual harassment

- Dentist undertook the care and treatment of female patients “L.R”, which treatment included the extraction of two teeth. During office visit, the **dentist put his arm around L.R. and kissed her on the head**. When L.R. verbally reacted to pain of the pending extraction, the dentist **terminated the treatment and ordered her out of his office without finishing the treatment**, thereby necessitating follow-up care with another dentist.
- Dentist **failed to provide patient records within 15 days of the records** having been requested in writing by the board’s investigator who was designated and authorized by the patients to make such a request.
- There were **more than 7 women** claiming similar incident.

Disciplinary Actions

- **Dentist was subject to disciplinary action pursuant to sections 1670 and 726, he was grossly negligent and engaged in unprofessional conduct and sexual misconduct with patients.**
- **Subject to disciplinary action pursuant to section 1670 of the code and sections 1795.12(b) and 1975012(f) of the Health and Safety Code in that he failed to provide patient records within 15 days of the request.**
- **Interim suspension of dental license till further investigation.**

Special Assistants Permits: RDA

2 types:

- **1. Orthodontic Assistants**
- **2. Dental Sedation Assistant**
- **Dental Assistants and RDA's can earn permits**
- **Infection control and Dental Practice Act CEs required to keep permit active**
- **Pass Written Exam**

Supervision Requirement by Dentist

- Direct Supervision

- Procedures based on instructions given by licensed dentist
- Dentist must be **physically present in treatment** facility during performance of those procedures
- Dentist will **check the work** prior to patient dismissal

- General Supervision

- Procedures based on instructions given by licensed dentist
- Dentist's **physical presence not required** during procedure.

TELE-DENTISTRY VIRTUAL DENTAL HOME

- **Tele-dentistry requires documented verbal or written consent from patients**
- **Must provide name, telephone #, practice address and License # prior to treatment**
- **Allows to service underserved areas and ones with greater needs**
 - **General Supervision**

Duties of Unlicensed DA (non-dental personnel and train them)

Extra-oral Duties may include:

- Infection control
- Sterilization
- Charting and recordkeeping

Intra-Oral duties may include:

- Facebow Transfers
- Photography (intra and extraoral area)
- Bite Registration
- Impression for non-prosthodontic appliance

****** Dentist determines competency**

DA--Unlicensed

- Each DA must have **a California Radiation Safety certificate** if they are required to expose and process radiographs.
- Such certification requires successful completion of a Board-approved course.

Registered Dental Assistants must be **certified to perform:**

- Ultrasonic scaling for orthodontic cement removal.
- Placement of pit and fissure sealants.
- Coronal polishing.
- Exposure and processing of radiographs.

*****RDA can everything DA can perform**

RDAEF duties:

- Can perform all RDA duties
- **Plus approved training and exam for licensure**
- Higher Risk Duties: Usually Direct Supervision
- Dentist may use **not more than 3 RDAEF's or RDAHEF's**

RDA and RDAEF

- *Can also perform under the direct supervision of RDH and RDHAP**
- *Perform coronal polishing**
- *Apply topical fluoride**
- *Apply sealants**
- *Must have certification for specialty Clinic/hospital**

RDH duties

- RDH: licensed, may perform all specified DH duties & DA & RDA duties under specified supervision if licensed **before Dec. 31, 2005.**
- **If after 2006, must have RDA license**
- RDHEF: same as RDAEF- operative duties under supervision, with training, same settings (not in California)
- **RDHAP:** Same RDH scope, practice independently;
 - **Without supervision**
 - But with prescription from dentist or physician and surgeon

Special Permits/Certifications for RDH:

- **Periodontal soft tissue curettage.**
- **Administration of local anesthetic.**
- **Administration of nitrous oxide.**

****** Direct Supervision by the Dentist**

RDH SCOPE IN A PRACTICE

- Includes:
- Assessment
- Development
- Planning and implementation of DH care plan
- Oral health education and Screening
- Nutritional counseling
- Diagnose abnormalities in patients

RDH SCOPE INCLUDES :

**Root Planning, Sub-gingival
Irrigation**

**Polishing, Contouring
restorations**

Pit & Fissure sealants

Oral Exfoliative cytology

Exams:

Perio charting

**Charting of lesions,
restorations, missing teeth**

Classification occlusion

Myofunctional evaluation



NOT WITHIN RDH SCOPE

- **Diagnosis and comprehensive treatment planning**
- **Placing or removing permanent restorations**
- **Any type of Surgical procedure**
- **NO PRESCRIBING MEDICATION**
- **General Anesthesia**
- **Oral/Parenteral Conscious Sedation**

LAWS FOR Dental Hygienist

- **RDH must be employed by DDS**
- RDHAP (alternative practice):
 - **Self-employed as sole proprietor** of alternative hygiene practice in areas certified as having dental healthcare shortage
 - Employed by another RDHAP as independent contractor

RDHAP Duties:

- Licensed with **approved post-licensure training** for Alternative Practice
- Can **treat patients up to 18 months without DDS visit**
- Then, must have prescription from DDS or MD:
 - Date services prescribed
 - Expiration date
 - Special instruction for DH
 - Under Prop AB 502, allows treatment of patients after 18 months without visiting dentist

RDHAP

- Must have professional relationship with **few DDS for referrals**
 - Emergencies
 - One or more dentist with active licenses not under Discipline by board

Case: Closing office

- **Dentist closed his office and discontinued phone service without providing prior written notice that treatment was being discontinued and without providing opportunity for patients to secure the services of another dentist.**
- **Multiple ortho patients were in treatment while the dentist closed his office.**
- **Patients had to look for another dentist for their continuation of care (many patients waited few months to years)**

What happened: Disciplinary actions

- Subject to disciplinary action pursuant to Business and Professions Code Section 1670 for **Negligence**
- **Patient Abandonment**
- Repeated acts of Negligence
- **Incompetence** (when other dentist reviewed the work)
- **Dentist lost his license and has to pay Board its costs in investigating and enforcing the case.**

*******When selling your practice or closing, make sure you have sent a letter to all your patients letting them know that they can see Buyer dentist and she/he will be custodian of records. Otherwise, refer them to your colleagues or local dental society or dental school.**

Special Permits for Dentist

Special permits are required for dentists who wish to use sedation in their practice:

Permits include:

- 1. Oral Conscious Sedation for Adults**
- 2. Oral Conscious Sedation for Minors**
- 3. Conscious Sedation**
- 4. General Anesthesia.**

Recommended permit changes for sedation and anesthesia for **children younger than age 13**

- **Types of Sedation**
- **Education Changes for Dentist**
- **Personnel Changes (DA, RDA, RDAEF)**

Minimal Sedation Permit

- Education:
 - **24 hours of instruction**, including airway management and patient rescue from moderate sedation, as well as **one clinical case**.
- Personnel Changes:
 - **At least one additional staff member who is trained** in monitoring and resuscitation of pediatric patients must be present.

Moderate Sedation Permit:

- Education:
 - **Proof of completing an accredited pediatric dentistry residency or equivalent training.**
- Personnel Changes:
 - For **Children under 13**, Need **one additional staff member** who is trained in pediatric advanced life support and airway management must be present (need one staff member)
 - For **Children younger than 7**, an **additional staff member must be present to serve as a patient monitor.** (total 2 staff members)

General Anesthesia Permit

- Education
 - Proof of completing an accredited **pediatric dentistry residency or equivalent training** that **provides competency in deep sedation/general anesthesia for child younger than age 13**
 - Plus proof of completing a sufficient number of **cases for patients younger than age 7.**
- Personnel: **At least 2 additional staff members** must be present
 - For **children ages 7-13, one staff member** must be trained in advanced life support and airway management, and one staff member must be trained in and dedicated to patient monitoring.
 - For **children younger than age 7, one staff member** should be a general anesthesia permit holder, and **one other person**, in addition to the dentist, should be trained in pediatric advanced life support and airway management.

****Four other recommendations include:**

- **Collecting high-quality** data to inform decision-making.
- **Updating definitions** of general anesthesia, conscious sedation and pediatric and adult oral sedation to those used by the American Society of Anesthesiologists.
- Requiring records and equipment updates, including the use of **capnography for moderate sedation**.
- Providing the Dental Board of California additional authority to **strengthen onsite inspections** and evaluations.

Special Permits:

Each permit has special requirement:

- Educational requirements.
- Continuing education requirements.
- Renewal every two years.
- On-site inspections.

Case:

Dentist anesthesiologist had his own office and hired dentist to work for him. A patient 5 years old came in at 645 am for some fillings and extractions under General Anesthesia. Parents told the GP And Anesthesiologist that patient had mild fever and cough and parents gave her Tylenol at 4 am. Anesthesiologist said was ok to proceed with dental work. While working on the patient, Patient had complications and patient died.

Who is Negligent?

- Dental Anesthesiologist worked on the patient knowing that Patient had Nasal Congestion the night before (now elevated Risk Category)
- She also was working on another patient and was not present 100% of the time during the procedure with the patient
- Medications administer via IV opioid Analgesic, caused signification respiratory depression
- Dr. waited 15 minutes before calling Paramedics
- Did CPR in treatment chair in Semi-Fowler Position and not Fully reclined position
- Documentation was not complete
- Patient Died

Cessna 172



DO WE HAVE TO WEAR A NAME TAG?

- **NO** IF THE LICENSE IS IN PUBLIC VIEW
- **EMPLOYEES MUST WEAR ID TAGS WITH 18 FONT OR LARGER**
- **UNLESS SAFETY RISK**
 - **Example: correctional facility, Jail**

WHEN YOU CHART YOUR NOTES

- DDS MUST **SIGN** OR
- DDS **INITIAL WITH LICENSE NUMBER**
- **DATE** ENTRY

Exemptions: License and Informed Consent

- Legal Executor of **Deceased DDS estate may operate practice 1 year** if all legal notification and practice limits are observed (license exception)
- **Students** in approved programs (license exemption)
- **Emergency services** rendered in full faith at scene away from office (IC)
- Treatment of an **emergency arising from prior TX by another DDS:** (not liable for any civil damages) (IC)
- **§1627 DDS not liable for failure to inform if:** (IC)
 - Patient unconscious
 - DDS thinks immediate TX necessary, NO time
 - Patient incapable of giving consent, no time to seek from authorized person

Adverse Event Reporting to Dental Board

WITHIN Seven (7) days

- Death of a patient during dental or dental hygiene procedure
- Discovery of the death of a patient due to dental or dental hygiene procedure performed by Dentist, DA, RDA, RDAEF, RDH
- If a patient is required to be hospitalized for longer than 24 hours any patient to whom oral conscious sedation, conscious sedation or general anesthesia was administered or hospitalization of any patient as a result of dental or dental hygiene treatments. Except for scheduled hospitalizations

Case: Dentist suspects Sexual Harassment by RDH

- Dentist called me and told me that **one of her patient told her that her amazing male RDH has touched the female patient inappropriately by placing dental instruments on her chest.**
- Dentist said the **RDH has been with her for more than 10 years and no complains ever noted and patients said only nice things.**
- Dentist decided to **do NOTHING.**
- Few months later, a second patient called the Dentist and asked to speak to her in private.
- Informed her that **RDH asked for her number and also touched her inappropriately by placing instruments on her chest and touched her multiple times.** Patient said she won't be coming back but wanted to let the dentist know. Also, that RDH insisted on getting her phone number so the patient gave him a wrong number.

What is the right thing to do for a Dentist?

- Dentist can have a talk with RDH and tell him to be careful. Not to place instruments on patient's chest.
- Dentist can fire him but hard to find replacement.
- Dentist can choose to not believe the patients.

WHO WOULD BE LIABLE FOR THE ACTIONS OF RDH? Why?

- In this case, Dentist terminated the employment of the RDH. But, Dentist is on NOTICE and if dentist did anything, DENTIST would be liable.

MANDATED REPORTING

- **DDS, RDH, DA and RDA within the scope of their professional capacity and employment**
- **Responsibility to report suspected**
 - **Child Abuse**
 - **Elder abuse**
 - **Domestic Violence**

WHY?

- Because **65% of physical CHILD ABUSE is visible in head and neck region**
- **75% of physical injuries from DV are to HEAD, NECK, MOUTH and FACE.**
- **\$1000 fine & Jail for not reporting**
 - **LIABLE for CIVIL and CRIMINAL Charges**
 - **More moral responsibility**
- **Report any reasonable suspicions**
 - **Low threshold**

ABUSE

- **CRIME PUNISHABLE BY IMPRISONMENT** (in county jail)
- Under Cal Penal Code §273a

What is ABUSE?

- **Non- Accidental repetitive** behavior
- **To causes physical injury** to the person
- **An act or failure to act** resulting in:
 - **Physical abuse / neglect or**
 - **Sexual abuse / exploitation. Attempted abuse**
 - **Emotional abuse**
 - **Fatal abuse preceded by minor maltreatment**

TYPES OF ABUSE:

- **1. Elder Abuse and Neglect**
- **2. Child Abuse and Neglect**
- **3. Domestic Violence (DV)**
- **4. Intimate Partner Violence**

CLINICAL SIGNS OF ABUSE

- **New and repeated Bruises**, Burns, lacerations, abrasions, head skeletal or pattern injuries on head, neck, limbs, and parts of body
- **Fractured bones**
- **Broken teeth, missing teeth**
- **Bruises in the mouth**
- **Bite marks, bloody nose, eyes, ears, mouth**
- **Strangulation marks** – visible neck bruises, voice changes, swallowing and breathing difficulty
 - Can cause death up to 36 hours after injury

Dental Neglect

*Failure to fully informed parents / caregiver to **seek or follow through with dental treatment essential** for adequate function and freedom from pain and infection

Mainly in **Children**

***Rampant Caries**

***Malocclusion**

***Speech issues**

Elder abuse

- **90% caused by family member**
- Physical abuse
- Neglect
- Fiduciary abuse
- Abandonment
- Isolation
- Sexual assault

What should you look for: Elder Abuse?

- Bruises, marks, injuries
- Dehydration, malnutrition, poor oral and body hygiene
- Fear, anger, depression
- **Interaction between caregiver and elder**
 - How the elder is treated by caregiver
 - Keep in mind that elder do sometimes have dementia and other neurological diseases

Behavior of the caregiver:

Impaired

Narcissistic

Controlling

Bullying

Sadistic

Domineering

But they could be also overwhelmed

Documentation / Reporting

- Objective observation and descriptions
- Observe demeanor and non-verbal behavior
- Get histories from patient and caregiver separately → COMPARE
- Is injury consistent with history?
- Other similar injuries
- X-rays, Photos, models

Felony

- **Inflict injury upon a child or**
 - **Inhumane corporal punishment or**
 - **An injury resulting in a traumatic condition**
-
- **PUNISHMENT: PRISON**
 - **Cal Penal Code §273d**

CHILD, ELDER ABUSE, Domestic Violence

Penal Code § 11165.6

- **CHILD \leq 18 YEARS AGE**
- **ELDER \geq 65 YEARS**
- **SPECIAL DISABILITY IS ANY AGE**

Doctor Patient Privilege

- When it comes to reporting abuse, the **patient doctor privilege does NOT APPLY**
- Must report if patient, or anyone related or non-related to **patients confides that there is abuse**
- **If you suspect abuse or neglect must report**
- **EXEMPT from HIPPA regulations**

REPORT: CHILD ABUSE / ELDER ABUSE / DV

- CHILD ABUSE: REPORT TO COUNTY WELFARE AGENCY OR POLICE
- ELDER ABUSE: ADULT WELFARE PROTECTIVE SERVICES OR POLICE
- DOMESTIC ABUSE: CALL LOCAL POLICE

- First, **CALL AND REPORT**
- Then, **WRITTEN REPORT WITHIN 36 HRS**
- *REPORTER IS IMMUNE FROM CRIMINAL AND CIVIL LIABILITY*
- *NOT REPORTING = MISDEMEANOR*

Office Protocols for reporting Abuse

- It is important to **establish protocols** and office procedures regarding reporting abuse
- Mandated reporter responsibilities are a **team effort**.
- **Collaboration and sharing** assists in gathering observations and data.
- One person can **make a report** on behalf of the team.
- Employers are required to discuss with employees mandated reporting requirements.
- Employers should place signed, Acknowledgment Documents in employees' personnel files.
- Employers are strongly encouraged to **provide employee training** regarding mandated reporting requirements and state law.

Clinical Protocols for Gathering Data of Abuse

- Gathering **objective observations of abuse begins when patients enter the doors of your practice.**
- Observations should include:
 - **General physical assessments**
 - **Behavior assessments**
 - **Patient histories**
 - **Oral examinations**
 - Documentation
 - Consultation
 - Determination if action is necessary.

Legal Issues and Reporting Suspected Abuse Confidentiality

- Mandated reporters' **identities are kept confidential**.
- If a case should go to court, the mandated reporter's identity would be made known **only to the court** through your written report and pertinent documentation, or if you were required to testify.
- Most cases **do not** go to court.

Immunity for Healthcare Professional

- Mandated reporters are **immune from civil or criminal liability** whether or not it turns out that abuse has occurred
- However, **mandated reporters can be sued**
- If sued, mandated reporters may incur **legal fees** which can be **reimbursed by the state up to \$50,000**

Penalties for Not Reporting

- If a dental professional suspects abuse or neglect,
 - **does not report it,**
 - **the abuse is discovered** to have occurred,
 - Then the Dentist can be found **liable for civil or criminal penalties** resulting in fines of up to **\$1,000** and jail sentences up to **6 months.**

***Resources for Abuse Reporting**

- **Child Protective Services**, Adult Protective Services or Local Law Enforcement. California Long Term Care Ombudsmen Crisis Line: **1-800- 231-4024**
- **California Department of Aging** Information Line:
1-800-510-2020 <http://www.aging.ca.gov>.
- The National Domestic Violence Hotline: **1-800-799-SAFE**.
- Dental Professionals Against Violence: **1-800-CDA-SMILE extension 4921**.

Scope of Practice Cases: Botox/Dermal Fillers

*****Can do Botox within the scope of dentistry?**

YES

Therapeutic use, must be trained

Example: TMJ treatment

****Do not do BOTOX for other than dentistry:**

NO cosmetic use

****Cosmetic procedures are very subjectively analyzed by the patient more than the doctors**

CASE: Holistic Dentist

- Dr. Performed Vega-Galvanic Testing on a patient to conduct electrical conductivity in oral cavity
- Not a test to diagnose dental problems
- Dr. was trying to cure insomnia due to excessive metal conductivity
- NOT within the scope of dentistry, do not do it.

CONTROLLED SUBSTANCE ACT = FEDERAL LAW

- **Schedule I** : no accepted medical use, illegal to use in dentistry
 - Heroin, LSD
- **Schedule II**: high potential for abuse, severe psychological or physical dependency
 - Vicodin, morphine, codeine, opium
- **Schedule III**: lower potential for abuse than Schedule II.
 - Tylenol with codeine, Steroids
- **Schedule IV**: lower potential for abuse than Schedule III
 - Darvon, Xanax, Valium
- **Schedule V**: lowest potential for abuse
 - Robitussin, OTC cough meds

CURES 2.0

- Controlled Substance Utilization Review & Evaluation/System
- State database of patients with controlled-substance abuse history
- DDS can access only for patient care
- HIPAA and State health info privacy laws apply
- Must register if have DEA #

SCHEDULE II PRESCRIPTIONS

- **YOU MUST ALWAYS CHECK PATIENTS' PRESCRIPTION HISTORY WITH CURES 2.0**
 - **YES,**
 - **UNLESS FOR**
 - **SURGICAL PROCEDURE**
 - **QUANTITY \leq NONREFILLABLE 5-DAY SUPPLY**

PRESCRIPTION DISPENSING

- **MUST MEET STATE AND LOCAL LAWS FOR STORAGE**
at all places the drugs are stored
- Records must be kept in **3 places**
 - **Patients chart**
 - **Separate in log**
 - **Out log**

Rx Dispensing (in office) Labeling Requirements:

- Patient name
- Doctor's office name
- Date dispensed
- Name of drug
- Dosage
- Quantity
- Exp. Date
- Directions for use

DISPENSING SCHEDULE II AND III DRUGS

- **REPORT MONTHLY TO CURES**
- **LOCK UP CONTROLLED DRUGS (IN 2 LOCKED AREAS)**
- **Maintain a log**
- **Prior to dispensing, offer to write RX and have written disclosure of patient's choice to obtain meds at Pharmacy**
- **Child-proof containers now required**

E-Prescription

- *Beginning January 1, 2022, **all prescriptions** issued by a licensed healthcare practitioner to a California pharmacy must be submitted electronically. In addition, all California pharmacies must have the capability to receive prescriptions electronically.*
- **California Business and Professions Code (BPC) section 688(b)**

E-Prescription exemptions

- Drugs for **terminally ill**
- Prescriptions dispensed **outside California**
- **Electric failure or technical issues**
 - **Must record in chart with 72 hours** after services are restored

Paper Prescription back up to electronic

Must use DOJ approved security prescription forms with unique twelve (12) character serial number and corresponding barcode complaint with requirements introduced in AB 149 and HSC 11162.1

BE AWARE: OPIOIDS

Minors and RX

- *Informed consent**
- *Discuss risk of opioid addiction and overdose**
- *Discuss mental health disorder and Opioid addiction**
- *Opioid and Alcohol**
- *CNS depressants**
- *Document Risk discussed**

Case: Dentist self prescribing hydrocodone and Viagra for erectile dysfunction

Dr. Failed to provide drug dispensing record to board investigators

She said she should not RX for her own use and gave it to a friend

Admitted to being an addict and relapsed over 1.5 year ago.

PRESCRIPTION BY THE DENTIST

- Can a dentist prescribe antibiotics for UTI to staff?
 - **NO, must be within the scope of Dentistry**
- Can a dentist prescribe to patient who has never been to the practice?
 - **No, Must have patient-doctor relationship, dr must see the patient first**
- Can a dentist prescribe for Sinus infection?
 - **MAYBE**
- Can a dentist prescribe medication for Non-Dental needs? **NO**
- Insurance fraud, Unlawful practice of medicine

UNPROFESSIONAL CONDUCT

“ THE COMMITTING OF ANY ACT / ACTS OF GROSS IMMORTALITY SUBSTANTIALY RELATED TO THE PRACTICE OF DENTISTRY IS CONSIDERED UNPROFESSIONAL CONDUCT.”

A licensed dental professional is abusing drugs or alcohol

BOARD CAN:

- Can **revoke his or her license** if they **refuse to enter a diversion program**
- Can force the individual into a diversion program
- Has the option to offer a diversion program as part of a rehabilitative package
- **Must offer the diversion program to all licensed individuals with a drug/alcohol problems.**

***Diversion Program For Dentist**

- The Legislature and Dental Board of California (DBC) established a diversion program for licensed dental professionals who may be impaired by drug and/or alcohol abuse.
- The program's aim is **to treat licensed dental professionals who are so afflicted allowing them to return to work in a manner that will not endanger the public health and safety.**
- The diversion program is a voluntary, alternative approach to traditional disciplinary actions.
- The DBC has established criteria for acceptance, denial or termination of licentiates into the program.
- **An individual may enter the program either by:**
 - **Voluntarily request**
 - **Board requirement as a condition of a licentiate's disciplinary probation.**

UNPROFESSIONAL CONDUCT

- *Lack of informed consent**
- *Negligence**
- *Sexual misconduct**
- *Concerns patients, employees and Dentist**

Unprofessional Conduct by Dentist

- **Failing** to complete appropriate **continuing education**
- Providing **fraudulent and forged evidence** to the DBC regarding continuing education
- **Falsifying a prescription** for self-use
- Practicing **beyond the scope** of the definition of dentistry
- ****Requiring patients sign a Release from All Claims form before releasing their records**

More Examples of Unprofessional Conduct

- Patient abandonment
- Communicating with patients using threats or harassment
- Aiding or abetting of any unlicensed person to practice dentistry
- Act or acts of sexual abuse, misconduct or relations with a patient.
- Alteration of a patient's record with intent to deceive
- Excessive prescribing or administering drugs
- Unsanitary or unsafe office conditions, as determined by customary practices and standards of the dental profession
- Practicing with an expired license

Example:

- **Patient wants a copy of their charts, but they have a balance?**
 - **Can NOT hold it hostage**
 - **MUST release it**
 - **Can you charge? Yes, for your time and supplies**
 - **Then can send them to collections**

Examples of Incompetence and Negligence

- **Not informing and discussing** treatment plan
- Doing root canal **without** a Rubber Dam
- **Placing instruments on patient's chest (Battery)**
- **Covering a pediatric patient's mouth and nose** to calm down the patient

CASE: Medi-Cal Fraud

- **Dentist was convicted of Medi-Cal fraud in 1998.**
- **In court, dentist said he did not know that his staff was billing Medi-Cal for dentures that were not delivered.**
- **Dentist also claimed that he did not do anything wrong since patient would not come back to get their dentures.**
- **There were many other allegations besides the one discussed.**
- **Licensed is revoked by Dental Board of California.**

Now What: How can a dentist get their license back?

- Its not that easy, once you are under the microscope of the dental board.
- There are terms and conditions of the court order you have to satisfy.
- Tried to reduce the conviction from felony to misdemeanor
- ACCEPT RESPONSIBILITY for your wrongdoing
- Express remorse
- Get Counseling
- Volunteer at non-profits
- Sought assistance from your Rabbi or Priest or Religious leader or Psychologist
- **Establish REHABILITATION** and eligibility to have your dental license restored
- Dentist got his license restored in 2008.

Gross Negligence:

Gross negligence occurs when a medical professional

- **willingly performs a reckless action** (carelessness)
- causing foreseeable bodily harm with complete disregard for standard of care expected of a medical professional.
- It can still be difficult to differentiate gross negligence from
- **Negligence which is a failure to exercise reasonable care.**

Examples of Repeated Acts of Negligence and Incompetence by Dentist

- Not taking X-rays, **NO FMX for over 18 months**
- **Failing to screen patient for oral cancer**
- **No Periodontal exam done**
- **Treating intoxication patient** who took Xanax bf appt
- **Failing to biopsy** a lesion present for 7 years
- **Prescribing patients' narcotics** with additional issues

Case: Driving under the Influence

Dentist was **stopped by the California Highway patrol for erratic driving** around midnight.

- Dentist was given a **field sobriety test** following a stop, and in the opinion of the Officer, ABC showed **evidence of impairment**. A breath analysis test revealed that ABC had **blood alcohol reading of .16** which was in excess of the allowable maximum of .08.
- Further, a subsequent search of Dentist's vehicle disclosed a plastic bag which contained an unidentified **white powder. Confirmed to be cocaine.**
- As a result, criminally charged with two felony counts and one misdemeanor.

Criminal Convictions: IN Professional and Personal life

- The Dental Board of California has the jurisdiction to revoke or suspend licenses for criminal convictions substantially related to the qualifications, functions or duties of licensees.
- The DBC is not required to conduct its own investigation and **may use any court conviction as conclusive evidence.**
- Types of crimes that constitute grounds for discipline are **convictions within a licensee's personal life that reflects upon a professional's life**
- Examples of convictions:
 - possession of a controlled substance (**Illegal Drugs**)
 - sexual battery (**Rape**)
 - operating a vehicle under the influence of alcohol or drugs (**DUI**)

Probation of Dentist

- The Dental Board may place a licensee on probation to rectify the condition which required discipline from the Board.
 - This includes, but is not limited to
 - **additional training,**
 - **medical exam by physicians** appointed by the Board,
 - **limitations of Scope of practice** and
 - **restitution of fees** to patients or payors.

WHAT HAPPENS IF THE DDS IS ON PROBATION:

- **MUST notify the patients** prior to performing any treatment
- **Detail of probation**, practice restrictions
- **End date** of probation
- How to access Board documents
- **Exceptions:** emergency treatment in urgent care facility
- Patient unable to comprehend disclosure

**What is the best way
to protect yourself as
a dentist?**

***Practice above**

Standard of Care

***Informed consent**

***Document, Document,
Document**

***Inform your malpractice
insurance**

***Understand your
patient and
COMMUNICATE**

**DO NOT PRACTICE OUTSIDE THE
SCOPE OF DENTISTRY.**

**Dental board will stack multiple
violations against you once you are
under their radar.**

Consent:

- **Why? Consent establishes Permission and Responsibility**
- **Everyone has a right to make an informed decision about their health and body**
- **Written Informed consent- make patient understand**
- **Not getting consent and treatment beyond consent is Medical Malpractice (Battery)**
- **Forgetting consent is Negligence**
- **ALWAYS record verbal consent**

Informed consent

- Must be made **knowingly and free-will** by patient
- **DENTIST ALONE** = responsible for consent and must be involved in consent
- **Express consent** (written/verbal) vs. **Implied** (patient is in chair for RCT)
- **Methods:**
 - Verbal
 - Written
 - Pictures
 - Video
 - Forms

CONSENT TO TREAT MINORS

- WHO IS A MINOR? Under the age of 18
- Minors cannot legally consent to their treatment or financial commitment
- Must have Parental consent before any treatment
 - Family member??
- Exceptions: is ongoing Ortho treatment
 - Renew consent yearly

WHO CAN CONSENT FOR MINOR AND ELDERS?

MINORS:

- PARENTS
- ADOPTIVE PARENTS
- LEGAL GUARDIAN

ELDERS:

- CAREGIVER WITH AUTHORIZED AFFIDAVIT
- FAMILY MEMBERS WITH LEGAL AUTHORITY (AA)

CDA Members:

- **An updated “Guidelines for Informed Consent” is available in **NINE languages** for CDA members on the Practice Support website**

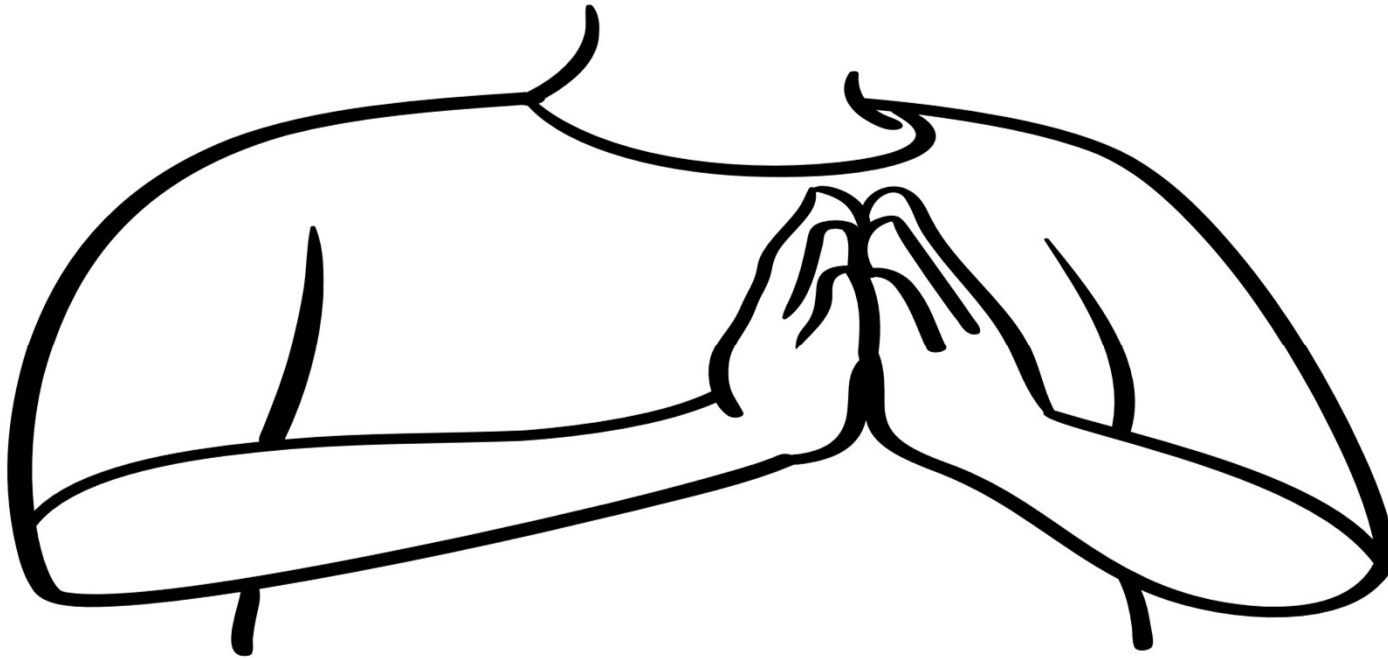
ETHICS AND BEHAVIOR PROMISED

- ACCEPTING PATIENTS – **NO DISCRIMINATION**, yes to Discretion
- Competence- take **CE courses and be knowledgeable**
- **Integrity** (honor and decency)
- **Service the public**
- **Veracity** (honesty)
- **Obligation to inform and explain**
- **Compassion and Kindness**

DAILY PRACTICE:

- **BE GOOD TO YOURSELF**
- **BE HONEST**
- **PROTECT YOURSELF AND STAFF**
- **PROTECT YOUR PATIENTS AND DO NO HARM**
- **DO FOLLOWUP AFTER COMPLICATED PROCEDURE**
- **DO GOOD WORK....SO YOU CAN SLEEP AT NIGHT.**

Thank you Everyone!!
Thank you Dr. Salwan



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