



Legal Reference Guide For California Dentists

Chapter 1 — Introduction

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1. How do I use this guide?

We have compiled the legal questions that you and your colleagues most frequently ask about practice management and professional responsibility. We have organized the answers by subject and have attempted to provide information and resources that will help you navigate the legal issues pertaining to a dental practice.

This book is a reference guide and is intended to provide basic, informational answers only. It is not a substitute for legal advice. Legal guidance requires careful assessment of the facts of a particular situation, which are then weighed against all applicable laws. Use this guide to conduct initial research for your situation. Even if your questions on whether you “can do something” or “should do something” are not satisfied, you will find the information useful when you meet with your attorney.

2. What laws should I be concerned with?

The state Dental Practice Act contained in the California Business and Professions Code, §1600 et. seq., regulates the profession. Each state has its own practice act – what may be legal in one state may be restricted in California. For example, a dentist in California is required to obtain an oral cosmetic surgery permit to use Botox for a cosmetic procedure. See Chapter 3 for additional information on the state Dental Practice Act.

Federal and state laws that apply to most businesses, including dental practices, address the areas of labor, employment, anti-discrimination and harassment, truth-in-advertising, communications, occupational health and safety, taxes and hazardous materials and waste management. Health care-specific federal and state laws include requirements for controlled substances, radiation safety and access to and protection of patient information. Certain federal laws can have significant impact on the practice of dentistry, for example, the Americans with Disabilities Act (AwDA), the Health Insurance Portability and Accountability Act (HIPAA). Local city and county governments individually determine requirements and fees for business licenses and permits, such as burglar-alarm and outdoor-sign permits. Counties may assess a tax on business personal property. Local governments are responsible for building code enforcement and local land-use or zoning decisions. A table summarizing the laws and regulations affecting dental practices in California is included as an appendix to this document.

3. How do the laws work?

Society holds certain trades and professions, such as dentistry, to a higher level of accountability than others because these trades and professions provide significant benefits to the public and also present significant risk. Society grants the privilege of practicing dentistry through the issuance of licenses and permits. The system of licenses and permits, administered at the state level, enables the public to establish minimum standards of practice. The Dental Board of California is charged with protection of the public, which it does by licensing competent professionals, taking action to maintain appropriate professional standards, requiring maintenance of professional competence and educating the public about oral health.

Laws in general are enacted with the intent of benefiting or protecting the public. Federal, state and local agencies have specific jurisdictional areas of enforcement, although these sometimes overlap. The fees and fines associated with the laws go toward financing enforcement and compliance programs. Civil disputes (such as a patient filing a malpractice claim or a dentist pursuing an outstanding debt) and some laws (such as disability access and unfair business practice) rely on a different set of laws, which are enforced by private parties.

4. Will you give me a referral to an attorney?

Yes. CDA can refer you to attorneys in your area who can help with business and employment issues. Contact CDA Practice Support at 866.232.7645 for a referral.

5. What do CDA's attorneys do for me?

CDA's legal department assists members by staying on top of current and pending laws and regulations that affect the dental profession and the insurance industry. In addition to protecting and defending CDA and its affiliates and subsidiaries from costly litigation, CDA's attorneys intervene in cases of significance to the dental profession, such as amalgam and third-party payer issues.

Because CDA and its affiliates and subsidiaries are the sole clients of CDA's attorneys, they cannot provide direct legal advice or services to individual members or components. CDA attorneys will do their best, short of providing direct legal advice, to help you find answers to your legal questions. CDA's attorneys strive to assure that your association and insurance entities are in compliance with the law and safe from litigation, thus keeping operational costs down and in turn keeping membership dues as low as possible.