

Date of Hearing: April 25, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 224 (Thurmond) – As Amended April 20, 2017

SUBJECT: Dentistry: anesthesia and sedation.

SUMMARY: Requires a separate, qualified anesthesia provider to administer deep sedation or general anesthesia to children under seven years old; updates the permit structure for minimal, moderate, and deep sedation, and general anesthesia; and updates the definitions of anesthesia.

EXISTING LAW:

- 1) Authorizes the Dental Board of California (DBC) under the Department of Consumer Affairs (DCA) to regulate the practice of dentistry. (Business and Professions Code (BPC) § 1600 *et seq.*)
- 2) Specifies that no dentist shall administer or order the administration of general anesthesia on an outpatient basis for dental patients unless the dentist either possesses a current license in good standing to practice dentistry in this state and holds a valid general anesthesia permit issued by the DBC or possesses a current permit and holds a valid general anesthesia permit issued by the DBC. (BPC § 1646.1(a))
- 3) Prohibits a dentist from administering or ordering the administration of deep sedation or general anesthesia to patients under 13 years of age unless that dentist holds a pediatric endorsement for the general anesthesia permit, as required by the DBC, allowing the administration of deep sedation or general anesthesia for patients 12 years of age or younger. (BPC § 1646.1 (b))
- 4) States that no dentist shall order the administration of general anesthesia unless the dentist is physically within the dental office at the time of the administration.
- 5) Requires the dentist to have completed a Commission on Dental Accreditation (CODA) accredited or equivalent residency training program that provides competency in the administration of deep sedation and general anesthesia in order to be eligible to perform deep sedation or general anesthesia on children under 13 years of age. For patients under seven years of age, the applicant shall provide proof of completion of at least 52 cases to establish competency, both at the time of initial application and at renewal. (BPC § 1646.1(e))
- 6) Specifies that a dentist who desires to administer or order the administration of general anesthesia shall apply to the DBC on an application form prescribed by the DBC. The dentist must submit an application fee and produce evidence showing that he or she has successfully completed a minimum of one year of advanced training in anesthesiology and related academic subjects approved by the DBC, or equivalent training or experience approved by the DBC, beyond the undergraduate school level. (BPC § 1646.2(a))
- 7) Requires that the application for a permit shall include documentation that equipment and drugs required by the DBC are on the premises. (BPC § 1646.2(b))

- 8) Requires any dentist holding a permit to maintain medical history, physical evaluation, and general anesthesia records as required by DBC regulations. (BPC § 1646.3)
- 9) Specifies that for patients seven to 13 years of age, the dentist and at least two support staff shall be present, unless there is a dedicated general anesthesia provider present. The dentist and at least one support staff member shall be trained in Pediatric Advanced Life Support (PALS) and airway management, equivalent to the American Academy of Pediatrics and American Academy of Pediatric Dentistry (AAP-AAPD) Guidelines or as determined by the DBC. That staff member shall be dedicated to monitoring the patient throughout the procedure. (BPC § 1646.3(b))
- 10) Specifies that for children under seven years of age, there shall be present an operating dentist and either a general anesthesia permit holder or a nurse anesthetist directly supervised by a general anesthesia permit holder. The general anesthesia permit holder or the nurse anesthetist directly supervised by a general anesthesia permit holder shall be solely dedicated to administering anesthesia, monitoring the patient, and managing the airway through recovery. When a dedicated anesthesia provider is utilized, in addition to the operating dentist, both the dentist and at least one staff member shall be trained in PALS and airway management, equivalent to the AAP-AAPD Guidelines or as determined by the DBC. (BPC § 1646.3(c))
- 11) Prior to the issuance or renewal of a permit for the use of general anesthesia, the DBC may, at its discretion, require an onsite inspection and evaluation of the licensee and the facility, equipment, personnel, and procedures utilized by the licensee. The permit of any dentist who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the DBC notifies the dentist of the failure, unless within that time period the dentist has retaken and passed an onsite inspection and evaluation. Every dentist issued a permit under this article shall have an onsite inspection and evaluation at least once every five years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit. (BPC § 1646.4(a))
- 12) Requires the DBC to contract with public or private organizations or individuals expert in dental outpatient general anesthesia to perform onsite inspections and evaluations. The DBC may not, however, delegate its authority to issue permits or to determine the persons or facilities to be inspected. (BPC § 1646.4(b))
- 13) Requires a permittee to complete 24 hours of approved courses of study related to general anesthesia as a condition of renewal of a permit. Those courses of study shall be credited toward any continuing education required by the DBC. (BPC § 1646.5)
- 14) Requires a physician and surgeon to administer general anesthesia in the office of a licensed dentist for dental patients, without regard to whether the dentist possesses a permit issued pursuant to this article, if both of the following conditions are met: (BPC § 1646.9)
 - a) The physician and surgeon possesses a current license in good standing to practice medicine in this state.
 - b) The physician and surgeon holds a valid general anesthesia permit issued by the DBC.

- 15) States that a physician and surgeon who desires to administer general anesthesia shall apply to the DBC on an application form prescribed by the DBC and shall submit all of the following: (BPC § 1646.9 (b))
 - a) The payment of an application fee.
 - b) Evidence satisfactory to the Medical Board of California showing that the applicant has successfully completed a postgraduate residency training program in anesthesiology that is recognized by the American Council on Graduate Medical Education.
 - c) Documentation demonstrating that all equipment and drugs required by the DBC are possessed by the applicant and shall be available for use in any dental office in which he or she administers general anesthesia.
 - d) Information relative to the current membership of the applicant on hospital medical staffs.
- 16) States that prior to issuance or renewal of a permit pursuant to this section, the DBC may, at its discretion, require an onsite inspection and evaluation of the facility, equipment, personnel, including, but not limited to, the physician and surgeon, and procedures utilized. At least one of the persons evaluating the procedures utilized by the physician and surgeon shall be a licensed physician and surgeon expert in outpatient general anesthesia who has been authorized or retained under contract by the DBC for this purpose.
- 17) Includes findings and declarations as follows:

“The Legislature further finds and declares that the educational standards presently required for general anesthesia should be required when the degree of sedation in the continuum of sedation is such that there is a reasonable possibility that loss of consciousness may result, even if unintended. These degrees of sedation have been referred to as ‘deep sedation’ and ‘light general anesthesia’ in dental literature. However, achieving the degree of sedation commonly referred to as ‘light conscious sedation,’ where a margin of safety exists wide enough to render unintended loss of consciousness unlikely, requires educational standards appropriate to the administration of the resulting predictable level of consciousness.”
- 18) Defines “conscious sedation” as a minimally depressed level of consciousness produced by a pharmacologic or nonpharmacologic method, or a combination thereof, that retains the patient’s ability to maintain independently and continuously an airway, and respond appropriately to physical stimulation or verbal command. (BPC § 1647.1)
- 19) Specifies that “conscious sedation” does not include the administration of oral medications or the administration of a mixture of nitrous oxide and oxygen, whether administered alone or in combination with each other.
- 20) Requires the drugs and techniques used in conscious sedation to have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from painful stimuli shall not be considered to be in a state of conscious sedation. (BPC § 1647.1(b))

- 21) Requires for the very young or handicapped individual, incapable of the usually expected verbal response, a minimally depressed level of consciousness for that individual should be maintained.
- 22) Requires no dentist to administer or order the administration of, conscious sedation on an outpatient basis for dental patients unless one of the following conditions is met: (BPC § 1647.2)
 - a) The dentist possesses a current license in good standing to practice dentistry in California and either holds a valid general anesthesia permit or obtains a permit issued by the DBC authorizing the dentist to administer conscious sedation.
 - b) The dentist possesses a current permit and either holds a valid anesthesia permit or obtains a permit issued by the DBC authorizing the dentist to administer conscious sedation.
- 23) Specifies that a dentist who desires to administer or order the administration of conscious sedation shall apply to the DBC on an application form prescribed by the DBC. The dentist shall submit an application fee and produce evidence showing that he or she has successfully completed a course of training in conscious sedation (BPC § 1647.3 (a)).
- 24) Requires the application for a permit shall include documentation that equipment and drugs required by the DBC are on the premises.
- 25) A course in the administration of conscious sedation shall be acceptable if it meets all of the following as approved by the DBC: (BPC § 1647.3(c))
 - a) Consists of at least 60 hours of instruction.
 - b) Requires satisfactory completion of at least 20 cases of administration of conscious sedation for a variety of dental procedures.
 - c) Complies with the requirements of the Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry Association.
- 26) Requires a permittee to complete 15 hours of approved courses of study related to conscious sedation as a condition of renewal of a permit. Those courses of study shall be credited toward any continuing education required by the DBC. (BPC § 1647.5)
- 27) A physical evaluation and medical history shall be taken before the administration of conscious sedation. Any dentist holding a permit shall maintain records of the physical evaluation, medical history, and conscious sedation procedures used as required by DBC regulations. (BPC § 1647.6)
- 28) States that prior to the issuance or renewal of a permit to administer conscious sedation, the DBC may, at its discretion, require an onsite inspection and evaluation of the licentiate and the facility, equipment, personnel, and procedures utilized by the licentiate. The permit of any dentist who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the DBC notifies the dentist of the failure unless, within that time period, the dentist has retaken and passed an onsite inspection and evaluation. Every

dentist issued a permit under this article shall have an onsite inspection and evaluation at least once in every six years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit. (BPC § 1647.7 (a))

- 29) Specifies that an applicant who has successfully completed the course may be granted a one-year temporary permit by the DBC prior to the onsite inspection and evaluation. Failure to pass the inspection and evaluation shall result in the immediate and automatic termination of the temporary permit. (BPC § 1647 (c))
- 30) The DBC may contract with public or private organizations or individuals expert in dental outpatient conscious sedation to perform onsite inspections and evaluations. The DBC may not, however, delegate its authority to issue permits or to determine the persons or facilities to be inspected. (BPC § 1647 (c))

THIS BILL:

- 1) Defines “deep sedation” as a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.
- 2) Defines “general anesthesia” as a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.
- 3) Prohibits a dentist from administering or ordering the administration of deep sedation or general anesthesia on an outpatient basis for dental patients unless the dentist either possesses a current license in good standing to practice dentistry in this state and holds a valid general anesthesia permit issued by the DBC or possesses a current permit and holds a valid general anesthesia permit issued by the DBC.
- 4) Prohibits a dentist from administering or ordering the administration of deep sedation or general anesthesia to patients under 13 years of age unless that dentist holds a pediatric endorsement for the general anesthesia permit, as required by the DBC, allowing the administration of deep sedation or general anesthesia for patients 12 years of age or younger.
- 5) Prohibits a dentist from administering or ordering general anesthesia unless the dentist is physically within the dental office at the time of the administration.
- 6) Specifies that a general anesthesia permit shall expire on a specified date that next occurs after its issuance.
- 7) Requires a dentist to have completed a Commission on Dental Accreditation (CODA) accredited or equivalent residency training program that provides competency in the administration of deep sedation and general anesthesia in order to be eligible to perform deep sedation or general anesthesia on children under 13 years of age. For patients under seven

years of age, the applicant must provide proof of completion of at least 52 cases to establish competency, both at the time of initial application and at renewal.

- 8) Specifies that the provisions above do not apply to the administration of local anesthesia, minimal sedation, or moderate sedation.
- 9) Indicates that a dentist who desires to administer or order the administration of deep sedation or general anesthesia shall apply to the DBC on an application form prescribed by the DBC. The dentist must submit an application fee and produce evidence showing that he or she has successfully completed a minimum of one year of advanced training in anesthesiology and related academic subjects approved by the DBC, or equivalent training or experience approved by the DBC, beyond the undergraduate school level.
- 10) Requires a physical evaluation and medical history be taken before the administration of deep sedation or general anesthesia. Any dentist holding a permit shall maintain medical history, physical evaluation, and deep sedation and general anesthesia records as required by DBC regulations.
- 11) Requires, for patients seven to 13 years of age, the dentist and at least two support staff shall be present, unless there is a dedicated general anesthesia provider present. The dentist and at least one support staff member shall be trained in PALS and airway management, equivalent to the AAP-AAPD Guidelines or as determined by the DBC. That staff member shall be dedicated to monitoring the patient throughout the procedure.
- 12) Specifies that for children under seven years of age, there shall be present an operating dentist and either a general anesthesia permit holder or a nurse anesthetist directly supervised by a general anesthesia permit holder. The general anesthesia permit holder or the nurse anesthetist directly supervised by a general anesthesia permit holder shall be solely dedicated to administering anesthesia, monitoring the patient, and managing the airway through recovery. When a dedicated anesthesia provider is utilized, in addition to the operating dentist, both the dentist and at least one staff member shall be trained in PALS and airway management, equivalent to the AAP-AAPD Guidelines or as determined by the DBC.
- 13) Specifies that prior to the issuance or renewal of a permit for the use of deep sedation or general anesthesia, the DBC may, at its discretion, require an onsite inspection and evaluation of the licensee and the facility, equipment, personnel, and procedures utilized by the licensee. The permit of any dentist who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the DBC notifies the dentist of the failure, unless within that time period the dentist has retaken and passed an onsite inspection and evaluation. Every dentist issued a permit under this article shall have an onsite inspection and evaluation at least once every five years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit.
- 14) Requires a permittee to complete 24 hours of approved courses of study related to deep sedation or general anesthesia as a condition of renewal of a permit. Those courses of study shall be credited toward any continuing education required by the DBC.
- 15) Specifies that nothing in this chapter shall be construed to authorize a dentist to administer or directly supervise the administration of general anesthesia or deep sedation for reasons other than dental treatment.

- 16) Specifies that a physician and surgeon who desires to administer deep sedation or general anesthesia shall apply to the DBC on an application form prescribed by the DBC and shall submit all of the following:
 - a) The payment of an application fee prescribed by this article.
 - b) Evidence satisfactory to the Medical Board of California showing that the applicant has successfully completed a postgraduate residency training program in anesthesiology that is recognized by the American Council on Graduate Medical Education.
 - c) Documentation demonstrating that all equipment and drugs required by the DBC are possessed by the applicant and shall be available for use in any dental office in which he or she administers deep sedation or general anesthesia.
 - d) Information relative to the current membership of the applicant on hospital medical staffs.
- 17) Permits the DBC, prior to issuance or renewal of a permit, at its discretion, to require an onsite inspection and evaluation of the facility, equipment, personnel, including, but not limited to, the physician and surgeon, and procedures utilized. At least one of the persons evaluating the procedures utilized by the physician and surgeon shall be a licensed physician and surgeon expert in outpatient deep sedation or general anesthesia who has been authorized or retained under contract by the DBC for this purpose.
- 18) Makes the following findings and declarations:

“The Legislature further finds and declares that the educational standards presently required for deep sedation and general anesthesia should be required when the degree of sedation in the continuum of sedation is such that there is a reasonable possibility that loss of consciousness may result, even if unintended moderate sedation, previously referred to as ‘conscious sedation,’ where a margin of safety exists wide enough to render unintended loss of consciousness unlikely, requires educational standards appropriate to the administration of the resulting predictable level of consciousness.”
- 19) Replaces "conscious sedation" with “moderate sedation” and defines it as a drug-induced depression during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation, no interventions are required to maintain a patient’s airway, spontaneous ventilation is adequate, and cardiovascular function is usually maintained.
- 20) States that the drugs and techniques used in moderate sedation have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from painful stimuli shall not be considered to be in a state of moderate sedation.
- 21) States that for the very young or patients with intellectual disabilities individual, incapable of the usually expected verbal response, a minimally depressed level of consciousness for that individual should be maintained.

- 22) Prohibits a dentist from administering or ordering the administration of moderate sedation on an outpatient basis for a dental patient unless one of the following conditions is met:
- a) The dentist possesses a current license in good standing to practice dentistry in California and either holds a valid general anesthesia permit or obtains a permit issued by the DBC authorizing the dentist to administer moderate sedation.
 - b) The dentist possesses a current permit and either holds a valid general anesthesia permit or obtains a permit issued by the DBC authorizing the dentist to administer moderate sedation.
- 23) Specifies that a moderate sedation permit expires on a specified date that next occurs after its issuance, unless it is renewed as, as specified.
- 24) Requires that a dentist who orders the administration of moderate sedation be physically present in the treatment facility while the patient is sedated.
- 25) Requires a dentist who desires to administer or to order the administration of moderate sedation to apply to the DBC on an application form prescribed by the DBC. The dentist shall submit an application fee and produce evidence showing that he or she has successfully completed training in moderate sedation.
- 26) States that training in the administration of moderate sedation for patients 13 years of age or older shall be acceptable if it meets all of the following as approved by the DBC:
- a) Consists of at least 60 hours of instruction.
 - b) Requires satisfactory completion of at least 20 cases of administration of moderate sedation for a variety of dental procedures.
 - c) Complies with the requirements of the Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students of the American Dental Association, including, but not limited to, certification of competence in rescuing patients from a deeper level of sedation than intended, and managing the airway, intravascular or intraosseous access, and reversal medications.
- 27) Specifies that before performing any procedure involving moderate sedation of a patient under 13 years of age, the dentist shall obtain a pediatric endorsement of his or her moderate sedation permit. To be eligible for the pediatric moderate sedation permit, the dentist shall have completed any of the following:
- a) A moderate sedation course consisting of at least 60 hours of didactic instruction and at least 20 clinical cases, but that is directed at treating pediatric patients under 13 years of age.
 - b) A moderate sedation course, that is directed at treating patients 13 years of age or older, in addition to at least 24 hours of didactic instruction in pediatric moderate sedation and at least ten clinical cases in pediatric moderate sedation.
 - c) A moderate sedation course that is directed at treating patients 13 years of age or older, in addition to completion of an accredited pediatric dental residency program. The pediatric

moderate sedation permit holder shall provide proof of completion of at least 52 cases to establish competency, both at the time of the initial application and at renewal.

- 28) Requires that the dentist and at least one member of the support staff shall be trained in PALS and airway management, equivalent to the AAP-AAPD Guidelines, or as determined by the DBC.
- 29) Requires that there be at least two support staff, in addition to the practicing dentist, present at all times during the procedure for a child under seven years of age. One staff member shall serve as a dedicated patient monitor.
- 30) Requires a permittee to complete 15 hours of approved courses of study related to moderate sedation as a condition of renewal of a permit. Those courses of study shall be credited toward any continuing education required by the DBC.
- 31) Requires that a physical evaluation and medical history be taken before the administration of moderate sedation. Any dentist holding a permit shall maintain records of the physical evaluation, medical history, and moderate sedation procedures used as required by DBC regulations.
- 32) Specifies that prior to the issuance or renewal of a permit to administer moderate sedation, the DBC may, at its discretion, require an onsite inspection and evaluation of the licensee and the facility, equipment, personnel, and procedures utilized by the licensee. The permit of any dentist who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the DBC notifies the dentist of the failure unless, within that time period, the dentist has retaken and passed an onsite inspection and evaluation. Every dentist issued a permit under this article shall have an onsite inspection and evaluation at least once in every six years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit.
- 33) Permits the DBC to contract with public or private organizations or individuals expert in dental outpatient moderate sedation to perform onsite inspections and evaluations. The DBC may not, however, delegate its authority to issue permits or to determine the persons or facilities to be inspected.
- 34) Defines “minimal sedation” as a drug-induced state during which patients respond normally to verbal commands. Cognitive function and physical coordination may be impaired, but airway reflexes, ventilatory functions, and cardiovascular functions are unaffected.
- 35) Specifies that the drugs and techniques used in minimal sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from painful stimuli shall not be considered to be in a state of minimal sedation.
- 36) Specifies that for the very young or developmentally delayed individual, incapable of the usually expected verbal response, a minimally depressed level of consciousness should be maintained.

- 37) Prohibits a dentist from administering or ordering the administration of minimal sedation on an outpatient basis for pediatric dental patients, defined as under 13 years of age, unless one of the following conditions is met:
- a) The dentist possesses a current license in good standing to practice dentistry in California and either holds a valid pediatric minimal sedation permit or obtains a permit issued by the DBC authorizing the dentist to administer minimal sedation.
 - b) The dentist possesses a current permit and either holds a valid anesthesia permit or obtains a permit issued by the DBC authorizing the dentist to administer moderate sedation, deep sedation, or general anesthesia.
- 38) Requires the dentist who orders the administration of minimal sedation to be physically present in the treatment facility while the patient is sedated.
- 39) Specifies that this article does not apply to the administration of local anesthesia, moderate sedation, deep sedation, or general anesthesia.
- 40) Requires a dentist who desires to administer or order the administration of pediatric minimal sedation to apply to the DBC on an application form prescribed by the DBC. The dentist shall submit an application fee and produce evidence showing that he or she has successfully completed training in minimal sedation.
- 41) Requires the application for a permit to include documentation that equipment and drugs required by the DBC are on the premises.
- 42) Specifies that training in the administration of minimal sedation shall be acceptable if it meets both of the following as approved by the DBC:
- a) Consists of at least 24 hours of pediatric sedation instruction in addition to one clinical case. The pediatric sedation instruction shall include training in airway management and patient rescue from moderate sedation.
 - b) Includes completion of an accredited residency in pediatric dentistry.
- 43) States that a dentist is limited to administering a single dose of a single drug via the oral route, plus a mix of nitrous oxide and oxygen that is unlikely to produce a state of unintended moderate sedation.
- 44) Requires a minimum of one staff member, in addition to the dentist, trained in the monitoring and resuscitation of pediatric patients to be present.
- 45) Specifies that the application fee for a pediatric minimal sedation permit or renewal under this article shall not exceed a specified amount.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the **American Academy of Pediatrics, California**. According to the author, “Healthy children are dying or suffering injury because dentists are administering anesthesia with outdated safety precautions in place. Last year, AB 2235, (which passed with unanimous support in both houses) tasked the DBC to perform an in-depth study, gather expert opinion, and provide recommendations to the California legislature that would increase the safety of administering sedation and anesthesia to children during dental procedures. This bill will simply implement the recommendations resulting from their study. Opponents may say that implementing these vital safety measures will harm access to care; however, there is no evidence that it will. The most important portion of the bill is the recommendation to ban the single operator-anesthetist model for children under age seven. There are currently only 530 oral surgeons, compared to nearly 10,000 other anesthesia providers in California, and many of the oral surgeons do not provide pediatric care. In addition, the affected patient population—children under age seven who require deep sedation/general anesthesia for oral surgery—is very small. Because there are more than enough anesthesia providers for this small patient population, AB 224 will not impair access to care. Last year we let the Dental DBC do their work and come back with their recommendations. Now is the right time to implement these common-sense safety measures and strive to prevent another unnecessary death of a healthy child due to dental anesthesia.”

Background. *Regulation of Dentists by the DBC.* The DBC is charged with regulating over 70,000 licensees including dentists, registered dental assistants, dental sedation assistants, and orthodontic assistants. The DBC also provides a number of permits for those who are licensed and permitted. The table below provides an accounting of the type and number of providers regulated by the DBC.

LICENSE OR PERMIT	NUMBER OF PRACTITIONERS
Dental License	34,111
Elective Facial Cosmetic Surgery Permit	28
General Anesthesia Permit	853
Medical General Anesthesia Permit	79
Conscious Sedation Permit	517
Oral Conscious Sedation Permit	2,466
Oral & Maxillofacial Surgery Permit	86
Registered Dental Assistant	29,185
Registered Dental Assistant with Extended Functions	1,367
Orthodontic Assistant	646
Dental Sedation Assistant	29
TOTAL	79,655

Use of Anesthesia. Pursuant to BPC §1647(a), the Legislature found, “A commendable patient safety record has been maintained in the past by dentists and those other qualified providers of anesthesia services who, pursuant to a dentist’s authorization, administer patient sedation, and that the increasing number of pharmaceuticals and techniques used to administer them for patient sedation require additional regulation to maintain patient safety in the future.”

Previous to 1980, state laws described separate and distinct definitions for general anesthesia and the state of consciousness. Since then, the Legislature has declared that there exists a continuum of consciousness that may not be predictable in every case. However, in most instances, the level of consciousness is correlated with the level of sedation.

Currently, the state does not delineate the minimum number of people involved in administering general anesthesia during a dental procedure, only that the operating room be large enough to accommodate at least three people.

AAP-AAPD Guidelines. According to the AAP-AAPD publication: *Guidelines for Monitoring and Management of Pediatric Patients Before, During, and After Sedation for Diagnostic and Therapeutic Procedures: Update 2016:*

“The sedation of children is different from the sedation of adults. Sedation in children is often administered to relieve pain and anxiety as well as to modify behavior (e.g., immobility) so as to allow the safe completion of a procedure. A child’s ability to control his or her own behavior to cooperate for a procedure depends both on his or her chronologic age and cognitive/emotional development. Many brief procedures, such as suture of a minor laceration, may be accomplished with distraction and guided imagery techniques, along with the use of topical/local anesthetics and minimal sedation, if needed. However, longer procedures that require immobility involving children younger than six years or those with developmental delay often require an increased depth of sedation to gain control of their behavior.”

The AAP further suggests for moderate sedation procedures, the presence of a practitioner and support personnel for observation. For deep sedation procedures, the AAP recommends an additional independent observer to monitor the patient’s vital signs, administer drugs and assist in an emergency.

DBC Subcommittee Recommendations. On February 8, 2016, the Chair of the Senate Committee on Business, Professions and Economic Development (BP&ED) sent a letter to the DBC requesting that the DBC form a subcommittee to investigate pediatric anesthesia in dentistry, and requested that information from that investigation be reported back to the Legislature no later than January 1, 2017.

In the DBC subcommittee’s report, it writes:

“California dental sedation and anesthesia laws are similar to laws in other states, and differ primarily in the area of personnel requirements. Approximately half of other states specify the number of staff who must be present, in addition to the dentist, when general anesthesia or moderate sedation is administered. No state requires the presence of an individual dedicated to both the monitoring and administration of general anesthesia or moderate sedation.

California policies, laws and regulations are generally consistent with professional dental association guidelines with the exception of a recommendation in the American Academy of Pediatrics-American Academy of Pediatric Dentistry Guidelines for a person dedicated to the monitoring and administration of deep sedation and general anesthesia.”

The DBC concluded that California's present laws, regulations and policies are sufficient to provide protection of pediatric patients during dental sedation. However, it recommended several enhancements to current statute and regulations to provide an even greater level of public protection. Of these is a recommendation that, for children under seven years of age, there shall be at least three people present during procedures where anesthesia is used. One person shall be the practicing dentist. One person shall be a general anesthesia permit holder, who shall be solely dedicated to administering anesthesia, monitoring the patient, and managing the airway through recovery. One person shall be an anesthesia support staff, dedicated to the anesthesia process, and shall be trained in PALS and Airway Management, equivalent to the AAP-AAPD Guidelines or as determined by the DBC.

Current Related Legislation. SB 501 (Glazer) of the current Legislative Session updates the definition of “general anesthesia.” *STATUS: This bill is currently in the Senate Committee on Business, Professions, and Economic Development.*

Prior Related Legislation. AB 2235 (Thurmond), Chapter 519, Statutes of 2016, enacted “Caleb’s Law” which required the DBC to investigate the state of pediatric dental anesthesia and provide recommendations to the legislature.

POLICY ISSUES FOR CONSIDERATION:

What is the Impact of This Measure on Access to Care? The author asserts that the goal of this measure is to implement the recommendations made by the DBC, “to prevent the unnecessary death of a healthy child due to dental anesthesia.” Though the DBC found little evidence of deaths attributed to the lack of personnel present during procedures where anesthesia is used, they recommended changing the model for children under the age of seven. However, the DBC was careful to recommend a study of access to care issues **prior** to pursuing legislation as cited below:

“Few topics generate more controversy than the use of anesthesia, especially for children; and the challenge of reaching a consensus among interested parties on this issue is difficult. Although patient safety is always the foremost concern, the effects of regulatory change on healthcare can be fraught with unintended consequences. Any proposal should, therefore, strike a balance between established practice and evidence based changes that provide greater patient safety.

The Board recognizes that the manpower and economic considerations for pediatric dental sedation are beyond the scope of the present report. These considerations will be critical to the successful implementation of any changes to dental sedation laws. **The Board therefore recommends that there be an analysis of the effects of any proposed new legislation or regulation on access to care for pediatric dental patients prior to the implementation of any changes.** Factors such as whether the costs of sedation and anesthesia are reasonable depends on how cost effectiveness is defined and calculated, and on the perspective taken. For example, clinicians often view cost implications differently than would payers or society at large. There needs to be consideration of the resource constraints of the healthcare system (for example, DentiCal versus private insurance). Feasibility issues must be considered, including the time, skills, staff, and equipment necessary for the provider to carry out the recommendations, and the ability of patients and systems of care to implement them.”

AMENDMENTS:

In light of the dispute between the proponents and opponents of this measure regarding the cost of access, and the lack of evidence to support the claims about cost, the author should amend the bill to require three people present for a procedure on a child under seven years of age including: a dentist, an assistant, and a dedicated monitor, e.g. surgeon, anesthesiologist, nurse anesthetist, dental sedation assistant, with special training such as PALS. This model will expand the array of providers available to perform procedures until a study of access to care is completed.

REGISTERED SUPPORT:

American Academy of Pediatrics, California (sponsor)
California Society of Anesthesiologists
California Society of Dentist Anesthesiologists
Happy Bear Surgery Center
PDI Surgery Center
1 individual

REGISTERED OPPOSITION:

California Association of Nurse Anesthetists, Inc.
California Association of Oral and Maxillofacial Surgeons
California Dental Association

Analysis Prepared by: Le Ondra Clark Harvey, Ph.D. / B. & P. / 916-319-3301