

DENTAL BOARD OF CALIFORNIA

2005 Evergreen St., Suite 1550, Sacramento, CA 95815

P (916) 263-2300 | F (916) 263-2140 | www.dbc.ca.gov



April 8, 2019

SENT VIA EMAIL

Mary McCune, Regulatory Analyst/Advocate
California Dental Association
1201 K Street, 14th Floor
Sacramento, CA 95814

Dear Ms. McCune,

The Dental Board of California (Board) has received your March 14, 2019, letter stating that confusion has arisen over the years about when it is appropriate to use BOTOX and dermal fillers (Hyaluronic acid fillers) in dentistry; and that the California Dental Association (CDA) is requesting the Board clarify their use via regulation.

The scope of practice of dentistry, as the Board is sure you know, is set out by the Legislature in section 1625 of the Business and Professions Code¹, which provides in part: “Dentistry is the diagnosis or treatment, by surgery or other method, of diseases and lesions and the correction of malpositions of the human teeth, alveolar process, gums, jaws, or associated structures; and such diagnosis or treatment may include all necessary related procedures as well as the use of drugs, anesthetic agents, and physical evaluation.”

CDA states that the confusion over the use of these products stems from the enactment of section 1638.1 and the creation of the Elective Facial Cosmetic Surgery (EFCS) Permit. CDA points to an “interpretation” that all treatments that “improve facial esthetics” require an EFCS permit. Specifically, CDA is requesting that the Board propose adding the following regulatory language to address the confusion over this interpretation:

§ 1066. Definition of dentistry; clarification.

A dentist who provides procedures, treatments, or drugs, which s/he has received the education and treatment to perform, for the esthetic elements of a dental treatment plan intraorally or within the immediate perioral area, is practicing dentistry as defined in Business and Professions Code § 1625.

The Board is unclear, however, where this “interpretation” originated. As CDA’s letter points out, the Board’s message, since 2011, has been consistent: cosmetic procedures, and the use of appropriate products for those procedures, that are performed for one of the purposes laid out in section 1625, and are part of a dental treatment plan fall into the definition of the practice of dentistry. As with any dental procedure, the licensee must possess the knowledge, skill, and ability as to when and how to perform a procedure. Potentially, the confusion began when

¹ Unless otherwise specified, all statutory references are to the Business and Professions Code.

advertising and online materials misled California dentists into believing that they may offer Botox and dermal filler injections to patients for purely cosmetic purposes unrelated to a dental treatment plan, and training programs were offered to licensees who wanted to provide those services. As you may know, the Board has pursued a few enforcement actions against purveyors of these training programs, as well as against licensees who performed such cosmetic services.

The Board has concluded, however, that most general dentists understand how to incorporate the use of Botox and dermal fillers into the delivery of dentistry in compliance with the Dental Practice Act. Providing these services would be no different than providing other cosmetic services as part of a dental treatment plan. Clearly, some orthodontic services are primarily cosmetic, as are some prosthetic services, and restorations. The Board, only on rare occasions, receives inquiries from licensed dentists regarding this issue.

In addition, the scope of practice of dentistry is fixed by statute. If it is true that confusion about whether the use of BOTOX and Hyaluronic acid fillers is included in the scope defined by section 1625 is tied to section 1638.1, then clarification would need to come from the Legislature.

The Board has consulted with its Legal Counsel and at this time, the Board believes this issue has been sufficiently addressed and will not be putting the issue on the Board's agenda at the May meeting. If this response is not sufficient, CDA is welcome to address the Board at a publicly noticed Board meeting and the Board can decide then whether to again agendize this issue for discussion at a future meeting.

Thank you for the opportunity to address CDA's concerns.

Sincerely,

A handwritten signature in blue ink that reads "Fran Burton, MSW". The signature is written in a cursive, flowing style.

Fran Burton, MSW
President
Dental Board of California