

CITATIONS AND FINES

§ 1139. Issuance of Citations and Fines.

(a) The Executive Officer of the Committee or his or her designee may issue a citation containing an order to pay a fine not to exceed \$5,000 and an order of abatement against a licensee for any violation of Division 11 of Title 16 of the California Code of Regulations or any laws governing the practice of dental hygiene. A citation may be issued without either the assessment of a fine, or an order of abatement when determined by the Executive Officer or his or her designee.

(b) Each citation issued pursuant to subdivision (a) of this section or pursuant to Section 1141 shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the law or regulation alleged to have been violated.

(c) The citation issued pursuant to subdivision (a) of this section or pursuant to Section 1141 shall be served upon the cited person either personally or by certified United States mail.

§ 1140. Criteria To Be Considered.

In the issuance of any citation, the following factors shall be considered:

- (a) Nature and severity of the violation.
- (b) Length of time that has passed since the date of the violation.
- (c) Consequences of the violation, including potential or actual patient harm.
- (d) History of previous violations of the same or similar nature.
- (e) Evidence that the violation was willful.
- (f) Gravity of the violation.
- (g) The extent to which the cited person has remediated any knowledge or skill deficiencies, which could have injured a patient.

§ 1141. Citations for Unlicensed Practice.

The Executive Officer or his or her designee may issue a citation against any unlicensed person who is acting in the capacity of a licensee and who is not otherwise exempt from licensure. Each citation may contain an order of abatement fixing a reasonable period of time for an abatement and an order to pay a fine not to exceed \$5,000 per occurrence of a violation. Any sanction authorized for activity under this section shall be separate from and in addition to any other administrative, civil or criminal remedies.

§ 1142. Contested Citations.

(a) The citation shall inform the cited person that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the Committee within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In addition or as an alternative to requesting a hearing provided for in subdivision (a) of this section, the cited person may, within 14 calendar days after service of the citation, submit a written request to the Committee for an informal conference with the Executive Officer.

(c) The Executive Officer or his or her designee shall, within 30 calendar days from receipt of the written request for an informal conference pursuant to subdivision (b) of this section, hold an informal conference with the person cited and or his or her legal counsel or authorized representative, if any, unless continued for good cause.

(d) The Executive Officer or his or her designee may affirm, modify or dismiss the citation at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited person and his or her legal counsel, if any, within 14 calendar days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the informal conference procedure.

(1) If the citation, including any administrative fine levied or order of abatement, is dismissed, the request for a hearing shall be deemed withdrawn.

(2) If the citation, including any administrative fine levied or order of abatement, is affirmed, the cited person may, in his or her discretion, withdraw the request for a hearing or proceed with the administrative hearing process as set forth in subdivision (a). An informal citation conference shall not be held on affirmed citations.

(3) If the citation, including any administrative fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a cited person wishes to contest a modified citation, the cited person shall, within 30 calendar days after issuance of the modified citation, contest it by submitting a written request for an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, to the Committee. An informal citation conference shall not be held on modified citations.

§ 1143. Compliance with Citation/Order of Abatement.

(a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time from the Executive Officer or his or her designee in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When a citation or order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation within the time allowed or pay the fine that is imposed, if one was, shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement or pay a fine that is imposed is unprofessional conduct and may result in disciplinary action being taken by the Committee in addition to other remedies.

§ 1144. Disclosure.

The issuance and disposition of a citation shall be public.