



Lag in License Renewal Can Spell Trouble

By TDIC Risk Management Staff

Of all the things needed to practice dentistry, a license is the most crucial. However, when it comes to renewing a dental license, the task can get lost in the demands of daily practice.

Forgetting to renew a dental license, or waiting until the last minute to renew, can create unintended consequences. The Dentists Insurance Company advises dentists to plan ahead for required continuing education and promptly renew dental licenses and required certificates. TDIC also strongly recommends that dentists keep copies of current staff licenses on file.

A lapse in dental licensure because of delinquent renewal means that the dentist is practicing without a license, which is a criminal act, according to John J. Sillis, a Northern California attorney specializing in professional liability.

"If there is any problem or lawsuit, practicing without a license is indefensible," Sillis said. "If a dentist practicing without a license commits battery, there is no 'work around' in this situation."

Dental license requirements differ slightly from state to state, but all states make it a crime to practice dentistry without a license. In California, the Business and Professions Code lists the first offense of practicing without a license as a misdemeanor, punishable upon conviction by a fine of up to \$3,000 or imprisonment in a county jail for up to six months or both. A second or subsequent offense is considered a felony punishable by a fine up to \$6,000 or a fine and imprisonment as outlined in the Penal Code.

Sillis cited cases he has handled in which dentists were liable for not having an active license or required certificate. In one instance, a dentist failed to apply for an oral conscious sedation certificate, but performed extensive treatment on a patient under sedation. When the dentist called the patient later to see how she was doing, the patient's husband informed the dentist that the patient had died. While the cause of death was found to be an aneurysm unrelated to dental treatment, the Dental Board investigated the case due to the death of a patient within 24 hours of dental work. When the Dental Board discovered the dentist was practicing without an active certificate, the dentist was required to give up oral conscious sedation privileges and placed on probation for five years.

In another case, a patient claimed he was injured by a hygienist's instrument during a prophylaxis. The investigation uncovered that

the hygienist was unlicensed. "If the person is unlicensed, there is no defense," Sillis reiterated. The case settled with a sharp monetary fine. "The dentist hiring and supervising must, at the very least, make sure to have proof of staff license and insurance," he added. "That is the minimum. Additionally, before hiring staff, run a background check and call references."

TDIC Risk Management analysts report ongoing calls about unlicensed staff and emphasize dentists' responsibility to document active licenses because of vicarious liability for staff. The legal concept of vicarious liability holds employers responsible for the acts and oversights of their employees. Regarding dental assistants, if an assistant is not licensed, care must be exercised to ensure the assistant does not perform RDA duties.

To keep ahead of the licensing curve, savvy dental professionals should prioritize continuing education and act quickly when it comes to renewal. License renewal time frames vary by state and depend upon the renewal method. In California, online renewal is the fastest, with license status updated within 48 hours and the pocket license issued within two to three weeks, according to the Dental Board website. California dentists are eligible to renew online if their license expires within the next 85 days and they have no outstanding fines or license delinquencies. If renewing by mail, an update of license status and arrival of pocket license takes six to eight weeks. Do not assume that because you have mailed the renewal paperwork, the process is completed. You can feel confident of license renewal when you receive notification from your dental board or you see your license status updated online.

Outside of California, consult your state dental board, as time frames vary and online renewal may not be available.

Dental professionals cannot rely entirely on receiving a renewal notice. The Dental Board of California website states: "Renewal notices are mailed approximately 60 days before expiration. A dentist is responsible for renewing the license regardless of having received the renewal notice or not."

California dental licenses expire on the last day of the birth month of the licensee every two years, according to the Dental Board. If the licensee's birth year is an even number, the license will expire during even-numbered years. If the licensee's birth year is an odd number, the license will expire during odd-numbered years.

Regarding license renewal, the Dental Board of California notes in bold on its website that "there is no grace period for a dentist in active practice, although a delinquency fee will not be assessed until the renewal is more than 30 days late. A dentist who practices after

the expiration date without renewing is considered to be practicing without a license.”

Do not wait until you are questioned whether you have an active license. Uncertainty could lead to an unpleasant discovery and that can spell trouble.

TDIC’s Risk Management Advice Line can be reached at 800.733.0634.

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