

**Dental Hygiene Board of California
California Department of Consumer Affairs**

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing has been scheduled.

Subject Matter of Proposed Regulations: Registered Dental Hygienists in Alternative Practice, Performance of Soft Tissue Curettage and Administration of Local Anesthesia

Section(s) Affected: Section 1118 of Title 16 of the California Code of Regulations (CCR)

Specific Purpose of Each Adoption, Amendment, or Repeal:

1. Introduction/Background

The Dental Hygiene Board of California (Board) is charged with oversight of registered dental hygienists, registered dental hygienists in alternative practice (RDHAPs), and registered dental hygienists in extended functions. The Board carries out its regulatory authority through enforcement of statutory provisions of the Dental Practice Act, Business and Professions Code (BPC) sections 1900 through 1967.4, and Title 16 of the CCR. The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The Board's core functions are issuing licenses to qualified applicants, investigating consumer complaints filed against licensees, disciplining licensees for sustained violations of the BPC and Title 16 of the CCR, regulating and approving RDH educational programs, and monitoring licensees placed on disciplinary probation by the Board.

2. Problem Being Addressed:

Senate Bill (SB) 653 (Chapter 130, Statutes of 2020) enacted BPC section 1926.01, which permits an RDHAP to perform the duties authorized by BPC section 1909(a) (performance of soft tissue curettage (STC)) and (b) (administration of local anesthesia (LA)) with documented consultation with a collaborating dentist in specific settings. The Board proposes to implement BPC section 1926.01 by establishing the rules governing RDHAPs who perform STC and administer LA in the settings set forth in BPC section 1926.01(a).

This proposal will adopt Title 16, section 1118 to establish the requirements applicable to RDHAPs who perform STC and administer LA in specific settings. These requirements will include: (1) documenting consultations with California licensed dentists to authorize the use of STC or LA for each patient to be treated by the RDHAP in STC or LA; (2) requiring the physical presence on the premises of one additional individual trained in basic life support and qualified to administer cardiopulmonary resuscitation during an emergency when STC or LA administration will take place; and

(3) requiring access to portable oxygen administration equipment to assist with administration of basic life support.

The Board approved the proposed language at the Board's July 17, 2021 Full Board WebEx Teleconference meeting and delegated authority to the Board's Executive Officer to make any technical, non-substantive changes, if necessary.

3. Anticipated Benefit(s) from this Regulatory Action:

The anticipated benefits of this proposal are:

- First, the requirements ensure RDHAPs have consulted with a California licensed dentist to ensure the acceptability of performing STC or administering LA to the patient during their care. This will enhance patient safety and ensure the appropriateness of care for RDHAPs' patients.
- Second, requiring the physical presence of one additional individual trained in basic life support and qualified to administer cardiopulmonary resuscitation during an emergency when STC or LA administration will take place ensures that should an emergency arise, the patient will be treated and monitored during the crisis while the additional individual aids in treatment and can access emergency medical services (EMS) (e.g., calling 911 to request an ambulance and advanced life-support personnel). This will enhance patient safety and increases the patient's chance of survival should a life-threatening emergency occur.
- Third, requiring access to portable oxygen administration equipment during STC or LA administration will assist with administration of basic life support. This will enhance patient safety and increases the patient's chance of survival should a life-threatening emergency occur.

Factual Basis/Rationale

Preface:

This proposal would establish the requirements for a licensed registered dental hygienist in alternative practice (RDHAP) to perform soft tissue curettage and administer local anesthesia in accordance with the provisions of section 1118. This is necessary to implement BPC section 1926.01.

Subdivision (a)

Subdivision (a) requires that prior to performing STC or LA administration, an RDHAP shall consult with a California licensed dentist to authorize the use of STC and LA on each patient. BPC section 1926.01(a) provides that an RDHAP may perform the duties authorized pursuant to BPC section 1909 subdivisions (a) (performance of STC) and (b) (administration of LA) after documented consultation with a collaborating dentist.

This provision is necessary because the need for performing STC or administering LA must be diagnosed, treatment planned, and prescribed by a dentist. BPC section

1908(b)(1) provides that the practice of dental hygiene does not include diagnosis and comprehensive treatment planning. Therefore, prior to performing STC or administering LA, the need for those procedures must be diagnosed, treatment planned, and prescribed. Additionally, BPC section 1908(b)(4) provides the practice of dental hygiene does not include prescribing medication. Therefore, as LA is a prescription medication, it must be prescribed prior to administration to a patient.

In addition, subdivision (a) requires the consultation to be documented in the patient's chart and requires the chart to include the date of consultation, name of consulting dentist, and the consulting dentist's California license number. The inclusion of the name and California dental license number is to assist in identifying the correct dentist. For example, as there may be two "John Smith D.D.S.s", requiring the dentist's California license number will ensure identification of the correct dentist. Additionally, this requirement is necessary for the completeness of patient records and for continuity of care should the patient need further treatment. Furthermore, these requirements are consistent with BPC section 1684.5(c), which requires that if treatment is provided to a patient by a registered dental hygienist in alternative practice pursuant to the diagnosis and treatment plan authorized by a supervising dentist, at a location other than the dentist's practice location, it is the responsibility of the authorizing dentist that the patient or the patient's representative receive written notification that the care was provided at the direction of the authorizing dentist and that the notification includes the authorizing dentist's name, practice location address, and telephone number.

Subdivision (b)

Subdivision (b) requires physical presence on the premises of one additional individual trained in basic life support (BLS) and qualified to administer cardiopulmonary resuscitation (CPR) during an emergency when soft tissue curettage or local anesthesia administration will take place. It is necessary to define "immediately available" to mean "physical presence" because the physical presence of another BLS/CPR-trained individual to be present ensures immediate availability of that individual to assist with CPR should an emergency requiring administration of BLS and/or CPR arise. Additionally, BPC section 1926.01(b)(1) requires one additional individual trained in basic life support qualified to administer cardiopulmonary resuscitation during an emergency to be immediately available.

This requirement is necessary to comply with the abovementioned law, and also because it is the standard of care in dental and dental hygiene practices for an assistant to be present and immediately available should an emergency arise. For example, it is standard practice for the dental professional to remain with a patient during local anesthesia administration to monitor the patient's reaction to the drug (e.g., lidocaine used for local anesthesia). A second individual is necessary should the patient experience a reaction (e.g., allergic reaction, myocardial infarction (MI or heart attack) etc.). The second individual may leave the patient to access help and provide immediate entry into the EMS system.

Subdivision (c)

Subdivision (c) requires the RDHAP have access to portable oxygen administration equipment to assist with administration of BLS. It is necessary for to be immediately available because it ensures oxygen is present to assist with BLS and/or CPR should an emergency requiring the need for oxygen administration arise. Additionally, BPC section 1926.01(b)(2) requires oxygen be immediately available during performing soft tissue curettage and administration of local anesthesia.

This requirement is necessary to comply with the abovementioned law, and also because it is the standard of care in dental and dental hygiene practices for oxygen to be present and immediately available should an emergency arise. For example, an MI is due to a blockage of a coronary artery (heart blood vessel) delivering blood to the heart. This blockage, in turn, results in a decreased amount of oxygen reaching the heart, causing death of the portion of the heart that has the blockage. Oxygen administration during the MI is crucial to increase the patient's oxygen levels to deliver the additional oxygen to the heart to decrease the amount of damage from the MI and increase patient survival rate. Additionally, it is standard practice for the dental professional to have portable oxygen available in the office for use in an emergency situation, regardless if it is during a dental procedure or a patient waiting in the waiting room (e.g., 16 CCR section 1043.3(c)(13)).

Underlying Data:

- Senate Bill (SB) 653 (Chapter 130, Statutes of 2020)
- Minutes: DHBC Full Board WebEx Teleconference, March 20, 2021.
- Minutes: DHBC Full Board WebEx Teleconference, July 17, 2021.

Evidence Supporting Finding of No Significant Statewide Adverse Economic Impact Directly Affecting Business:

This proposed regulation will not have any significant adverse economic impact on businesses. This initial determination is based on the following facts:

The proposed regulation would simply define provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

Economic Impact Assessment:

This regulatory proposal will have the following effects:

The Board has determined that this regulatory action would not impact the creation or elimination of jobs within the State of California as the proposed language would simply define provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

The Board has determined that this regulatory action would not impact the creation of new businesses or the elimination or expansion of existing businesses within the State of California as the proposed language in the regulation would simply define provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

This regulatory proposal would not impact worker safety as the proposed language in the regulation does not involve worker safety.

This regulatory proposal will protect the health and welfare of California residents as the proposed language in the regulation contains provisions for the treatment of patients in STC and use of LA that will enhance patient safety and increases the patient's chance of survival should a life-threatening emergency occur.

This regulatory proposal will not affect the state's environment because this proposed regulation does not involve environmental issues. The proposed regulation only defines provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Not adopt the regulation: The Board rejected this alternative because BPC section 1906 authorizes the Board to adopt regulations to implement BPC section 1926.01 which allows RDHAPs to perform STC and administer LA in the defined settings of BPC section 1926.01.
2. Adopt the regulation: The Board determined that this alternative is the most feasible because it establishes a regulation for the Board to allow RDHAPs to perform STC and administer LA in the defined settings of BPC section 1926.01, as well as to safety provisions during the performance of STC and administration of LA. This will increase access to care for the patients of RDHAPs as well as to enhance patient safety, and to increase the patient's chance of survival should a life-threatening emergency occur.