

**Title 16, Division 11, Article 10, Section 1118
Dental Hygiene Board of California**

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

**Registered Dental Hygienists in Alternative Practice, Performance of Soft Tissue
Curettage and Administration of Local Anesthesia, Section 1118**

California Code of Regulations

NOTICE IS HEREBY GIVEN that the Dental Hygiene Board of California (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice must be received by the Board at its office **by Monday, December 27, 2021**.

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE:

Pursuant to the authority vested by Business and Professions Code (BPC) sections 1905 and 1906, and to implement, interpret, or make specific BPC section 1926.01, the Board is considering changes to Division 11 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC sections 1905 and 1906 authorize the Board to adopt, amend, and revoke regulations to implement the statutory requirements of Article 9 of Chapter 4, BPC sections 1900 through 1967.4, regarding dental hygienists. The Board, a constituent

agency within the Department of Consumer Affairs (DCA), regulates registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions (collectively RDHs). 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.

This proposal will adopt Title 16, section 1118 to set forth the requirements applicable to RDHAPs who perform soft tissue curettage (STC) and administer local anesthesia (LA) in the defined settings of BPC section 1926.01.

- **Add Section 1118 to Title 16 of the California Code of Regulations.**

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.

Anticipated Benefit(s) of the Proposed Amended Regulation:

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.

Determination of Inconsistency and Incompatibility with Existing State Regulations:

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None. The proposed regulations do not result in additional workload or costs to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to any Local Agency or School District for which Government Code Sections 17500 through 17630 Require Reimbursement: None

Business Impact

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. 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.

Cost Impacts on a Representative Private Person or Businesses:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Effect on Housing Costs: None.

Business Reporting Requirement:

The regulatory action does not require businesses to file a report with the Board. The change in regulatory language will only define provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

Results of the Economic Impact Analysis/Assessment

Impact on Jobs/Businesses: The Board has determined that this regulatory action will not create or eliminate jobs, will not create new business or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California as the regulation would define provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

Benefits of the Proposed Action: This regulatory proposal benefits the health and welfare of California residents as the regulation would establish RDHAP reporting requirements: (1) to ensure RDHAPs consult with a California licensed dentist to ensure the acceptability of performing STC or administering LA to the patient during their care, thereby increasing safety and ensuring appropriateness of care for the patients of RDHAPs; (2) to require the physical presence of one additional individual trained in basic life support and qualified to administer cardiopulmonary resuscitation during an emergency, thereby enhancing patient safety and increasing the patient's chance of survival should a life-threatening emergency occur; and (3) to require access to portable oxygen administration equipment which will assist with administration of basic life support, thereby enhancing patient safety and increasing the patient's chance of survival should a life-threatening emergency occur.

This regulatory proposal does not affect worker safety because it does not involve worker safety, and does not affect the State's environment because it does not involve environmental issues.

Effect on Small Business: The Board has determined that this regulatory action would not affect small businesses because the proposed language in the regulation would only define provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present statements or arguments in writing relevant to the above determinations during the written comment period.

CONTACT PERSONS

Inquiries or comments concerning the proposed regulatory action may be directed to the following designated agency contact persons:

Dental Hygiene Board of California
Attn: Adina A. Pineschi-Petty DDS
2005 Evergreen St, Ste. 1350
Sacramento, CA 95815
Phone: (916) 576-5002
Email: adina.petty@dca.ca.gov

Backup Contact Person:

Attn: Anthony Lum
2005 Evergreen St, Ste. 1350
Sacramento, CA 95815
Phone: (916) 576-5004
Email: anthony.lum@dca.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Dr. Pineschi-Petty at the above address. In her absence, please contact the designated back-up contact person.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the amendments as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that was noticed to the public. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for review and or written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text by contacting Dr. Pineschi-Petty at the address above.

AVAILABILITY OF FINAL STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting Dr. Pineschi-Petty at the address above.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to Dr. Pineschi-Petty at the address above or by accessing the website listed below.

TEXT OF THE PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the ISOR, and all of the information on which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 1350, Sacramento, California 95815, or by accessing the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Actions, the Initial Statement of Reasons, Forms Incorporated by Reference, and the text of the regulations can be accessed through the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.