

**Title 16, Division 11, Article 3, Section 1105.2  
Dental Hygiene Board of California**

**NOTICE OF PROPOSED REGULATORY ACTION CONCERNING**

**Required Curriculum, Section 1105.2**

**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, 1906, 1909, 1914, 1941 and 1950.5, and to implement, interpret or make specific BPC sections 1905, 1912, 1914, 1941, and 1950.5, and Health and Safety Code section 106975, the Board is considering changes to Division 11 of Title 16 of the California Code of Regulations (CCR) 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 would amend the language and requirements for Required Curriculum for the education of RDHs. The proposal is as follows:

- **Amend Section 1105.2 to Title 16 of the CCR.**

Existing law sets forth the criteria for the Board's approval, and continuation of approval, for RDH educational programs. Section 1105.2 prescribes the required curriculum that an RDH educational program shall meet for approval, and continuation of approval, by the Board.

The Board proposes to amend section 1105.2 to:

- (1) Update the regulation to reflect current educational terminology;
- (2) Provide a process by which the Board will review out-of-state education in soft tissue curettage, local anesthesia, and nitrous oxide -oxygen analgesia (SLN) to ensure applicants educated out-of-state meet the educational requirements of 16 CCR 1107. The proposal will incorporate by reference an Application for Approval of an Out-of-State Dental Hygiene Educational Program Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)" DHBC SLN-04 (New 10/2021), and require approved courses to submit a biennial report "Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) Course Provider Biennial Report" (DHBC SLN-03, Rev 03/2021) which is incorporated by reference at section 1107(a)(5);
- (3) Provide a process by which an out-of-state applicant for licensure may seek certification from the Board that they have met SLN requirements. The proposal will incorporate by reference an Application for Certification of Out-of-State Dental Hygiene Education in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)" DHBC SLN-05 (New 10/2021) and a Certification of Completion of SLN Course Requirements" DHBC SLN-06 (New 10/2021);
- (4) Adopt provisions governing radiation safety and radiography techniques instruction; and

(5) Update the regulation to reflect the amended name of the Board. Effective January 1, 2019, Senate Bill 1482 (Hill, Chapter 858, Statutes of 2018) (SB 1482) changed the name of the Dental Hygiene Committee of California (DHCC) to the Dental Hygiene Board of California (DHBC).

### **Anticipated Benefits of the Proposed Amended Regulation:**

The anticipated benefits of the proposed amendments to section 1105.2 are: (1) clarifying outdated terms in educational terminology; (2) removing barriers to out-of-state dental hygiene programs by providing a more specific means for obtaining the Board's approval of the program; (3) removing barriers for out-of-state applicants by providing a process by which the Board can approve an applicant's education in SLN and (4) enhancing public safety by incorporating currently accepted radiation safety guidelines and techniques and defining requirements for courses in radiation safety and radiography techniques.

### **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.

### **FORMS INCORPORATED BY REFERENCE**

- SLN-04 - Application for Approval of an Out-of-State Dental Hygiene Educational Program Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) (New 10/2021)
- SLN-05 - Application for Certification of Out-of-State Dental Hygiene Education in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) (New 10/2021)
- SLN-06 - Certification of Competency in Performance of Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) (New 10/2021)

## **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:**

The Board anticipates up to five educational institutions will initially seek program approval. These out-of-state schools are located adjacent to California (Nevada and Arizona). No other schools are anticipated to apply for approval at this time.

The Board will require approximately five hours of workload (Associate Governmental Program Analyst at \$107 per hour) to receive, process, review, and approve each institution's application, which results in estimated workload costs of \$535 per program or \$2,675 total (one-time) for five schools.

The Board estimates approximately 45 out-of-state students (half of 90 applicants) will seek certification per year. It takes the Board approximately five workload hours to complete the application approval process, which results in estimated workload costs of \$535 per student or total costs of \$24,075 per year and up to \$240,750 over a ten-year period.

The Board will also incur one-time information technology estimated costs of \$1,350 to update revenue and accounting software codes.

Total costs are estimated to be \$26,750 in year one of implementation and \$24,075 annually thereafter and up to \$243,875 over a ten-year period.

The Board estimates one-time revenues of \$2,500 to approve five out-of-state institutions and revenues of \$22,500 per year ongoing to approve 45 students per year, which results in revenues of \$25,000 in year one of implementation and \$22,500 ongoing thereafter and up to \$227,500 over a ten-year period.

**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 a minor 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:

There is a minor business impact because the proposed amendments to the regulation set forth a mechanism to review out-of-state education in SLN submitted to the Board to ensure applicants educated out-of-state in SLN meet Board educational requirements.

Currently, California-based SLN providers train and certify all out-of-state RDH applicants to meet Board standards. To the extent out-of-state applicants (45) will no longer be required to complete the additional SNL training and pay estimated tuition fees of \$5,000 each, these SNL providers would collect approximately \$225,000 less revenues per year.

### **Cost Impacts on a Representative Private Person or Businesses:**

The proposed regulations may result in economic impacts to California and other states as follows:

**California Impact:** The Board estimates 45 out-of-state applicants will be certified by the Board per year. These individuals will not have to complete additional SNL training and pay estimated tuition fees of \$5,000 each, which would result in reduced revenues of approximately \$225,000 per year and up to \$2.25 million over a ten-year period.

**Out-of-State (Individuals):** Out-of-state individuals applying for certification will be required to pay a \$500 one-time fee to the Board to review and ensure the applicant's out-of-state educational experience in SLN meets Board standards. The Board estimates up to 45 individuals will apply per year and pay \$500 each, which results annual revenues of \$22,500 and up to \$225,000 over a ten-year period.

Additionally, these out-of-state applicants (45) will save approximately \$5,000 each for not having to pay additional SNL training fees, which results in cost savings of \$225,000 per year and up to \$2.25 million over a ten-year period.

**Out-of-State (Business):** The Board anticipates five out-of-state RDH educational institutions will initially apply for approval and pay \$500 to the Board, which would result in one-time revenues of \$2,500.

### **Significant Effect on Housing Costs:** None

### **Business Reporting Requirement**

An approved out-of-state SLN course provider is required to report to the Board any changes in content, facilities, or staff applicable to SLN the course on a biennial basis. Course providers will not incur any additional costs to report these changes to the Board. It is necessary for the health, safety, and welfare of the people of the state that

the regulation apply to business. It is necessary for the health, safety, and welfare of the people of the state that the regulation apply to businesses.

## **Results of the Economic Impact Analysis/Assessment**

### **Impact on Jobs/Businesses:**

#### **Creation or elimination of jobs within California**

The Board has determined that this regulatory action will create jobs by allowing dental hygienists educated out-of-state to be able to apply for licensure, and will not eliminate jobs within California.

However, there may be a slight reduction in RDH educational jobs. The proposed amendments to the regulation set forth a mechanism to review out-of-state education in SLN submitted to the Board to ensure applicants educated outside the state in SLN meet Board educational requirements. Previously, the Board relied on three California SLN providers to train and certify all out-of-state RDH licensure applicants in SLN. With the proposed amendments, the California SLN providers may see a reduction in need for their services. Therefore, there may be a reduction in employment of instructional staff.

#### **Creation of new businesses or elimination of existing businesses within of California**

It would not create or eliminate businesses in California. However, it would affect businesses because the proposed amendments to the regulation set forth a mechanism to review out-of-state education in SLN submitted to the Board to ensure applicants educated out-of-state in SLN meets Board educational requirements. Previously, the Board relied on three California SLN providers to train and certify all out-of-state RDH licensure applicants in SLN. As the Board receives approximately 90 out-of-state applications per year, with the proposed amendments, the Board estimates that approximately 45 applications (half of the applicants) may request review of the applicant's SLN education. Therefore, California SLN providers may see a reduction in need for their services.

#### **Expansion of businesses currently doing business within the state**

It would not create an expansion of businesses currently doing business within the state because the proposed amendments to the regulation set forth a mechanism to review out-of-state education in SLN submitted to the Board to ensure applicants educated out-of-state in SLN meets Board educational requirements. Therefore, California SLN providers may see a reduction in need for their services.

**Benefits of the Proposed Action:** This regulatory proposal would positively impact the health and welfare of California residents as the amendments would clarify language

with regard to educational requirements on radiographic technique in the regulation and allow for more uniform training of RDHs to increase safety of x-ray usage. Additionally, the amendments to the regulation would ensure properly trained individuals oversee infection control processes to ensure patients of the DHEPs are treated with properly processed dental instruments to decrease the possibility of exposure to infection.

This regulatory proposal would positively affect worker safety as the amendments to the regulation would clarify language with regard to educational requirements on radiographic technique within the regulation and allow for more uniform training of RDHs to increase safety of x-ray usage. Additionally, the amendments to the regulation would ensure properly trained individuals oversee infection control processes to ensure safe usage of infection control equipment by students of the DHEPs.

This regulatory proposal would 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 affect small businesses because the proposed amendments to the regulation set forth a mechanism to review out-of-state education in SLN submitted to the Board to ensure applicants educated out-of-state in SLN meets Board educational requirements. Previously, the Board relied on three California SLN providers to train and certify all out-of-state RDH licensure applicants in SLN. As the Board receives approximately 90 out-of-state applications per year, with the proposed amendments, the Board estimates that approximately 45 applications (half of the applications) may request review of the applicant's SLN education. Therefore, California SLN providers may see a reduction in need for their services.

## **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, 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](mailto: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](mailto: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, documents incorporated by reference, ISOR, and all of the information on which the proposal is based, may be obtained at a hearing, should one be requested, or 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, and the text of the regulations can be accessed through the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.