

**Title 16, Division 11, Article 10, Section 1117
Dental Hygiene Board of California**

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

**Reporting Dental Relationships Between Registered Dental Hygienists in
Alternative Practice and Licensed Dentists, Section 1117**

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 **5:00 p.m. on Tuesday, December 14, 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, and 1930, and to implement, interpret, or make specific BPC sections 1905 and 1930, 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 would adopt language to define reporting requirements for RDHAPs to inform the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services

- **Add Section 1117 to Title 16 of the California Code of Regulations.**

BPC section 1930 requires an RDHAP to provide documentation to the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services. The Board proposes to make BPC section 1930 specific by defining reporting requirements for RDHAPs to inform the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services. This proposal will adopt Title 16, section 1117 to provide requirements for RDHAPs to report a relationship to the Board. These will include: (1) providing documentation to the Board upon application of an RDHAP license of a relationship with at least one licensed dentist located in California for referral, consultation, and emergency services; (2) providing documentation to the Board of a current relationship with at least one licensed dentist at every biennial license renewal; (3) reporting any termination of the existing dentist relationship to the Board within 30 calendar days of the termination and providing documentation of establishment of a new relationship with a licensed dentist; (4) requiring that at all times during the relationship between the RDHAP and the dentist, the dentist's license must be current, active, and not under discipline prohibiting practice by the Dental Board of California (DBC); and (5) requiring termination of the RDHAP-licensed dentist relationship upon learning of any discipline prohibiting practice of the dentist's license by the DBC.

The proposed regulation would utilize proposed form "Documentation of Registered Dental Hygienist in Alternative Practice (RDHAP) Relationship with Dentist" (Form RDHAP-01 (New 07-2021)) which is incorporated by reference at proposed section 1117(f).

Anticipated Benefit(s) of the Proposed Amended Regulation:

Section 1117 will do the following:

- First, the requirements ensure RDHAPs have a dental resource to whom to refer the patient for further, more comprehensive treatment outside the scope of the licensee's practice. This will enhance patient safety and ensure continuity of care for RDHAPs' patients.
- Second, requiring RDHAPs to provide the Board with notice of a current relationship with at least one licensed dentist at every biennial license renewal and in the event of termination will ensure continuity of the dentist relationship.
- Third, requiring that the dentist's license must be current, active, and not under discipline prohibiting practice by the DBC at all times ensures that the dentist is legally able to practice and provide safe, necessary care to patients the RDHAP refers.
- Fourth, requiring termination of the RDHAP-licensed dentist relationship upon learning of any discipline prohibiting practice of the dentist's license will ensure that the RDHAP only maintains a relationship with dentists that provide safe, necessary care to patients.

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:

The Board indicates a Staff Services Analyst will take approximately 45 minutes to review and process each RDHAP's document submission, as specified, at a cost of approximately \$66 per submission.

The Board receives approximately 45 initial license applications and 300 renewal license applications per year, which would result in a fiscal impact of \$22,770 per year and up to \$227,700 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 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 reporting requirements for RDHAPs to inform the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services.

Cost Impacts on a Representative Private Person or Businesses:

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

The proposed form incorporated by reference, Form RDHAP-01 (New 07-2021), incorporates the reporting requirements proposed within the regulation for uniformity of information reported to the Board and requires minor expenditure of effort to complete.

The Board estimates initial RDHAP applicants and renewing RDHAP licensees will take 20 minutes to complete and submit the required documentation at a cost of \$15 per submission. The Board receives approximately 45 initial license applications and 300 renewal license applications per year, which would result in an economic impact of \$5,175 per year and up to \$51,750 over a ten-year period.

Significant Effect on Housing Costs: None.

Business Reporting Requirement:

The regulation will require businesses to file a report with the Board. The change in regulatory language will require the RDHAP to provide documentation to the Board (Form RDHAP-01 (New 07-2021)) of a relationship with at least one licensed dentist located in California (1) upon application of an RDHAP license and (2) at every biennial license renewal. It will also require reporting any termination of the existing dentist relationship to the Board within 30 calendar days of the termination and providing documentation of establishment of a new relationship with a licensed dentist. 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: 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 proposed language in the regulation would define reporting requirements for RDHAPs to inform the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services.

Benefits of the Proposed Action: This regulatory proposal benefits the health and welfare of California residents as the proposed language in the regulation would clarify RDHAP reporting requirements (1) to ensure the RDHAP has a dental resource to refer their patients for further, more comprehensive treatment outside the scope of the licensee's practice, thereby increasing safety and ensure continuity of care for the patients of RDHAPs; (2) to require RDHAPs to provide the Board with notice of a current relationship with at least one licensed dentist at every biennial license renewal and in the event of termination will ensure continuity of the dentist/RDHAP relationship; (3) to require that the dentist's license be current, active, and not under discipline prohibiting practice by the DBC at all times ensures that the dentist is legally able to practice and provide safe, necessary care to patients the RDHAP refers; and (4) to require termination of the RDHAP-licensed dentist relationship upon learning of any discipline prohibiting practice of the dentist's license will ensure that the RDHAP only maintains a relationship with dentists that provide safe, necessary care to patients.

This regulatory proposal does not benefit worker safety or the state's environment because it does not affect worker safety or the environment.

Effect on Small Business: The Board has determined that this regulatory action would have a minor impact on small businesses within the State of California as the proposed language in the regulation would define reporting requirements for RDHAPs starting their personal dental hygiene practice to inform the Board of an existing relationship with at least one dentist for referral, consultation, and emergency services. Completion of form RDHAP-01 (New 07-2021) provides for uniformity of information to be reported to the Board and will require expenditure of minimal additional effort to complete.

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>.