TITLE 16. DENTAL HYGIENE BOARD OF CALIFORNIA – DEPARTMENT OFCONSUMER AFFAIRS

MODIFIED TEXT

Legend:

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strikethrough~~ for deleted text.

Amend Section 1116 in Article 4 of Division 11 of Title 16 of the California Code of Regulations (CCR) to read as follows:

Article 4. Licensing

§ 1116. Mobile Dental Hygiene Clinics; Issuance of Approval.

(a) Definitions. For the purposes of this section, unless otherwise specified, the following definitions shall apply:

(1) “Active patient” refers to a patient of record whom the owner or provider has examined, treated, or cared for within the two (2) year period prior to discontinuation of practice, or the owner or provider moving from or leaving the city in which services were provided to the patient.

(2) “Communication capability” means an owner has telephone service they can access twenty-four (24) hours per day.

(3) “Dental hygiene services” means the professional practices of a registered dental hygienist in alternative practice (RDHAP) as set forth in Business and Professions Code section (BPC) section 1925.

(4) “Equipment” means any tool, instrument, or device used by an RDHAP to provide dental hygiene services.

(5) A “mobile dental hygiene clinic (MDHC)” means any self-contained facility in which dental hygiene services are rendered that may be moved, towed, or transported from one location to another. This term shall not include equipment used and transported by licensed RDHAPs in discharging their duties in locations or settings authorized by BPC section 1926.

(6) “Necessary parties” means emergency responders, medical/dental/dental hygiene clinics, care facility or school staff, guardians, and designated family members.

(7) “Owner” means an individual who applies for registration or operates an MDHC, is responsible for the MDHC’s registration, and is licensed to practice dental hygiene in alternative practice pursuant to BPC section 1922.

(8) "Patient of record" refers to a patient who has had a medical and dental history completed and evaluated, had oral conditions assessed and documented, and had a written dental hygiene care plan, as defined in California Code of Regulations (CCR), Title 16, section 1100(g), developed by the RDHAP.

(9) “Patient treatment records” shall include the patient’s dental history maintained by the MDHC related to the dental hygiene process of care which includes medical history, dental hygiene ~~evaluation(s)~~assessments, dental hygiene ~~diagnosis(es)~~care plan, dental hygiene procedures and treatment, response to dental hygiene treatment, documented consultations with other dental care and healthcare providers, and referrals for dental care and healthcare follow-up treatment.

(10) “Protected Health Information (PHI)” means the patient’s “individually identifiable health information” as defined in section 1320d of Title 42 of the United States Code. PHI includes a patient’s medical history, or dental history, which is a written record of the patient’s personal health history that provides information about allergies, illnesses, surgeries, immunizations, and results of physical exams and tests.

(11) “Provider” means an individual licensed to practice dental hygiene in alternative practice or dentist who provides dental hygiene treatment and/or services in an MDHC, but who is not necessarily the owner registering the MDHC.

(b) Application for Registration. An RDHAP who wishes to operate an MDHC in any setting authorized by BPC section 1926 shall apply to the Board for registration of an MDHC with the Board by submitting a completed application to the Board. A completed application shall include the following:

(1) A completed “Application for Registration of a Mobile Dental Hygiene Clinic (MDHC)” (DHBC MDHC-01 (~~New 11/2022~~Amended 11/~~2025~~2026)), which is hereby incorporated by reference;

(2) All documents required by form DHBC MDHC-01 (~~New 11/2022~~Amended 11/~~2025~~2026); and,

(3) Payment of an initial registration fee of $100.

(c) Abandonment; Grounds for Denial, Withdrawal, Citation or Issuance of Registration.

(1) An applicant for a license who fails to complete registration application requirements set forth in subdivision (b) within one year after being notified bythe Board of deficiencies in their application, shall be deemed to have abandoned the application and shall be required to file a new application and meet all of the requirements in effect at the time of reapplication.

(2) The Board may deny, place on probation, issue a citation, or withdraw a registration as provided in BPC section 1926.1 for failure to meet the requirements of this section. For the purposes of this section and BPC section 1926.1, a registration may be withdrawn if compliance with this section is not demonstrated within 60 days from the date of written notice of the areas of noncompliance found by the Board and/or upon a final decision, pursuant to 16 CCR section 1142, thereby upholding the withdrawal in accordance with the notice and hearing procedures contained in the Administrative Procedure Act (Sections 11500 through 11529 of the Government Code).

(3) Upon meeting the requirements of subdivision (b), an MDHC shall be registered with the Board and the RDHAP operator shall be issued an MDHC registration.

(d) Minimum Operating Requirements.

(1) The MDHC applicant or owner shall meet all of the following requirements to obtain or maintain registration of the MDHC as required by BPC sections 1926.1 and 1926.2 and this section:

(A) The owner has a written procedure that specifies the means of obtaining emergency follow-up care for patients treated in the MDHC. The procedure shall include arrangements an RDHAP must make for treatment by a licenseddentist or physician whose place of practice is established within the city or county in which the MDHC provides or intends to provide dental hygiene services. A copy of these written procedures shall be given to each provider at the MDHC prior to any dental hygiene services being performed on a patient.

(B) An owner shall maintain a relationship with at least one licensed dentistlocated in California for referral, consultation, and emergency services pursuant to 16 CCR section 1117.

(C) The owner has communication capability that enables the owner to contact necessary parties in the event of a medical or dental emergency.

(D) The owner shall maintain a telephone number where patients are able to contact the MDHC owner or provider with questions, concerns, or emergency needs and have their calls returned within four (4) calendar days. If a live person is not available to answer calls, the telephone line shall include a recorded message with information about whom to contact in case of a dental emergency after receiving dental hygiene services.

(E) The owner shall comply with all state and local laws and ordinances regarding business licensing and operations, and shall obtain and maintain all state and local licenses and permits necessary to provide the dental hygiene services being rendered by the applicant or provider at the MDHC, including a local or county business license, a fictitious name permit as provided in BPC section 1962 if applicable, and/or a seller's permit if a permit is required under the Sales and Use Tax Law, Part 1 (sections 6001 through 6024) of Division 2 of the Revenue and Taxation Code.

(F) If the owner or any provider performs radiographs, a radiographic operatory must be used that complies with California Radiation Control Regulations. (Cal. Code Regs., tit. 17, Div. 1, Ch.5, Subchapter 4, §§30100 through 30395.)

(G) The driver of the MDHC shall possess a current, active, and unrestricted California driver's license.

(2) Official Place of Business and Maintenance of Records.

(A) The owner shall maintain a physical address of record for the MDHC registered with the Board and shall notify the Board in writing of any changein that address within thirty (30) days of the change.

(B) An owner shall include the name of the MDHC (including any fictitious name authorized by BPC section 1962), physical address of record and MDHC registration number for all forms of advertisement, solicitation, or other presentments made to the public in connection with the rendition of dental hygiene services, including any advertisement, card, letterhead, telephone listing, Internet Web site, written solicitation or communications to a prospective patient or patients, or contract proposal.

(C) All dental hygiene patient treatment records and communications relating to the care and treatment of the patient following the discharge of a patient shall be maintained by the owner for a minimum of seven (7) years.

(3) In addition to the other minimum operating requirements of this section, each MDHC shall:

(A) Use infection control equipment and follow infection control procedures

according to the requirements of 16 CCR section 1005.

(B) Comply with HIPAA's security standards in Subpart C of Part 164, 45 C.F.R. §§164.302 through 164.318, with respect to the patient's PHI. For the purposes of this section "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §§1320d - 1320d-8) as amended by subsequent legislation and the implementation of Privacy, Security, and Enforcement Rules under 45 C.F.R. Part 160 and Subparts A, C, D, and E of Part 164.

(C) Be readily accessible to and useable by individuals with disabilities pursuant to the federal Americans with Disabilities Act of 1990 (ADA)(42 U.S.C. §§12101 through 12212), in accordance with the ADA's implementing rules under 28 C.F.R Part 36 and Subparts A-D of Part 36. For the purposes of this section,"disability" has the meaning set forth in Section 51 of the Civil Code.

(D) Have access to a sufficient water supply to meet patients' health and safety needs at all times, including hot water. Water quality shall meet guidelines setforth in the "Guidelines for Infection Control in Dental Health-Care Settings – 2003" from the Centers for Disease Control and Prevention (CDC), in additionto the "Safe Drinking Water Act." (42 U.S.C. §§300f through 300j-27.)

(E) Have toilet facilities available to staff and patients of the MDHC.

(F) Have a covered galvanized, stainless steel, or other noncorrosive ~~metal~~, heavy duty puncture-resistant and leak-proof container for deposit of refuse and waste materials.

(G) Have a working Automated External Defibrillator (AED).

~~(H)~~(4) If an RDHAP administers local anesthesia or performs soft tissue curettage pursuant to 16 CCR section 1118, an RDHAP shall have available~~Have~~ a self-contained, portable emergency oxygen unit with administration equipment (wheeled cart with oxygen cylinder, variable regulator, demand valve system, supplemental adult and child oxygen masks, hoses, and nasal cannulas) to assist with administration of basic life support.

~~(4)~~(5) Each MDHC owner shall notify the Board in writing within thirty (30) days of any change in operational status or ownership of the MDHC.

~~(5)~~(6) An RDHAP operator shall provide access during business hours to the RDHAP's records and facility to the Board, or its authorized representative(s), to review the MDHC for compliance with all laws, regulations, and standards applicable to MDHCs including, but not limited to, the BPC, CCR, CDC, and

HIPAA.

(e) Transferability. An MDHC registration is not transferable.

(f) Renewal. An MDHC registration shall expire at the same time as the registration holder's RDHAP license.

(1) To renew the MDHC, an owner shall submit a completed renewal application that includes the following:

(A) Form DHBC MDHC-01 (~~New 11/2022~~Amended 11/~~2025~~2026);

(B) A biennial renewal fee in the amount of $160; and

(C) All supporting documentation required by form DHBC MDHC-01 (~~New 11/2022~~Amended 11/~~2025~~2026).

(2) Renewal of each MDHC registration shall be accomplished by submission of the form DHBC MDHC-01 (~~New 11/2022~~Amended 11/~~2025~~2026), fee, and documentation required in subdivision (f)(1) by either:

(A) Electronic submission through a web link to the Department of Consumer Affairs' online licensing system entitled "BreEZe" located on the Board's website at: https://www.dhbc.ca.gov/ using the "BREEZE" tab or the "BreEZeOnline System" portal tabs or at: https://www.breeze.ca.gov/datamart/loginCADCA.do; or

(i) The owner and operator shall first register for a user account by creating a username and password.

(ii) The owner and operator shall provide all required documentation referenced in (f)(1) through the link referenced in subdivision (f)(2)(A) of this section. With respect to the application, the owner and operator may submit form DBHC MDHC-01 (~~New 11/2022~~Amended 11/~~2025~~2026) through BreEZe or electronically submit the same information that is requested by that form directly through BreEZe.

(iii) Electronic Signature: When a signature is required by the particular instructions of any filing to be made through the online portal, including any attestation under penalty of perjury, the owner shall affix their electronic signature to the filing by typing their name in the appropriate field and submitting the filing via the Board's online portal. Submission of a filing in this manner shall constitute evidence of legal signature by any individual whose name is typed on the filing.

(B) Submission of all required documentation referenced in subdivision (f)(1) by mail to the Board's physical address.

(g) Exemptions. MDHCs that fall within the definition of BPC section 1926.2(b) are exempt from the requirements of this section.

(h) Identification of Personnel, Notification of Changes in Written Procedures, and Display of Licenses.

(1) The owner shall advise the Board in writing within thirty (30) days of any change to any of the information provided to the Board in application form DHBC MDHC-01 (~~New 11/2022~~Amended 11/~~2025~~2026), whether for initial or renewal.

(2) Each RDHAP or any other provider licensed by the Board to provide dental hygiene services in the MDHC shall prominently display evidence of their California RDHAP or other Board license in a conspicuous location accessible to public view on the premises where the RDHAP or other Board licensee provides the licensed services pursuant to BPC section 680.

(3) A licensed RDHAP engaged in the practice of dental hygiene shall provide notice to each patient of the fact the RDHAP is licensed and regulated by the Board.

(A) The notice shall include the following statement and information:

NOTICE:
Dental Hygienists in Alternative Practice are licensed and
regulated by the Dental Hygiene Board of California
(916) 263-1978
www.dhbc.ca.gov

(B) The notice required by this section shall be provided by prominently posting the notice in a conspicuous location accessible to public view on the premises where the RDHAP provides the licensed services, and the notice shall be in at least 48-point type font.

(i) Identification of Location of Services.

(1) Each owner of an MDHC shall maintain a confidential written or electronic record detailing the following information for each patient to whom services are provided:

(A) Name of patient served;

(B) Closest street address near the service location of the MDHC where service was provided;

(C) Date of each treatment session; and

(D) Types of dental hygiene services provided to each patient.

(2) The confidential written or electronic record shall be made available to a representative of the Board within fifteen (15) days of the date of the Board's written request pursuant to BPC section 1955.

(j) Cessation of Operation.

(1) Upon cessation of operation of an MDHC, the owner shall notify the Board in writing within thirty (30) days after the last day of operation and inform the Board of the final disposition of patient treatment records, including the physical mailing address or location where the treatment records are maintained and the name, telephone number and address for the custodian of records or other person whom the owner designates as responsible for maintaining those records.

(2) If an MDHC is sold to another RDHAP, that RDHAP ("succeeding MDHC owner") must register with the Board by filing a new form DHBC MDHC-01 (~~New 11/2022~~Amended 11/~~2025~~2026) and comply with this section prior to operating the MDHC.

(3) Upon cessation of operation of an MDHC, the previous owner shall preserve all records for a minimum of seven (7) years.

(4) Within thirty (30) days before the last day of operation, the owner shall provide written notice via first class mail to all active patients of record of the date of closure or cessation of the MDHC, including the last date the MDHC will remain open, and the name, telephone number and address of an individual the patient may contact to request transfer of copies of their patient treatment records to a succeeding MDHC owner or to the patient. The owner shall maintain proof the notice was provided to all active patients in accordance with this section and upon request to the Board in accordance with BPC section 1955. Within fifteen (15) days of receipt of a written request by the patient, the owner shall also provide for the transfer of copies of the patient's treatment records, including radiographs, to the succeeding MDHC owner or to the patient as specified by the patient. In addition, the owner shall provide written acknowledgement of receipt of the patient's request to the patient within five (5) business days of receipt of the written request, and also notify the patient of the method and date of expected delivery of the patient's treatment records.

(5) "Proof the notice was provided" shall mean proof of service of any notice required by this section to patients by mail by completion of a document showing the document's name and the person served, the person making service, and the date and manner of service (e.g., by first class mail, regular mail, or in person). Proof of service shall be in writing, but need not be signed,

signed under oath, or in any particular format.

Note: Authority cited: Sections 1905, 1906, 1908, 1926.01, 1926.1, 1926.2 and 1944, Business and Professions Code. Reference: Sections 125.6, 137, 138, 142, 680, 1922, 1925, 1926, 1926.1, 1926.2, 1955 and 1962, Business and Professions Code.