TITLE 16. DENTAL HYGIENE BOARD OF CALIFORNIA - DEPARTMENT OF CONSUMER 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 §1116.5 in Article 4 of Title 16 of the California Code of Regulations (CCR) toread as follows:

Article 4. Licensing

§ 1116.5. Registered Dental Hygienist in Alternative Practice; Physical Facility Registration.

(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 registered dental hygienist in alternative practice (RDHAP) owner or provider has examined, treated, or cared for within the two (2) year period prior to discontinuation of practice, or the RDHAP owner or provider moving from or leaving the city in which services were provided to the patient.

(2) “Dental hygiene services” means the professional practices of an RDHAP as set forth in Business and Professions Code (BPC) section 1925.

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

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

(5) “Owner” means an individual licensed to practice dental hygiene in alternative practice pursuant to BPC section 1922 in the State of California who applies for registration or has registered a physical facility or portable equipment with the Board pursuant to the registration requirements of this section.

(6) "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.

(7) “Patient treatment records” shall include the patient’s dental history maintained by the facility 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.

(8) “Physical facility” means either a fixed structure in which dental hygiene services are rendered or where portable equipment is maintained. A physical facility where services are rendered must be located in a dental health professional shortage area, as certified by the Department of Health Care Access and Information, pursuant to BPC sections 1926, 1926.01, and 1926.05.

(9) “Portable equipment” means any tool, instrument, or device used by an RDHAP to provide dental hygiene services designed for and capable of being carried or moved from one location to another.

(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.

(1) Within 30 days after the date of the issuance of their initial license, an RDHAP shall do the following:

(A) If the RDHAP owns a physical facility or utilizes portable equipment, the RDHAP shall register the physical facility where the dental hygiene services are rendered, or where the portable equipment is maintained according to the requirements of this section. The RDHAP shall register with the Executive

Officer by submitting to the Board a completed “Registered Dental Hygienists in Alternative Practice: Registration of Physical Facilities” (form DHBC HAPR-01 ~~New~~ (~~11/2022~~Amended 11/~~2025~~2026)), which is hereby incorporated by reference, and meet all of the applicable requirements of this section; or,

(B) If the RDHAP does not own a physical facility, the RDHAP shall notify the Executive Officer by providing a written statement, signed and dated by the RDHAP, stating that they do not own a physical facility where dental hygiene services are rendered.

(2) An RDHAP owner who desires to have more than one place of practice shall, before opening the additional physical facility or facilities, apply to and obtain permission from the Board to have the additional place of practice as provided in this section. The RDHAP owner shall submit a completed “Registered Dental Hygienists in Alternative Practice: Registration of Physical Facilities.” (form DHBC HAPR-01 (~~New 11/2022~~Amended 11/~~2025~~2026)), pay an additional office permit fee of $160, and meet all of the requirements of this section before the additional facility or facilities will be registered with the Board.

(3) The Board shall inform an RDHAP owner in writing whether the registration application (DHBC HAPR-01 (~~New 11/2022~~Amended 11/~~2025~~2026)) is complete and accepted for filing or is deficient and what further specific information is required. An applicant for a license who fails to complete registration application requirements within one year after being notified by the 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.

(4) The Board may deny or withdraw a registration or issue a citation as provided in BPC section 1926.3 for failure to meet the requirements of this section.

(5) Upon meeting the requirements of this section, the physical facility or facilities shall be registered with the Board and the ~~RHDAP~~RDHAP owner shall be issued an office permit for the initial facility, and, if applicable, an additional office permit ifadditional facilities are registered.

(c) Minimum Operating Requirements.

(1) An RDHAP applicant or owner shall meet all of the following requirements to obtain or maintain registration of their facility or facilities as required by BPC sections 1926.3 and 1926.4 and this section:

(A) There is a written procedure that specifies the means of obtaining emergency follow-up care for patients treated at the physical facility or after use of portable equipment. The procedure shall include arrangements an RDHAP must make for treatment in by a licensed dentist or physician whose place of

practice is established within the city or county in which the RDHAP owner or provider provides dental hygiene services. A copy of these written procedures shall be given to each provider at the physical facility prior to any dental hygiene services being performed on a patient.

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

(C) An RDHAP shall maintain a telephone number where patients are able to contact the RDHAP 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.

(D) The applicant or RDHAP 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 physical facility, including, a local or county business license, a county building permit, a fictitious name permit as provided in BPC section 1962, 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.

(E) If the RDHAP 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.)

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

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

(B) An RDHAP owner shall include the name of the facility (including any fictitious name authorized by BPC section 1962), physical address of record and office registration number of their physical facility 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 following the discharge of a patient shall be maintained by the RDHAP owner for a minimum of seven (7) years.

(3) In addition to the other minimum operating requirements of this section, each physical facility 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 thissection "HIPAA" means the Health Insurance Portability and AccountabilityAct 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 set forth in the "Guidelines for Infection Control in Dental Health-Care Settings – 2003" from the Centers for Disease Control and Prevention, in addition to the "Safe Drinking Water Act." (42 U.S.C. §§300f through 300j-27.)

(E) Have toilet facilities within the dental hygiene facility available to staff and the public.

(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).

For RDHAPs who only utilize portable equipment and do not maintain a physical facility for patient treatment, (C), (E), and (G) of this subdivision do not apply.

~~(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 RDHAP owner shall notify the Board in writing within thirty (30) days of anychange in operational status or ownership of all registered physical facilities.

(d) 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 physical facility for compliance with all laws, regulations, and standards applicable to physical facilities including, but not limited to, the BPC, CCR, CDC, and HIPAA.

(e) Transferability. A physical facility registration is not transferable.

(f) Renewal of Physical Facility Registration. The physical facility registration shall expire at the same time as the permit holder's RDHAP license.

(1) To renew the registration of a physical facility, an RDHAP shall submit:

(A) Form DHBC HAPR-01 (~~New 11/2022~~Amended 11/~~2025~~2026) for each physical facility;

(B) A biennial renewal fee in the amount of $250 for each additional physical facility if the RDHAP has more than one registered with the Board; and

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

(2) Renewal of each physical facility registration shall be accomplished by submission of form DHBC HARP-01 (~~New 11/2022~~Amended 11/~~2025~~2026), fees, and documentationrequired in subdivision (e)(1) by either:

(A) Electronic submission through a web link to the Department of Consumer Affairs' online licensing system entitled "BreEZe" that is located on the Board's website at: https://www.dhbc.ca.gov/ using the "BREEZE" tab or the "BreEZe Online System" portal 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 subdivision (e)(1) through the link referenced in subdivision (e)(2)(A) of this section. With respect to the application, the owner and operator may submit form DBHC HAPR-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 (e)(1) by mail to the Board's physical address.

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

(1) The RDHAP owner shall advise the Board in writing within thirty (30) days of any change to any of the information provided in application form DHBC HAPR-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 physical facility, 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 of patients 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 that 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.

(h) Cessation of Operation.

(1) Upon cessation of operation of a physical facility, 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 a physical facility is sold to another RDHAP, that RDHAP ("succeeding RDHAP provider") must register with the Board by filing a new form DHBC HAPR-01 (~~New 11/2022~~Amended 11/~~2025~~2026) and comply with this section.

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

(4) Within thirty (30) days before the last day of operation, the RDHAP owner shall provide written notice via first class mail to all active patients of record of the date of closure or cessation of the physical facility, including the last date the physical facility 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 provider or to the patient. The RDHAP 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 RDHAP owner shall also provide for the transfer of copies of the patient's treatment records, including radiographs, to the succeeding provider or to the patient as specified by the patient. In addition, the RDHAP shall provide written acknowledgement of receipt of the patient's request to the patient within five (5) business days of receipt of the 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, under oath, or in any particular format.

Note: Authority cited: Sections 1905, 1906, 1908, 1926, 1926.01, 1926.05, 1926.3, 1926.4 and 1944, Business and Professions Code. Reference: Sections 125.6, 137, 138, 142, 680, 1922, 1925, 1926, 1926.01, 1926.05, 1926.3, 1926.4, 1955 and 1962 Business and Professions Code.