

DENTAL HYGIENE BOARD
FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Temporary Licensure (Military Spouses or Partners).

Section(s) Affected: Section 1114 of Title 16 of the California Code of Regulations (CCR).

Updated Information

The Informative Digest and Initial Statement of Reasons are included in the rulemaking file and incorporated as though set forth herein.

The Dental Hygiene Board of California (Board) noticed the proposed rulemaking on April 20, 2023, with a 45-day comment period ending on June 6, 2023, and received two comments in support of the regulation.

On October 10, 2023, the Board withdrew proposed section 1114 from the Office of Administrative Law to prepare and notice the modified text and modified form.

On October 31, 2023, the Board noticed the modified text and modified form to persons specified in subdivisions (a)(1) through (4) of Section 44 of Title 1 of the CCR. The comment period concluded on November 14, 2023. The Board did not receive any comments.

On November 18, 2023, the Board approved the modified text and form, and directed staff to take all steps necessary to complete the rulemaking process.

The modified text included the following amendments:

A. Addition of “be” after “To” and before “eligible” in subdivision (a).

The Board erroneously omitted “be” within subdivision (a). Therefore, the Board modified the text to correct the grammatical error.

B. Deletion of “2022” and addition of “2023” after “11/” and before “) Application” in subdivision (b)(1).

The Board modified subdivision (b)(1) to replace “2022” with “2023” with regard to the date the modified form “TEMP-01” was adopted by the Board.

C. Deletion of subdivision (c).

The Board deleted subdivision (c) “This section shall become operative on July 1, 2023.” because the date has passed, and regulations cannot have a retroactive effective date.

D. Deletion of “141, 480, 490, 1902.3, 1926.3, 1927, 1931, 1949, 1950 1952, 1954, 1955, 1956, 1958.1 and 1962,” and addition of “and” after “1916,” and before “1950.5,” in the “Reference” section.

Deletion of Business and Professions Code sections 141, 480, 490, 1902.3, 1926.3, 1927, 1931, 1949, 1950, 1952, 1954, 1955, 1956, 1958.1, and 1962 should not be cited as “References”, as these are not statutes that the Board is implementing, interpreting, or making specific in this rulemaking.

The addition of “and” after “1916,” and before “1950.5,” is necessary for grammatical accuracy.

The modified form included the following amendments:

A. Addition of “DHBC” before “TEMP-01”, deletion of “2022” and addition of “2023” in the form’s footer.

The Board modified the footer on all pages of form “DHBC TEMP-01 (New 11/2023)” to replace “2022” with “2023” with regard to the date the modified form “TEMP-01” was adopted by the Board, as well as added “DHBC” to clearly identify which agency the form is associated with, in addition to consistency with the naming of the form within the regulation.

B. Addition of “Dental Hygiene” before “Board” and “of California (DHBC)” after “Board” in the initial “NOTICE” section on page 1 of the form.

The Board added “Dental Hygiene” before “Board” and “of California (DHBC)” after “Board” to clarify “Board” refers to the “Dental Hygiene Board of California,” along with defining the Board’s acronym of “DHBC.” The Board determined to provide clear and consistent interpretations of acronyms utilized within the form language to prevent misinterpretation by the reader.

C. Addition of “,whichever occurs first” after “BPC section 115.5” and at the end of the first paragraph in the initial “NOTICE” section on page 1 of the form.

BPC section 115.6 (h) states: “A temporary license issued pursuant to this section is nonrenewable and shall expire 12 months after issuance, upon issuance or denial of a standard license, upon issuance or denial of a license by endorsement, or upon issuance or denial of an expedited license pursuant to Section 115.5, **whichever**

occurs first.”

To better align with requirements in BPC section 115.6(h), the Board agreed to add “whichever occurs first” to ensure clarity as to the expiration date of the temporary license issued to the applicant.

D. Addition of “(4) “License” shall mean an applicant’s license, registration, or other comparable authority.” In the initial “NOTICE” section on page 1 of the form.

BPC section 115.6(c)(2) requires an applicant seeking a temporary license to hold a current, active, and unrestricted license that confers upon the applicant the authority to practice dental hygiene. Therefore, the Board determined to define “License” to mean “an applicant’s license, registration, or other comparable authority” to practice dental hygiene.

To provide guidance to the regulated community, the Board determined to place all definitions within the initial “Notice” section to specify clear and consistent interpretations of words utilized within the form language to prevent misinterpretation by the reader.

E. Addition of “(5) “Good standing” shall mean: • The applicant has not been disciplined, • The applicant is not the subject of an unresolved complaint or review procedure, and • The applicant is not the subject of any unresolved disciplinary proceeding.” in the initial “NOTICE” section on page 1 of the form, and deletion of “For the purposes of this section, “good standing” shall mean: ■ The applicant has not been disciplined. ■ The applicant is not the subject of an unresolved complaint or review procedure. ■ The applicant is not the subject of any unresolved disciplinary proceeding.” in the fifth sub-bullet point of the second bullet point of the “*If YES” paragraph of question “11”.

The Board previously defined “Good Standing” in the fifth sub-bullet point of the second bullet point of the “*If YES” paragraph of question “11”. For clarity, the Board decided to place all definitions within the initial “Notice” section on page 1 of the form to provide clear and consistent interpretations of words utilized within the form language to prevent misinterpretation by the reader.

F. Deletion of box “3. Licensure Application Type RDH RDHAP RDHEF” and addition of new box “3. Licensure Application Type: Registered Dental Hygienist (RDH). Registered Dental Hygienist in Alternative Practice (RDHAP). Registered Dental Hygienist in Extended Functions (RDHEF).”

The Board modified box “3” to define and provide acronyms for a Registered Dental

Hygienist (RDH), Registered Dental Hygienist in Alternative Practice (RDHAP), and Registered Dental Hygienist in Extended Functions (RDHEF). The Board determined to provide clear and consistent interpretations of acronyms utilized within the form language to prevent misinterpretation by the reader.

G. Addition of “DENTAL HYGIENE” before “PROFESSIONAL”, deletion of “LICENSE” and addition of “LICENSURE” after “PROFESSIONAL”, and deletion of “OR CERTIFICATION” before “HISTORY” in the title box before question “11”.

The Board determined to clarify which type of professional licensure (dental hygiene) history was being requested by adding “Dental Hygiene” before “Professional”. Additionally, as “Licensure” is already defined within the initial “Notice” section on page 1 of the form, the Board determined deletion of “or Certification” was appropriate and used the term “Licensure” in lieu of the definition.

H. Deletion of “, or comparable authority” after “license” in question “11”.

The Board defines “license” as meaning “an applicant’s license, registration, or other comparable authority.” Therefore, as license was previously defined in the initial “Notice” section on page 1, the Board removed the additional reference here and used the term “licensure” in lieu of the definition.

I. Deletion of “a dental hygienist” and addition of “an RDH”, deletion of “a dental hygienist in alternative practice” and addition of “an RDHAP”, and deletion of “a dental hygienist in extended functions” and addition of “an RDHEF” in question “11”.

As the Board previously defined and provided acronyms for a Registered Dental Hygienist (RDH), Registered Dental Hygienist in Alternative Practice (RDHAP), and Registered Dental Hygienist in Extended Functions (RDHEF) in box “3”, the Board has determined that the use of the acronyms in lieu of the definition where that acronym would apply is more efficient.

J. Deletion of “Dental Hygiene Board of California ()” after “to the” in the “*If YES” paragraph of question “11”.

As the Board previously defined the “Dental Hygiene Board of California” as the acronym “DHBC” in the “Notice” section, the Board has determined that the use of the acronym “DHBC” in lieu of the definition where that acronym would apply is more efficient.

K. Addition of “for every state, district, or territory of the United States in which the applicant holds a current, active, and unrestricted license to practice as an RDH, an RDHAP, or an RDHEF” after “DHBC” in the “*If YES” paragraph of question “11”, and deletion of “in another state, district,

or territory of the United States,” after “license(s)”.

To improve clarity, the Board determined to restructure the initial “*If YES” paragraph to include “for every state, district, or territory of the United States in which the applicant holds a current, active, and unrestricted license to practice as an RDH, an RDHAP, or an RDHEF” to show those requirements apply to all current licenses the applicant possesses.

- L. Addition of “(s)” to the word “license” after “current”, addition of “(s)” to the word “license” after “which the”, and addition of “/were” after “was” in the first bullet point of the “*If YES” paragraph of question “11”.**

The Board determined that it is possible that an applicant may have more than one license. Therefore, the Board made the grammatical change to acknowledge the possibility of additional licensure.

- M. Deletion of “type, registration, or other comparable authority to practice dental hygiene” in the first bullet point of the “*If YES” paragraph of question “11”.**

The Board incorporates by reference its response to Amendment H.

- N. Deletion of “original” before “licensing jurisdiction” in the first bullet point of the “*If YES” paragraph of question 11, and deletion of “original” before “licensing jurisdiction” and after “applicant’s” in the second bullet point of the “*If YES” paragraph of question “11”.**

To enhance clarity, the Board decided to delete “original” as the term was determined to be ambiguous as an applicant may have several licenses that could be “original”.

- O. Deletion of “, registration, or other comparable authority (“license”)” in the second bullet point of the “*If YES” paragraph of question “11”.**

The Board incorporates by reference its response to Amendment H.

- P. Deletion of the “APPLICANT’S BACKGROUND AND HISTORY” section along with deletion of questions “12”, “13”, and “14”.**

The Board determined the “Applicant’s Background and History” section along with questions “12”, “13”, and “14” did not accurately capture the intent of temporary licensure pursuant to BPC section 115.6. Therefore, the Board determined to replace the “Applicant’s Background and History” section with the addition of the “Other Professional Licensure or Certification History” section.

Q. Addition of “OTHER PROFESSIONAL LICENSURE OR CERTIFICATION HISTORY” section.

This addition will assist the Board in identifying and capturing an applicant’s other professional licensure to ensure all licensures are in compliance with BPC section 115.6(c)(5).

R. Addition of “12. Do you hold or have you ever held any other professional or vocational license in another state, district, or territory of the United States?” in the “OTHER PROFESSIONAL LICENSURE OR CERTIFICATION HISTORY” section.

BPC section 115.6(c)(5) requires an applicant seeking a temporary license to not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction. Additionally, as the Board’s highest priority is consumer protection (Bus. & Prof. Code, § 1902.1), this is necessary because it ensures the military spouse/partner is unrestricted due to consumer harm, as well as to be safe and qualified to receive a temporary RDH license from the Board.

- A statement that if the above question is answered in the affirmative, the applicant shall provide the following documentation with the application:
 - A copy of the applicant’s license, including the number issued to the applicant by the licensing jurisdiction.

A copy of the license and licensing jurisdiction number is necessary for the Board to exercise due diligence and research the license, ensuring it is unrestricted as required by BPC section 115.6(c)(5).

- Written verification from the applicant’s original licensing jurisdiction that the applicant’s license, registration, or other comparable authority (“license”) is in good standing in that jurisdiction. The verification shall include the following:
 - The full legal name of the applicant and any other name(s) the applicant has used or has been known by.
 - The license number issued to the applicant by the original licensing jurisdiction.

This information enables the Board to cross-reference the applicant’s name and license number with their license in the other jurisdiction. Additionally, BPC section 115.6(c)(3) requires the application to include written verification from the applicant’s licensing jurisdiction stating that an applicant’s license is in good standing in that jurisdiction.

- The name and location of the licensing agency.
- The issuance and expiration date of the license.
- Information showing the applicant's current license status.

This information enables the Board to identify the licensing agency that issued the military spouse/partner applicant's other licensure, and allows the Board to exercise due diligence to cross-check source information provided while reviewing the application for accuracy. Additionally, BPC section 115.6(c)(3) requires the application to include written verification from the applicant's licensing jurisdiction stating that an applicant's license is in good standing in that jurisdiction.

S. Deletion of the "Type of Licensure" boxes under new "question 12".

With the creation of a new "Other Professional Licensure or Certification History" section which incorporates this information, this section is redundant and no longer necessary to be included on the form.

T. Deletion of "a Registered Dental Hygienist (RDH), Registered Dental Hygienist in Alternative Practice (RDHAP), or Registered Dental Hygienist in Extended Functions (RDHEF)" and addition of "an RDH, RDHAP, or RDHEF" after "for licensure as" in the "California RDH Law and Ethics Examination Administered by the DHBC:" section.

The Board incorporates by reference its response to Amendment I.

U. Deletion of "Board" and addition "DHBC", and addition of "Services" after "PSI" in the bullet point of the "California RDH Law and Ethics Examination Administered by the DHBC:" section.

The Board deleted "Board" and added "DHBC" because "Board" is not defined. "DHBC" is defined as the acronym of the "Dental Hygiene Board of California", and therefore determined to replace "Board" with "DHBC" for clarity.

Additionally, the Board added "Services" after "PSI" to clarify the Board's Law and Ethics Examination provider's full name is "PSI Services".

V. Renumbering of question "15" to question "13", and renumbering of question "16" to question "14".

Based on amendments to the text, the Board re-numbered question "15" to question "13", and renumbered question "16" to question "14".

W. Addition of the "APPLICATION AFFIDAVIT" section.

BPC section 115.6(c)(3) requires the application to include a signed affidavit attesting to

the fact that the applicant meets all requirements for temporary licensure, and that the information submitted in the application is accurate, to the best of the applicant's knowledge.

- A statement attesting:
 - The applicant meets all of the requirements for temporary licensure as set forth in Business and Professions Code Section 115.6 (c)(1) through (5).

This is necessary to ensure the applicant meets all the requirements for the temporary license, and the information submitted in the application is accurate, as well as in compliance with BPC section 115.6(c)(3) which states "The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant's knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction."

- The applicant has not committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under the Business and Professions Code at the time the act was committed. And the applicant is aware that a violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the DHBC.

This is necessary to ensure the applicant has not been disciplined, is aware a violation of this paragraph may be grounds for the denial or revocation of a temporary license and to be in compliance with BPC section 115.6(c)(4) which states "The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed. A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board."

- The applicant has not been disciplined by a licensing entity in another jurisdiction and are not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

This is necessary to ensure the applicant has not been disciplined, or has not been the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction. This is in compliance with BPC section 115.6(c)(5) which states "The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction."

- The applicant understands they will be required to furnish a full set of fingerprints for purposes of conducting a criminal background check.

This is necessary to inform the applicant they will be required to furnish a full set of fingerprints for purposes of conducting a criminal background check. This is in compliance with the requirement of BPC section 115.6(c)(6) which states “The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.”

- A statement the applicant attests the information submitted in this application is accurate, to the best of their knowledge.

This is necessary to ensure the applicant meets all requirements for temporary licensure, and the information submitted in the application is accurate, as well as in compliance with BPC section 115.6(c)(3) which states “The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant’s knowledge. The application shall also include written verification from the applicant’s original licensing jurisdiction stating that the applicant’s license is in good standing in that jurisdiction.”

- A notice that:

- Falsification or misrepresentation of any item or response on this application or any attachment hereto is grounds for denying the application.

This is necessary to inform the applicant that all statements and documentation should be reported accurately to the Board, as falsification of fact is considered as unprofessional conduct (Bus. & Prof. Code, § 1950.5, subd. (z)) and subject to Board discipline. Additionally, this statement is in compliance with BPC section 475(a)(1) which states grounds for denial of a license may be due to “Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.”

- Any temporary license issued after the application is processed will be immediately terminated upon a finding that the license holder provided substantively inaccurate information that would affect the person’s eligibility for temporary licensure pursuant to BPC section 115.6.

This is necessary to inform the applicant that all statements and documentation should be reported accurately to the Board. This is in compliance with BPC section 115.6(f)(1) which states “A temporary license issued pursuant to this section may be immediately terminated upon a finding that the temporary licenseholder failed to meet any of the requirements described in subdivision (c) or (d) or provided substantively inaccurate

information that would affect the person's eligibility for temporary licensure. Upon termination of the temporary license, the board shall issue a notice of termination that shall require the temporary licenseholder to immediately cease the practice of the licensed profession upon receipt."

X. Deletion of the APPLICATION CERTIFICATION" section.

With the creation of the new "Application Affidavit" section which incorporates this information, the Board determined that this section is redundant and no longer necessary to be included on the form.

Y. Deletion of "Board" and addition "DHBC" in the "STATE TAX OBLIGATION NOTICE" section of the "NOTICES" Section

The Board incorporates by reference its response to Amendment U.

Z. Addition of "Executive Officer of the" before "Dental Hygiene Board of California" in the "CONTACT INFORMATION" section of the final "NOTICES" Section.

In accordance with Civil Code section 1798.17(b) The Board has added the name of the agency official due to the erroneous omission of the information.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Economic Impact Assessment:

The Board has determined this regulatory action may impact job availability slightly within the State of California because the proposed language in the regulation allows military spouses/partners licensed in other states to become employed as dental hygienists, thereby possibly decreasing the ability for currently licensed dental hygienists to gain employment in California.

The Board has determined this regulatory action would not create jobs, eliminate jobs, create new businesses, or eliminate or expand businesses within the State of California, as the proposed language in the regulation only defines parameters for the Board to issue temporary licensure to military spouses/partners.

Duplication

Portions of this regulation duplicates language as found in Business and Professions Code section 115.6. This is necessary to provide notice to the regulated community and meet the clarity standard.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either 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 or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board incorporates by reference the alternatives identified in its Initial Statement of Reasons and did not receive any comments that altered its findings.

Incorporation of Documents by Reference

The form incorporated by reference in this rulemaking would be cumbersome, unduly expensive and otherwise impractical to publish in the CCR. The forms incorporated by reference that are being adopted, amended, or repealed in this rulemaking were available on the Board's website and hardcopies will be available from the Board upon request.

Objections or Recommendations/Responses

The Board received comments (Comments) during the 45-day comment period on the Board's proposed language of section 1114. Below are the Board's responses to the comments made therein.

A. April 22, 2023 letter from Jane Skotte, RDH.

Comment A-1

Comment Summary:

Ms. Skotte states as a military wife, she has experienced the added stress of licensing requirements with numerous states each time she has moved so that her husband can serve, protect our country, and keep his job. She states it is extremely difficult and unfair because numerous spouses and families make many sacrifices for our country even though none of them have signed up for it. She requested the Board to adopt the "temporary licensure" category to make life better for these families. The commenter also requested the Board consider a waiver for those who work under the "Temporary Licensure" to obtain a permanent license.

Response:

The Board acknowledges and appreciates the support for the regulation. Regarding the request for a waiver, that is both outside the scope of this rulemaking and something the Board is prohibited by law from doing.

B. April 22, 2023 letter from Helen Smart, RDH,BS.

Comment B-1

Comment Summary:

Ms. Smart states she supports the proposed change in Section 1114 of Title 16 Code of Regulation-Temporary Licensure for Military Spouses or Partners. In the past she helped spouses of Air Force officers obtain their California Dental Hygiene license and thinks removing barriers to experienced hygienists is a great idea.

Response:

The Board acknowledges and appreciates the support for the regulation.