

**DENTAL HYGIENE BOARD**  
**FINAL STATEMENT OF REASONS**

**Subject Matter of Proposed Regulations:** Reporting Dental Relationships Between Registered Dental Hygienists in Alternative Practice and Licensed Dentists.

**Section(s) Affected:** Section 1117 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 information contained therein is updated as follows: No changes have been made to warrant a change to the initial statement of reasons as contained in the original notice for section 1117.

No public hearing was originally set for this proposal and none was requested. Board staff noticed the proposed rulemaking on October 27, 2021, with a 45-day comment period ending on December 14, 2021. Eighteen comments were received and are summarized below.

The Board reviewed the comments at its January 22, 2022, meeting. At this meeting, members of the public offered additional comments. The Board approved the responses to the comments without further amendments to the text, and advanced the proposed rulemaking.

On March 30, 2022, the Office of Administrative Law (OAL) recommended amendments to clarify references on form “DHBC RDHAP-01 (07-2021).”

Form “DHBC RDHAP-01 (07-2021)” includes the following OAL-recommended amendments:

1. Deletion of “, under limited circumstances,” and insertion of “pursuant to Civil Code section 1798.24, subdivisions (e) or (f)” in the INFORMATION COLLECTION AND ACCESS” paragraph.

OAL recommended the removal of “under limited circumstances” relating as to when names(s) and address(es) of licensees submitted to the Board may be made public as it was vague. Therefore, the Board inserted “pursuant to Civil Code section 1798.24, subdivisions (e) or (f)” to specify as to when names(s) and address(es) of licensees submitted to the Board may be made public. The change in the language on the form is non-substantive because the Board is complying with existing law, Civil Code section

1798.17(g).

### **Local Mandate**

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

### **Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulations 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**

All forms incorporated by reference in this rulemaking would be cumbersome, unduly expensive and otherwise impractical to publish in the CCR because the Board requires a particular format not conducive to inclusion in the CCR. All 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**

#### **A. October 27, 2021 email from Denise Xavier.**

#### **Comment A-1**

#### **Comment Summary:**

This comment questions why it is necessary to provide the Registered Dental Hygienist in Alternative Practice (RDHAP)/dentist relationship documentation at every licensure renewal. She states this provision will prove to be cumbersome and bothersome to most dentists and RDHAPs. Additionally, Ms. Xavier states dentists are already apprehensive about RDHAPs as it is, and questions the necessity of signatures at each renewal.

#### **Response:**

The Board has considered the comment, and makes no revisions to the text based thereon.

Business and Professions Code (BPC) section 1930 requires an RDHAP to provide to the Board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services. Additionally, BPC section 1905(a)(9) allows the Board to adopt, amend, and revoke rules and regulations to implement the provisions of Article 9, of which BPC section 1930 is within.

The Board decided to require the RDHAP provide a dentist's signature using the Board-approved form incorporated by reference. This is the most reliable means of ensuring a dentist/RDHAP relationship exists. The Board determined it is imperative the RDHAP make clear the relationship between the RDHAP and a dentist at each biennial renewal of the license to ensure RDHAPs have a dental resource to whom to refer the patient for further, more comprehensive treatment outside the scope of the RDHAP's practice. This will enhance patient safety and ensure continuity of care for the RDHAP's patients because there is a dentist available to the RDHAP's patient for referral, consultation, and any emergency services, if needed.

Additionally, the Board determined reporting the relationship at every renewal provides a convenient way for the RDHAP to report the current RDHAP/dentist relationship as relationships may change due to unforeseen circumstances (e.g., dentist retirement, etc.) Requiring the RDHAP to report a current relationship with a dentist at every license renewal will ensure that the RDHAP maintains a current dental resource to whom to refer the patient.

Additionally, the Board acknowledges the RDHAP's hesitation to inconvenience the dentist for a signature on a form. However, the Board determined the requirement as necessary to ensure continuity of the RDHAP/dentist relationship, again enhancing patient safety and maintaining continuity of care for an RDHAP's patients.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

## **Comment A-2**

### **Comment Summary:**

This comment states RDHAPs are aware if the relationship is terminated/faulty they must find another dentist as they may not practice without an established relationship. Additionally, she states to "micromanage" the RDHAP on the reporting relationship is "overkill."

### **Response:**

The Board has considered the comment, and makes no revisions to the text based thereon.

The Board acknowledges most RDHAPs are aware they may not practice without an

established RDHAP/dentist relationship. However, the Board determined the RDHAP shall report the RDHAP/dentist relationship biennially to ensure RDHAPs have a dental resource to whom to refer the patient for further, more comprehensive treatment outside the scope of the RDHAP's practice. This will enhance patient safety and ensure continuity of care for the RDHAP's patients

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

## **B. November 8, 2021 email from Diane Haun, RDHAP.**

### **Comment B-1**

#### **Comment Summary:**

This comment requested "the documentation that caused the proposed regulation of section 1117 to determine what this new legislation is based on."

#### **Response:**

The Board has considered the comment, and makes no revisions to the text based thereon.

BPC section 1930 requires an RDHAP to provide to the Board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services. Proposed regulatory section 1117 makes 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.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

### **Comment B-2**

#### **Comment Summary:**

This comment states the proposed legislation is solving a problem that she does not believe exists. Ms. Haun states RDHAPs are highly trained, ethical oral care providers, and often have several dentists to refer their patients to for exams and restorative work. Additionally, she was shocked that the Board felt the need to change the current documentation and requirement and requests information leading to section 1117.

#### **Response:**

The Board has considered the comment, and makes no revisions to the text based

thereon.

The Board acknowledges RDHAPs are highly trained, ethical oral care providers, and acknowledge RDHAPs often have several dentists to refer their patients to for exams and restorative work.

BPC section 1930 requires an RDHAP to provide to the Board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services. Proposed regulatory section 1117 makes 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.

Additionally, the specific information leading to proposed regulation is included in the DHBC August 29, 2020 Full Board WebEx Teleconference Minutes, which may be found here: [https://www.dhbc.ca.gov/about\\_us/meeting\\_docs/20200829\\_minutes.pdf](https://www.dhbc.ca.gov/about_us/meeting_docs/20200829_minutes.pdf).

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

### **Comment B-3**

#### **Comment Summary:**

This comment states Ms. Haun is against the regulation and suggested “Perhaps biannually the RDHAP must check yes, or no that they have a current relationship with a dentist to refer to, similar to documenting continuing ed credits without showing proof of every CE class that has been taken.”

#### **Response:**

The Board has considered the comment, and makes no revisions to the text based thereon.

The Board decided to require the RDHAP provide a dentist’s signature using the Board-approved form incorporated by reference. This is the most reliable means of ensuring a dentist/RDHAP relationship exists. This is necessary to ensure RDHAPs have a dental resource to whom to refer the patient for further, more comprehensive treatment outside the scope of the RDHAP’s practice, as well as for referral, consultation, and any emergency services needed by the RDHAP’s patient. This will enhance patient safety and ensure continuity of care for the RDHAP’s patients.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

## **C. November 15, 2021 email from Mary Rene Newton, RDHAP, BS**

### **Comment C-1**

#### **Comment Summary:**

This comment states Ms. Newton does not agree with the proposed requirement of providing documentation to the Board of a current relationship with at least one licensed dentist at every biennial license renewal.

#### **Response:**

The Board incorporates by reference its response to Comment B-3 above.

### **Comment C-2**

#### **Comment Summary:**

This comment states Ms. Newton would like to see data on why the Board feels this regulation is necessary, and to see examples of other professionals that have this burden placed on them to continue to serve the special needs population. She states access to care for the elderly and disabled is in great demand and questions why the Board is placing another barrier for the RDHAP to provide services.

#### **Response:**

The Board has considered the comment, and makes no revisions to the text based thereon.

The specific information leading to proposed regulation is included in the DHBC August 29, 2020 Full Board WebEx Teleconference Minutes, which may be found here: [https://www.dhbc.ca.gov/about\\_us/meeting\\_docs/20200829\\_minutes.pdf](https://www.dhbc.ca.gov/about_us/meeting_docs/20200829_minutes.pdf).

Additionally, RDHAP licensure is unique to the Board, with unique supervision requirements. Senate Bill 853 (Chapter 31, Statutes of 2008) enacted BPC section 1930 which requires the RDHAP to documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services. As this requirement is mandated by statute, the Board determined the RDHAP provide the RDHAP/dentist relationship during the biennial license renewal to ensure there is a current RDHAP/dentist relationship, as well as for reporting convenience.

The Board acknowledges access to care for the elderly and disabled is in great demand but disagrees the biennial RDHAP/dentist reporting requirement is a barrier to care. The Board maintains the reporting requirement ensures RDHAPs have a dental resource to

whom to refer the patient for further, more comprehensive treatment outside the scope of the RDHAP's practice, as well as for referral, consultation, and any emergency services needed by the RDHAP's patient. This will enhance patient safety and ensure continuity of care for the RDHAP's patients.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

#### **D. November 15, 2021 email from Jodi Todd, RDA, RDH, RDHAP**

##### **Comment D-1**

###### **Comment Summary:**

This comment thanks the Board for their ongoing support in advocating for the public and understands the Board takes this responsibility very seriously. Ms. Todd states she objects "to the new proposed requirements of an RDHAP having to provide documentation every two years with at least one licensed dentist."

###### **Response:**

The Board incorporates by reference its response to Comment B-3 above.

##### **Comment D-2**

###### **Comment Summary:**

This comment states she has always thought an RDHAP should be able to have more than one dentist on file since RDHAPs work with many different dentists, part of which is due to the patient's insurance. Ms. Todd states she feels "demanding" a signed, written form every two years is a barrier. She states she has "jumped through hoop after hoop to maintain my care to the underserved population" and by proposed regulation 1117, the Board is placing barriers in the way of those that need care the most. She asks the Board to rethink its proposal.

###### **Response:**

The Board has considered the comment, and makes no revisions to the text based thereon.

The Board acknowledges the ability of the RDHAP to maintain more than one dentist for referrals, however, the Board is only requiring the RDHAP to report only one of those relationships. Additionally, the Board disagrees the biennial RDHAP/dentist reporting requirement provides a barrier to care. The Board maintains the reporting requirement ensures RDHAPs have a current dental resource to whom to refer the patient for

further, more comprehensive treatment outside the scope of the RDHAP's practice, as well as for referral, consultation, and any emergency services the RDHAP's patient needs. This will enhance patient safety and ensure continuity of care for the RDHAP's patients.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

### **Comment D-3**

#### **Comment Summary:**

This comment recommends the Board allow an RDHAP to list all dentists in which they work with instead of just one. Ms. Todd states this should be completed at the time of licensure and to place the responsibility on the RDHAP to update the Board as changes occur.

#### **Response:**

The Board has considered the comment, and makes no revisions to the text based thereon.

The Board is not limiting the RDHAP to one RDHAP/dentist relationship. The Board only requires the report of one relationship and welcomes the report of other RDHAP/dentist relationships should the RDHAP choose to report more than one RDHAP/dentist relationship.

Additionally, as the RDHAP/dentist relationship requirement is mandated by BPC section 1930, the Board determined, pursuant to BPC section 1905(a)(9), the RDHAP provide the RDHAP/dentist relationship during the biennial license renewal for to ensure there is a current RDHAP/dentist relationship, as well as for reporting convenience.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

### **Comment D-4**

#### **Comment Summary:**

This comment states access to patients with special needs, in care homes, and the elderly are not the populations needing barriers to care.

#### **Response:**

The Board acknowledges the comment and makes no revisions to the text based thereon.

The Board disagrees the biennial RDHAP/dentist reporting requirement provides a barrier to care to patients with special needs, in care homes, and the elderly. The Board maintains the RDHAP/dentist reporting requirement ensures RDHAPs have a dental resource to whom to refer the patient for further, more comprehensive treatment outside the scope of the RDHAP's practice and for referral, consultation, and any emergency services, if needed. Again, this will enhance patient safety and ensure continuity of care for the RDHAP's patients.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

#### **E. November 15, 2021 email from Sade Morel, RDHAP**

##### **Comment E-1**

##### **Comment Summary:**

This comment states she opposes the proposed requirement for the RDHAP providing documentation of current dentist relationship at every license renewal.

##### **Response:**

The Board incorporates by reference its response to Comment B-3 above.

##### **Comment E-2**

##### **Comment Summary:**

This comment states RDHAPs have advance [sic] degrees, are college educated, are well prepared for medical emergencies, and are fully competent in their attained skills. Ms. Morel states as a mid-level provider, that type of extra monitoring and scrutiny is taxing and unnecessary.

##### **Response:**

The Board incorporates by reference its response to Comment B-2 above.

##### **Comment E-3**

##### **Comment Summary:**

This comment states as the dental field is ever evolving, the RDHAP's role is evolving as well and should match the progression of the services provided to the community in need. She states, "this proposition is unneeded and irrelevant to

progression.”

**Response:**

The Board has considered the comment, and makes no revisions to the text based thereon.

The Board acknowledges the RDHAP’s role is evolving to address the needs of the community but disagrees section 1117 is unneeded.

BPC section 1930 requires an RDHAP to provide to the Board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services. Proposed regulatory section 1117 makes 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.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

**F. November 15, 2021 email from Erica Solomon, BS, RDH, RDHAP**

**Comment F-1**

**Comment Summary:**

This comment states Ms. Solomon does not agree with the proposed requirement of providing documentation to the Board of a current relationship with at least one licensed dentist at every biennial license renewal. She states this reporting requirement is an unnecessary burden to the RDHAP who is willing to provide care to those who cannot access a traditional dental office. She states not many RDHs wish to pursue this line of work as the need is great and growing, and questions as to why the Board is adding more obstacles to care.

**Response:**

The Board incorporates by reference its response to Comment A-1 above.

**Comment F-2**

**Comment Summary:**

This comment states Ms. Solomon would like to see data on why the Board feels this regulation is necessary and to see examples of other professionals that have this burden placed on them to continue to serve the special needs population. She states, “Access to care for the elderly and disabled are in great demand, why put another

barrier for the RDHAP to provide services?”

**Response:**

The Board incorporates by reference its response to Comment C-2 above.

**G. November 16, 2021 email from Wendy Williams RDHAP #169**

**Comment G-1**

**Comment Summary:**

This comment states Ms. Williams is a current, practicing RDHAP and does not agree with the proposed requirement of providing documentation to the Board of a current relationship with at least one licensed dentist at every biennial license renewal. She states she found it difficult to find a dentist to sign the form.

**Response:**

The Board incorporates by reference its response to Comment A-1 above.

**Comment G-2**

**Comment Summary:**

This comment states Ms. Williams questions why the Board feels this requirement is necessary.

**Response:**

The Board incorporates by reference its response to Comment A-1 above.

**Comment G-3**

**Comment Summary:**

This comment states access to care for the elderly and disabled is in great demand but is at risk by putting obstacles for the RDHAP to provide services. Ms. Williams asks the Board to keep in mind that RDHAPs are fighting to provide services for these special people every day.

**Response:**

The Board incorporates by reference its response to Comment C-2 above.

## H. November 16, 2021 email from Susan McLearnan, BSDH, MS, RDHAP

### Comment H-1

#### Comment Summary:

This comment states dentists are reluctant to sign the form and questions the necessity of this requirement, since referral is ethically required and covered in current law.

#### Response:

The Board incorporates by reference its response to Comment A-1 above.

### Comment H-2

#### Comment Summary:

This comment states the proposed relationship documentation singles out RDHAPs for excessive monitoring. She states dentists are not required to verify their relationships with specialists to whom they refer.

#### Response:

The Board has considered the comment, and makes no revisions to the text based thereon.

The Board disagrees the proposed relationship documentation singles out RDHAPs for excessive monitoring. BPC section 1930 requires an RDHAP to provide to the Board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services. The Board maintains the reporting requirement ensures RDHAPs have a dental resource to whom to refer the patient for further, more comprehensive treatment outside the scope of the RDHAP's practice and for referral, consultation, and any emergency services, if needed. This will enhance patient safety and ensure continuity of care for the RDHAP's patients.

Additionally, dentists are licensed individuals under the purview of the Dental Board of California (DBC) and subject to the DBC's statutes and regulations. The Board has no jurisdiction over DBC policy.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

### **Comment H-3**

#### **Comment Summary:**

This comment suggests a simple “check box” that the RDHAP maintains a current relationship with a dentist rather than submission of a signature with each renewal.

#### **Response:**

The Board incorporates by reference its response to Comment B-3 above.

#### **I. November 16, 2021 email from Kayla Sejera, RDHAP, Dental Coordinator of the Tri-Counties Regional Center**

### **Comment I-1**

#### **Comment Summary:**

This comment states RDHAPs are invaluable to the population they serve as these are patients who might otherwise get minimal to no regular dental care. Ms. Sejera states adding more barriers to preventive dental care is not in the best interest of this population. Additionally, she states she sees positive outcomes every day from having Regional Center individuals participate in their Mobile Dental Hygiene program.

#### **Response:**

The Board acknowledges RDHAPs and their invaluable service to the special needs populations.

Additionally, the Board incorporates by reference its response to Comment D-4 above.

### **Comment I-2**

#### **Comment Summary:**

This comment questions what data supports the need to have a documented relationship with one dentist when most RDHAPs are mobile and refer to several dentists. Ms. Sejera questions as to what risks would outweigh the need for preventive dentistry to a population most dentists will not treat.

#### **Response:**

The Board incorporates by reference its response to Comment C-3 above.

### **Comment I-3**

#### **Comment Summary:**

This comment states most patients in her facility have Medi-Cal Dental which lacks restorative care benefits for adults and therefore, prevention should be the biggest concern. Ms. Sejera states finding a dentist who will accept Medi-Cal Dental and work with the facility's population is rare.

#### **Response:**

The Board has considered the comment and acknowledges the disparity provided to Medi-Cal Dental patients, the difficulty in finding a dentist who will accept Medi-Cal Dental, and agrees preventative services are paramount to a patient's overall health.

Additionally, the Board incorporates by reference its response to Comment A-1 above.

### **Comment I-4**

#### **Comment Summary:**

This comment states RDHAPs select to exclusively work with the under-served, disabled, and the elderly. Ms. Sejera states adding additional obstacles only hurts the people needing care.

#### **Response:**

The Board incorporates by reference its response to Comment D-4 above.

### **J. November 19, 2021 email from Diane Reese, RDHAP**

#### **Comment J-1**

#### **Comment Summary:**

This comment states she does not agree with the proposed requirement of providing documentation to the Board of a current relationship with at least one licensed dentist at every biennial license renewal. She states this requirement is a hinderance to people who need better access to care due to their health problems or their socio-economic status.

#### **Response:**

The Board incorporates by reference its response to Comment D-4 above.

## **Comment J-2**

### **Comment Summary:**

This comment states this requirement is also an issue of oppression by a powerful, money driven profession trying to curtail the mission of licensed, trained, and dedicated RDHAPs. She states RDHAPs are not a threat to dentists, there is a shortage of Medical providers, and questions as to how many dentists want make house calls.

### **Response:**

The Board has considered the comment; however, the Board is unable to comment on the influence of the “profession” on RDHAPs.

The Legislature passed Senate Bill 853 (Perata, Chapter 31, Statutes of 2008) enacting Business and Professions Code (BPC) section 1930. BPC section 1930 requires a registered dental hygienist in alternative practice provide to the Board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services. Therefore, the Board is promulgating a regulation to implement the requirements of BPC section 1930.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

## **Comment J-3**

### **Comment Summary:**

This comment states she would like to see data on why the Board feels this requirement is necessary and requests examples of other professionals that have this burden placed on them to continue to serve the special needs population. She states access to care for the elderly and disabled is in great demand, and questions as to why place another barrier for the RDHAP to provide services.

### **Response:**

The Board incorporates by reference its response to Comment C-2 above.

## **K. November 19, 2021 email from Elizabeth M Grillo, RDHAP**

## **Comment K-1**

### **Comment Summary:**

This comment states Ms. Grillo does not agree with the proposed requirement of providing documentation to the Board of a current relationship with at least one licensed dentist at every biennial license renewal.

**Response:**

The Board incorporates by reference its response to Comment B-3 above.

**Comment K-2**

**Comment Summary:**

This comment states Ms. Grillo would like to see data on why the Board feels this regulation is necessary and to see examples of other professionals that have this burden placed on them to continue to serve the Special Needs Population. She states access to care for the elderly and disabled are in great demand and questions the purpose to place an additional barrier preventing the RDHAP to provide services.

**Response:**

The Board incorporates by reference its response to Comment C-2 above.

**L. December 4, 2021 email from Rhoda Howell-Gonzales RDHAP, BSDH**

**Comment L-1**

**Comment Summary:**

This comment states she supports the dentist relationship as her license requirement, however, feels having the dentist sign the document at each renewal is unnecessary because she is signing under perjury that the dentist identified is the dentist of record.

**Response:**

The Board incorporates by reference its response to Comment A-1 above.

**M. December 4, 2021 email from Jennifer Weitzel, RDHAP**

**Comment M-1**

**Comment Summary:**

This comment states she supports the dentist relationship as her license requirement, however, feels having the dentist sign the document at each renewal is unnecessary because she is signing under perjury that the dentist identified is the dentist of record.

**Response:**

The Board incorporates by reference its response to Comment A-1 above.

**N. December 4, 2021 email from Brenda Barrientos, RDH**

**Comment N-1**

**Comment Summary:**

This comment states she supports the dentist relationship as her license requirement, however, feels having the dentist sign the document at each renewal is unnecessary because she is signing under perjury that the dentist identified is the dentist of record. Ms. Barrientos states she opposes adoption of 16 CCR section 1117.

**Response:**

The Board incorporates by reference its response to Comment A-1 above.

**O. December 4, 2021 email from Holli Dillon-Burgos, RDHAP**

**Comment O-1**

**Comment Summary:**

This comment states she has recently become aware of a possible change to the RDHAP renewal requirements and asks the Board to please not make the changes to the associated dentist requirement. She states it is not necessary to have a dentist physically sign a paper in order for RDHAPs to renew their license and serve the public.

**Response:**

The Board incorporates by reference its response to Comment A-1 above.

**Comment O-2**

**Comment Summary:**

This comment states the purpose of the RDHAP is to allow autonomy to the RDHAP and work without supervision requirements as needed in the office. Ms. Dillon-Burgos states requiring a signature at every renewal will take the RDHAP profession backwards. She states the message sent is that RDHAPs are more reliant on dentists in order to serve the RDHAP's clients. She states this is not the message RDHAPs want, should be a message of cohesiveness and working together, and not under a dentist.

**Response:**

The Board has considered the comment, and makes no revisions to the text based thereon.

The Board acknowledges the purpose of the RDHAP is to allow autonomy. However, BPC section 1930 requires the RDHAP to provide the Board documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services.

The Board decided to require the RDHAP provide a dentist's signature using the Board-approved form incorporated by reference. This is the most reliable means of ensuring a dentist/RDHAP relationship exists. Therefore, the Board determined it is imperative that the RDHAP make clear the relationship between the RDHAP and a dentist at each biennial renewal of the license to ensure RDHAPs have a dental resource to whom to refer the patient for further, more comprehensive treatment outside the scope of the RDHAP's practice. This will enhance patient safety and ensure continuity of care for the RDHAP's patients

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

**Comment O-3****Comment Summary:**

This comment questions as to why this extra step is necessary when RDHAPs can attest that the relationship with a dentist exists. She states it is more work, unnecessary, and sends the wrong message.

**Response:**

The Board incorporates by reference its response to Comment A-1 above.

**Comment O-4****Comment Summary:**

This comment states the focus of the Board should be to facilitate the needs and effectiveness of the members it serves and not create more hurdles and restrictions. She states the proposed change serves no purpose for the RDHAP and is restrictive.

**Response:**

The Board incorporates by reference its response to Comment D-4 above.

## **P. December 6, 2021 email from Elena Francisco, RDHAP, MS**

### **Comment P-1**

#### **Comment Summary:**

This comment questions if there have been one or two lapses or transgressions, why must the entire regulation be changed which adds to the burden for the RDHAP, the dentist, and Board staff. She states Board staff are having difficulty answering emails and phone calls in a timely manner currently and states “Stating that it will take the Staff Service Analysts 45 minutes to notify RDHAPs is laughable, to be frank. No offense to the lard (sic) working and knowledgeable staff.”

#### **Response:**

The proposed regulation is new proposal to implement the statute (Bus. & Prof. Code § 1930), and not a current regulation undergoing amendments.

Additionally, the Board incorporates by reference its response to Comment C-2 above.

### **Comment P-2**

#### **Comment Summary:**

This comment states though the existing “relationship” documentation is fine, it is not the best mechanism for insuring [sic] compliance. She feels the most important part of the law is the requirement for referral. Additionally, she states the Board may already have disciplinary authority under Section 1949 and Section 1956, since the failure to refer is a violation of the Dental Hygiene Code of Ethics.

#### **Response:**

The Board acknowledges the comment, and makes no revisions to the text based thereon.

The Board acknowledges the current relationship documentation required by the Board upon application for RDHAP licensure is not the best mechanism for ensuring compliance for reporting an RDHAP/dentist relationship. Therefore, the Board determined to promulgate section 1117 to improve and clarify the current reporting requirements.

The requirement for referral is an integral component of public safety requirements. However, section 1117 provides an additional layer of protection for the public enhancing patient safety and ensuring continuity of care for the RDHAP’s patients.

Furthermore, while the Board may have disciplinary authority under BPC sections 1949 and 1956, BPC section 1930 provides a statutory mandate for the Board requiring documentation of an existing relationship with at least one dentist for referral, consultation, and emergency services.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

### **Comment P-3**

#### **Comment Summary:**

This comment states a “relationship with at least one dentist” may not necessarily lead to a successful referral. She states many of her patients either have their own dentist, may wish to see a dentist in their geographic area, or need to see a dentist that will accept their insurance. She states she often struggles to find a dentist willing to see patients needing dental care.

#### **Response:**

The Board incorporates by reference its response to Comment D-2 above.

### **Comment P-4**

#### **Comment Summary:**

This comment states she does not believe there is need for a regulation change as it gives the impression that the RDHAP is “guilty until proven innocent”. She states no other professional has to “prove” a relationship with referring professionals every licensing period except for RDHAPs, therefore putting in the dentist’s mind that RDHAPs should be monitored more closely.

#### **Response:**

The Board acknowledges the comment, and makes no revisions to the text based thereon.

The proposed regulatory package is not a regulation change. Proposed section 1117 is the implementation of a statutory mandate. (Bus. & Prof. Code § 1930)

Additionally, the Board incorporates by reference its response to Comment J-2 above.

### **Comment P-5**

#### **Comment Summary:**

This comment states she heard that some RDHAPs were licensed with no dental relationship submitted and questioned as to why it is the RDHAP's problem. She stated it seems to be an oversight problem, leading back to her statement on the overworked, understaffed team the Board has not being able to keep up. Additionally, she questioned "Will it get better?" and stating more work will serve no one.

**Response:**

The Board has considered the comment, and makes no revisions to the text based thereon.

The Board is unsure as to the RDHAP licensing situation to which Ms. Francisco refers to. However, the purpose of section 1117 is to capture areas of reporting deficiencies.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

**Comment P-6**

**Comment Summary:**

This comment suggests a simple "check box" that the RDHAP maintains a current relationship with a dentist rather than submission of a signature with each renewal.

**Response:**

The Board incorporates by reference its response to Comment B-3 above.

**Comment P-7**

**Comment Summary:**

This comment states RDHAPs are licensed professionals whose licenses should be treated using the same guidelines as applied to dentists. She states some of the rationale for these changes are demeaning to the professionalism of the RDHAP and thanked the Board for their consideration of her opposition and suggested alternatives.

**Response:**

The Board incorporates by reference its response to Comment H-2 above.

**Q. January 3, 2022 email from Shirley M. Smith, HAP 177**

**Comment Q-1**

**Comment Summary:**

This comment states she supports the dentist relationship as her license requirement, however, feels having the dentist sign the document at each renewal is unnecessary because she is signing under perjury that the dentist identified is the dentist of record.

**Response:**

The Board incorporates by reference its response to Comment A-1 above.

**R. January 3, 2022 email from Allison Ortiz, RDHAP #860**

**Comment R-1**

**Comment Summary:**

This comment states she supports the dentist relationship as her license requirement, however, feels having the dentist sign the document at each renewal is unnecessary because she is signing under perjury that the dentist identified is the dentist of record.

**Response:**

The Board incorporates by reference its response to Comment A-1 above.

**General Comments**

Additionally, letters C, F, J, K, and P are similar, and all thanked the Board for their ongoing pursuit of advocating for the general public as they realize this is the Board's foremost and most important job. However, the commenters stated their wish is for the Board to "help move dental hygiene forward into the future, but that is not what this agency is designed to do."

**Response:**

The Board acknowledges the comments, and makes no revisions to the text based thereon.

BPC section 1902.1. states: "Protection of the public shall be the highest priority for the dental hygiene board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be

promoted, the protection of the public shall be paramount.” Therefore, the Board is mandated to place protection of the public first and foremost in execution of their duties.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.