



## **Title 16, Division 11, New Article 4, Section 1104.1 Dental Hygiene Board of California**

### **NOTICE OF PROPOSED RULEMAKING CONCERNING PROCESS FOR APPROVAL OF A NEW RDH EDUCATIONAL PROGRAM**

**NOTICE IS HEREBY GIVEN** that the Dental Hygiene Board of California (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office on **Monday, December 5, 2022**.

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### **AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Business and Professions Code (BPC) sections 1905, 1906, 1941, and 1944, and to implement, interpret or make specific BPC sections 1941, the Board is considering changes to Division 11 of Title 16 of the California Code of Regulations (CCR) as follows:

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Dental Hygiene Board of California (Board) is charged with oversight of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions (collectively RDHs). The Board carries out its regulatory authority through enforcement of statutory provisions of the Dental Practice Act, Business and Professions Code (BPC) sections 1900 through 1967.4, and Title 16 of the CCR. The Board's core functions are issuing licenses to qualified applicants, investigating consumer complaints filed against licensees, disciplining licensees for sustained violations of the BPC and Title 16 of the CCR, regulating and approving RDH

educational programs, and monitoring licensees placed on disciplinary probation by the Board.

Senate Bill (SB) 1482 (Hill, Chapter 858, Statutes of 2018) amended BPC section 1941 requiring new educational programs for dental hygienists to submit a feasibility study demonstrating a need for a new educational program and to apply for approval from the Board before seeking any required approval for initial accreditation from the Commission on Dental Accreditation of the American Dental Association (CODA) or an equivalent body. Senate Bill (SB) 534 (Jones, Chapter 491, Statutes of 2021) amended BPC section 1941 to extend the same application requirements to proposed new educational programs for registered dental hygienists in alternative practice and registered dental hygienists in extended functions.

This proposal will: (1) clarify the collective reference of “RDHs” to include registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions within the regulation; (2) eliminate specific reference to the title and last revision date of CODA standards as compliance with current CODA standards are required pursuant to BPC section 1941(a); (3) clarify the reference for CODA to mean the “Commission on Dental Accreditation;” (4) clarify the Board’s statutory responsibility for determining accrediting body equivalence; and (5) provide corresponding amendments to the form incorporated by reference.

### **Anticipated Benefits of the Proposed Regulation:**

The anticipated benefits of the proposed regulation are:

- First, clarifying the collective reference for RDHs to include registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions, promotes a fair, equal, and clear process for RDH educational programs to apply for approval from the Board.
- Second, eliminating the reference to the title and last revision date of CODA standards is necessary to ensure all proposed new RDH educational programs follow current CODA standards. This promotes safety of the public because CODA standards are continuously updated to provide the latest safety standards for patient care, and the Board ensures proposed new RDH educational programs follow these standards while caring for patients.
- Third, clarifying the Board determines accrediting body equivalence adds an explanation to the reference and is necessary for clarity as the Board is responsible for all aspects governing California RDH educational programs.
- Fourth, providing corresponding amendments to the form incorporated by reference within the regulation is necessary to make the application consistent with the proposed amended language in the regulation.

**Determination of Inconsistency and Incompatibility with Existing State Regulations:**

During the process of developing this regulation, the Board has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is not inconsistent or incompatible with existing state regulations.

**DISCLOSURES REGARDING PROPOSED ACTION**

The DHBC has made the following initial determinations:

**Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:**

The Board is not currently aware of any RDH educational program considering seeking approval with the Board and does not have an estimate of total workload costs or revenues at this time.

To the extent an educational institution opts to apply to the Board for approval in the future, Board staff will be required to review the feasibility study and to complete a site visit inspection.

The review of a feasibility study is anticipated to take approximately 12 hours to complete because the documents are usually in excess of 500 to 800 pages. A typical DHEP site visit inspection takes approximately 12 hours (8 hours of on-site inspection time plus 4 hours to write the report) to complete.

The site visit inspection is conducted by an Associate Governmental Program Analyst (AGPA) and a Subject Matter Expert (SME). The total cost for a potential new RDH educational program review is approximately \$4,000 per inspection. The Board will also incur one-time costs of approximately \$530 to update and post the application form to its website.

Additionally, the Board will charge \$2,100 to review and approve an RDH educational program. The Board notes, this amount is less than actual workload costs, but limited under current law.

The regulations do not result in costs or savings in federal funding to the state.

**Nondiscretionary Costs/Savings to Local Agencies:** None

**Local Mandate:** None

**Cost to any Local Agency or School District for which Government Code Sections 17500 through 17630 Require Reimbursement:** None

## **Business Impact**

DHBC has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This regulation may have an economic impact on businesses of two thousand, one hundred dollars (\$2,100) if applying for approval of a new RDH educational program. This initial determination is based on the following facts:

Business and Professions Code section 1944(a)(9) states the fee for each curriculum review and feasibility study review for educational programs for dental hygienists who are not accredited by a dental hygiene board-approved agency shall not exceed two thousand one hundred dollars (\$2,100). The amount collected is used to offset the cost of the feasibility study and site visit in by staff.

## **Cost Impacts on a Representative Private Person or Businesses:**

The Board is not aware of any cost impacts a representative private person would incur in reasonable compliance with the proposed action because the Board will not collect fees from a private person.

This regulation may have an economic impact on private businesses (e.g., private, for-profit potential new RDH educational programs) up to two thousand one hundred dollars (\$2,100) if they apply for approval of a new RDH educational program. This initial determination is based on the following facts:

Business and Professions Code section 1944(a)(9) states the fee for each curriculum review and feasibility study review for educational programs for dental hygienists who are not accredited by a dental hygiene board-approved agency shall not exceed two thousand, one hundred dollars (\$2,100). The amount collected is used to offset the cost of the feasibility study review and site visit inspection by staff.

**Significant Effect on Housing Costs:** None

## **Business Reporting Requirement**

The proposed language states a college or an institution of higher education applying for approval of a new educational program shall comply with the requirements specified in the Dental Hygiene Board's document entitled, "Instructions for Institutions Seeking Approval of a New RDH Educational Program," shall submit a feasibility study in accordance with the requirements specified in the "Instructions," shall submit a CODA Self-Study report, and permit a site visit by the Board's authorized representative to confirm compliance. (Bus. & Prof. Code § 1941, subd. (b).) It is necessary for the health, safety, and welfare of the people of the state that the regulation apply to businesses.

## **Results of the Economic Impact Analysis/Assessment**

Impact on Jobs/Businesses: The Board determined this regulatory action would create jobs within the State of California as the proposed language in the regulation allows for the approval of prospective new RDH educational programs and therefore allows for the employment of faculty by the institutions.

The Board determined this regulatory action would create new businesses within the State of California as the proposed language in the regulation allows new RDH educational programs to open and operate within the state, as well as allows for expansion of businesses currently doing business with the state.

Benefits of the Proposed Action: This regulatory proposal will positively impact worker safety as the proposed language in the regulation will ensure new RDH educational programs adhere to all laws, regulations, and standards applicable to an RDH educational program, including worker safety.

This regulatory proposal will positively impact the health and welfare of California residents as the proposed language in the regulation will ensure new RDH educational programs adhere to all laws, regulations, and standards applicable to an educational program, including patient safety.

This regulatory proposal will not affect the state's environment because this proposed regulation does not involve environmental issues.

Effect on Small Business: The Board has determined this regulatory action will have a positive impact on small businesses, including the ability of small business to compete in this state. The proposed language in the regulation applies to the application of new RDH educational programs and defines parameters for approval by the Board to open a new RDH educational program. In turn, the new RDH educational program will graduate RDHs who will enter the workforce, thereby providing small businesses (dental offices) with potential candidates to hire for their businesses.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action described in this Notice or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present statements or arguments in writing relevant to the above determinations during the written comment period.

## **CONTACT PERSONS**

Inquiries or comments concerning the proposed regulatory action may be directed to the following designated agency contact persons:

Dental Hygiene Board of California  
Attn: Adina A. Pineschi-Petty DDS  
2005 Evergreen St, Ste. 1350  
Sacramento, CA 95815  
Phone: 916-576-5002  
Email: [adina.petty@dca.ca.gov](mailto:adina.petty@dca.ca.gov)

Backup Contact Person:  
Attn: Anthony Lum  
2005 Evergreen St, Ste. 1350  
Sacramento, CA 95815  
Phone: 916-576-5004  
Email: [anthony.lum@dca.ca.gov](mailto:anthony.lum@dca.ca.gov)

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Dr. Pineschi-Petty at the above address. In her absence, please contact the designated back-up contact person.

## **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Board may adopt the amendments as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that was noticed to the public. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for review and or written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text by contacting Dr. Pineschi-Petty at the address above.

## **AVAILABILITY OF FINAL STATEMENT OF REASONS**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting Dr. Pineschi-Petty at the address above.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to Dr. Pineschi-Petty at the address above or by accessing the website listed below.

## **TEXT OF THE PROPOSAL**

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the ISOR, and all of the information on which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 1350, Sacramento, California 95815, or by accessing the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

## **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the ISOR, and the text of the regulations can be accessed through the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.