

**State of California
Office of Administrative Law**

In re:
Dental Hygiene Board of California

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections:

Amend sections: 1100, 1101, 1104.2, 1105.1,
1105.3, 1105.4, 1106, 1108,
1122, 1124, 1126, 1127,
1131, 1138, 1139, 1142,
1143

Repeal sections:

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

OAL Matter Number: 2022-0330-04

OAL Matter Type: Nonsubstantive (N)

In these changes without regulatory effect, the Board amends its regulations to reflect some statutory changes. The term "Dental Hygiene Committee of California" is changed to "Dental Hygiene Board of California." The Board also corrects a typographical error. The term "Root planning" is corrected to "Root planing."

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: May 10, 2022



**Thanh Huynh
Senior Attorney**

For: Kenneth J. Pogue
Director

Original: Anthony Lum, Executive Officer
Copy: Adina Pineschi-Petty

NONSUBSTANTIVE

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
Z-		2022-0330-04	N

For use by Office of Administrative Law (OAL) only

OFFICE OF ADMIN. LAW
2022 MAR 30 PM 1:56

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAY 10 2022

3:37 PM

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

Dental Hygiene Board of California - Department of Consumer Affairs

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Dental Hygiene Board Name Reference		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)		
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)				
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT	per agency request 5/10/2022		
	AMEND	Title Division 11, 1100, 1101, 1104.2, 1105.1, 1105.3, 1105.4, 1106, 1108, 1122, 1124, 1126, 1127		
TITLE(S) 16	REPEAL	AMEND 1131, 1138, 1139, 1142, 1143		
3. TYPE OF FILING				
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)	
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only	
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify)			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)				
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)				
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)	
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY				
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal		
<input type="checkbox"/> Other (Specify)				
7. CONTACT PERSON Adina Pineschi-Petty	TELEPHONE NUMBER (916) 576-5002	FAX NUMBER (Optional) (916) 263-2688	E-MAIL ADDRESS (Optional) adina.petty@dca.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

apl

DATE

March 30, 2022

TYPED NAME AND TITLE OF SIGNATORY

Anthony Lum, Executive Officer, Dental Hygiene Board of California

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 10 2022

Office of Administrative Law

Dental Hygiene Board of California

**Title 16, California Code of Regulations (CCR)
Division 11 Title and Sections 1100, 1101, 1104.2, 1105.1, 1105.3, 1105.4, 1106,
1108, 1122, 1124, 1126, 1127, 1131, 1138, 1139, 1142, 1143**

Legend: Added text is indicated with an <u>underline</u> . Omitted text is indicated by a (****) Deleted text is indicated by strikeout .

PROPOSED LANGUAGE

Division 11. Dental Hygiene ~~Committee~~Board of California

§ 1100. Definitions.

For purposes of this division:

(d) "~~Committee~~Dental Hygiene Board office" means the ~~Committee~~Dental Hygiene Board office located in Sacramento, California.

(l) "Executive Officer" means the Executive Officer appointed by the ~~Committee~~Dental Hygiene Board.

(n) "Licentiate" or "Licensee" means any individual licensed or registered by the ~~Committee~~Dental Hygiene Board.

(s) "Root ~~planning~~planing" means the process of instrumentation which removes residual calculus and toxic materials from the root to produce a clean, smooth surface.

Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1902, 1903, 1905, 1908, 1909, 1910, 1911, 1915, 1917, 1917.3, 1927 and 1929, Business and Professions Code.

§ 1101. Delegation to Committee's Dental Hygiene Board's Executive Officer.

(a) Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act, §§ 11500 - 11529 thru as applicable of the Government Code, the Committee Dental Hygiene Board delegates and confers upon the Executive Officer, or his or her designee, all functions necessary to the dispatch of business of the Committee Dental Hygiene Board in connection with investigative and administrative proceedings under the jurisdiction of the Committee Dental Hygiene Board, including issuing an order for medical or mental examination under Section 820 of the Business and Professions Code, and the ability to approve stipulated settlement agreements for the revocation, surrender or interim suspension of a license.

(b) The power and discretion conferred by law upon the Committee Dental Hygiene Board to initiate review and prosecute accusations and statements of issues pursuant to Sections 11500 through 11529 of the Government Code are hereby delegated to and conferred upon the Committee's Dental Hygiene Board's Executive Officer or in the absence thereof a designee.

Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1905 and 1950, Business and Professions Code; and Sections 11500, 11501, 11502, 11503, 11504, 11504.5, 11505, 11506, 11507, 11507.3, 11507.5, 11507.6, 11507.7, 11508, 11509, 11511, 11511.5, 11511.7, 11512, 11513, 11514, 11515, 11516, 11517, 11518, 11518.5, 11519, 11519.1, 11520, 11521, 11522, 11523, 11524, 11526, 11527, 11528 and 11529, Government Code.

§ 1104.2. Appeals Process for New RDH Programs.

* * * *

(b)(1) Appearing at the informal conference. The Executive Officer shall notify the educational program of the final decision of the Executive Officer within ten days of the informal conference. Based on the outcome of the informal conference, the educational program may then request a hearing to contest the Executive Officer's final decision. An educational program shall request a hearing by written notice to the Committee Dental Hygiene Board within 30 calendar days of the postmark date of the letter of the Executive Officer's final decision after informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Or;

(b)(2) Notifying the Committee Dental Hygiene Board in writing the educational program election to forego the informal conference and to proceed with a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title

2 of the Government Code. Such notification shall be made to the CommitteeDental Hygiene Board before the date of the informal conference.

Note: Authority cited: Sections 1905 and 1906, Business and Professions Code.
Reference: Sections 1905 and 1941, Business and Professions Code.

§ 1105.1. Faculty.

* * * *

(a)(1) Possess an active, current dental or dental hygiene license issued by the CommitteeDental Hygiene Board or the Dental Board of California (DBC), with no disciplinary actions;

* * * *

Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1905 and 1941, Business and Professions Code.

§ 1105.3. Changes to an Approved Program.

* * * *

(a)(1) File its legal name and current mailing address with the CommitteeDental Hygiene Board at its principal office and shall notify the CommitteeDental Hygiene Board at said office of any change of name or mailing address within thirty (30) days prior to such change. It shall give both the old and the new name or address.

(a)(2) Notify the CommitteeDental Hygiene Board within ten (10) days of any:

* * * *

(b) An approved dental hygiene program shall not make a substantive change without prior CommitteeDental Hygiene Board approval. These changes include:

* * * *

(b)(3) Any changes that require a report to the Commission on Dental Accreditation or equivalent accrediting body shall require approval from the CommitteeDental Hygiene Board.

Note: Authority cited: Section 1905, Business and Professions Code. Reference: Section 1905, Business and Professions Code.

§ 1105.4. Appeals Process.

(a) The ~~Committee~~Dental Hygiene Board may deny or withdraw its approval of an educational program. If the ~~Committee~~Dental Hygiene Board denies or withdraws approval of a program, the reasons for withdrawal or denial will be provided in writing within ninety (90) days.

* * * *

(c)(1) Appearing at the informal conference. The Executive Officer shall notify the educational program of the final decision of the Executive Officer within ten days of the informal conference. Based on the outcome of the informal conference, the program may then request a hearing to contest the Executive Officer's final decision. An educational program or program applicant shall request a hearing by written notice to the ~~Committee~~Dental Hygiene Board within 30 calendar days of the postmark date of the letter of the Executive Officer's final decision after the informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Or;

(c)(2) Notifying the ~~Committee~~Dental Hygiene Board in writing the program's election to forego the informal conference and to proceed with a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Such notification shall be made to the ~~Committee~~Dental Hygiene Board before the date of the informal conference.

Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1905 and 1941, Business and Professions Code.

§ 1106. Radiation Safety Certificate.

* * * *

(b) A dental hygiene student who has received certification from an educational program approved the ~~Committee~~Dental Hygiene Board shall be allowed to operate dental radiographic equipment for the purpose of oral radiography.

Note: Authority cited: Sections 1905 and 1950.5(m), Business and Professions Code. Reference: Section 1905, Business and Professions Code; and Section 106975, Health and Safety Code.

§ 1108. Remedial Education.

* * * *

(a) Approval of Remedial Education Course. The CommitteeDental Hygiene Board shall approve only those educational courses for remedial education pursuant to section 1917.3 of the Code that continuously meet all course requirements. Each approved course shall be subject to review by the CommitteeDental Hygiene Board at any time. Continuation of approval will be contingent upon compliance with these requirements.

* * * *

(b)(1) Administration. In order to be approved, each course shall provide the resources necessary to accomplish education as specified in this section. Course providers shall be responsible for informing the CommitteeDental Hygiene Board of any changes to the course content, physical facilities, and faculty, within 10 days of such changes. In order to be eligible for admission to the course, the course provider shall require course applicants to:

* * * *

(b)(1)(C) Provide evidence of graduation from an educational program for dental hygienists approved by the Commission on Dental Accreditation or an equivalent accrediting body approved by the CommitteeDental Hygiene Board.

* * * *

(b)(5) Remedial Education. Remedial education shall be given in a dental hygiene program approved by the CommitteeDental Hygiene Board. Each course shall provide students the clinical facilities, equipment, and resources necessary to accomplish remedial education as provided in this section.

* * * *

(c) Certificate of Completion. A course provider shall issue and provide the CommitteeDental Hygiene Board with an original "Certification of Completion of Remedial Education Course," DHCC RE-02 (12/2013), hereby incorporated by reference, only after a student has successfully completed the requirements of his or her remedial education plan.

* * * *

(d)(1) The ~~Committee~~Dental Hygiene Board may deny or withdraw its approval of a course. If the ~~Committee~~Dental Hygiene Board denies or withdraws approval of a course, the reasons for withdrawal or denial will be provided in writing within ninety (90) days.

* * * *

(d)(1)(A) Appearing at the informal conference. The Executive Officer shall notify the course provider of the final decision of the Executive Officer within ten days of the informal conference. Based on the outcome of the informal conference, the course provider may then request a hearing to contest the Executive Officer's final decision. A course provider shall request a hearing by written notice to the ~~Committee~~Dental Hygiene Board within 30 calendar days of the postmark date of the letter of the Executive Officer's final decision after informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Or;

(d)(1)(B) Notifying the ~~Committee~~Dental Hygiene Board in writing the course provider's election to forego the informal conference and to proceed with a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Such notification shall be made to the ~~Committee~~Dental Hygiene Board before the date of the informal conference.

Note: Authority cited: Sections 1905 and 1906, Business and Professions Code.
Reference: Sections 1917.3 and 1944, Business and Professions Code.

§ 1122. General Procedures for the Dental Hygiene ~~Committee~~Board of California Written Examinations.

* * * *

Note: Authority cited: Sections 123, 496, 1905 and 1917, Business and Professions Code. Reference: Sections 123, 496, 1905 and 1917, Business and Professions Code.

§ 1124. General Procedures for the Dental Hygiene ~~Committee~~Board of California Clinical Examination.

* * * *

Note: Authority cited: Sections 123, 1905 and 1917, Business and Professions Code. Reference: Sections 123, 1905 and 1917, Business and Professions Code.

§ 1126. Conduct of Dental Hygiene CommitteeBoard of California Clinical Examinations.

* * * *

(a) The CommitteeDental Hygiene Board shall randomly assign each applicant a number for identification purposes throughout the entire examination.

* * * *

(c) There shall be no communications between grading examiners and clinic supervisors except for oral communications conducted in the presence of CommitteeDental Hygiene Board staff. There shall be no communication between grading examiners and applicants except written communications.

Note: Authority cited: Sections 1905 and 1917, Business and Professions Code.
Reference: Sections 1905 and 1917, Business and Professions Code.

§ 1127. Dental Hygiene CommitteeBoard of California Clinical Examination Review Procedures; Appeals.

* * * *

(b) An unsuccessful applicant who has been informed of the areas of deficiency in his or her performance on the examination and who has determined that one or more of the following errors was made during the course of his or her examination and grading may appeal to the CommitteeDental Hygiene Board within sixty (60) days following receipt of his or her examination results:

* * * *

(c) An appeal shall be made by means of a written letter specifying the grounds upon which the appeal is based. The Executive Officer shall respond to the appeal in writing and may request a personal appearance by the applicant. The CommitteeDental Hygiene Board shall thereafter take such action as it deems appropriate.

Note: Authority cited: Sections 1905 and 1917, Business and Professions Code.
Reference: Sections 1905 and 1917, Business and Professions Code.

§ 1131. Response to Committee Board Inquiry.

If the committee Dental Hygiene Board or its designee asks a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 1916 and 1950, Business and Professions Code; and Section 11105, Penal Code.

§ 1138. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Section 11400 et seq. of the Government Code) the Committee Dental Hygiene Board shall comply with the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" dated April 2012 that are hereby incorporated by reference. Deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Committee Dental Hygiene Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation. However, neither the Committee Dental Hygiene Board nor an administrative law judge may impose any conditions or terms of probation that are less restrictive than the Uniform Standards Related to Substance Abuse. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards describe the consequences that apply to a substance abusing licensee. If a licensee has not been identified as a substance abusing licensee, for example, through stipulation, in a case involving drugs or alcohol, a clinical diagnostic evaluation shall be ordered and the remaining provisions of the uniform standards may be made contingent at the discretion of the Committee Dental Hygiene Board (DHGCCDHBC) upon a clinical diagnostic evaluator's report that the licensee has a substance abuse problem. The clinical diagnostic evaluation report shall be submitted in its entirety to the Committee Dental Hygiene Board.

Note: Authority cited: Sections 315, 315.4, 1905 and 1906 of the Business and Professions Code; and Section 11400.20 of the Government Code. Reference: Sections 315, 315.2, 315.4, 1947, 1949, 1950 and 1950.5 of the Business and Professions Code; and Sections 11400.20 and 11425.50(e) of the Government Code.

§ 1139. Issuance of Citations and Fines.

(a) The Executive Officer of the ~~Committee~~Dental Hygiene Board or his or her designee may issue a citation containing an order to pay a fine not to exceed \$5,000 and an order of abatement against a licensee for any violation of Division 11 of Title 16 of the California Code of Regulations or any laws governing the practice of dental hygiene. A citation may be issued without either the assessment of a fine, or an order of abatement when determined by the Executive Officer or his or her designee.

* * * *

Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

§ 1142. Contested Citations.

(a) The citation shall inform the cited person that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the ~~Committee~~Dental Hygiene Board within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In addition or as an alternative to requesting a hearing provided for in subdivision (a) of this section, the cited person may, within 14 calendar days after service of the citation, submit a written request to the ~~Committee~~Dental Hygiene Board for an informal conference with the Executive Officer.

* * * *

(d)(3) If the citation, including any administrative fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a cited person wishes to contest a modified citation, the cited person shall, within 30 calendar days after issuance of the modified citation, contest it by submitting a written request for an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, to the ~~Committee~~Dental Hygiene Board. An informal citation conference shall not be held on modified citations.

Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

§ 1143. Compliance with Citation/Order of Abatement.

* * * *

(c) Failure to timely comply with an order of abatement or pay a fine that is imposed is unprofessional conduct and may result in disciplinary action being taken by the CommitteeDental Hygiene Board in addition to other remedies.

Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.