

Title 16. Dental Hygiene Board of California California Department of Consumer Affairs

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing has been scheduled.

Subject Matter of Proposed Amended Regulations: Faculty to Student Ratio

Sections Affected: Section 1105 of Title 16 of the California Code of Regulations (CCR)

Specific Purpose of Each Adoption, Amendment, or Repeal:

1. Background/Statement of the Problem

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 Dental Hygiene Educational Programs (DHEPs), and monitoring licensees placed on disciplinary probation by the Board.

At the March 18, 2023 Full Board Teleconference, staff advised the Board that at the open session of the February 10, 2023 meeting of the Commission on Dental Accreditation of the American Dental Association (CODA), there was discussion concerning increasing the faculty to student ratios for DHEPs. The Board discussed the faculty to student ratio information and received several comments urging the Board to develop language to maintain the current faculty to student ratios in the Board's educational regulations. Comments significant to the support included:

- A member of the public and co-chair of the Government Relations Council of the California Dental Hygienists' Association (CDHA), stated CDHA supports a recommendation for the Board to direct staff to develop regulatory language maintaining the current faculty to student ratio as it is in the best interest of the consumer's health and safety. She stated as the Board is potentially moving to eliminate the clinical board exam, it places a greater responsibility on faculty to ensure students are competent. She reported CDHA firmly believes the current faculty to student ratio will keep dental hygiene programs rigorous, ensuring patients receive the same quality of care they expect.

- A member of the public stated she was part of the Licensing and Examination Committee taskforce looking into eliminating the clinical board exam required for licensure in California. She stated the reason for the decision to recommend elimination of the clinical exam requirement was due to the fact that California DHEPs have a high pass rate on clinical board exams. She stated that if the Board does not firm up the one to five faculty to student ratio, the Board’s ability to eliminate the clinical board exam will be lost in legislation because the data is derived from DHEPs utilizing the current CODA faculty to student ratio.
 - The Office of Professional Examination Services (OPES) provided a report at both the October 7, 2022 Licensing and Examination Committee Meeting and the October 8, 2023 Full Board Teleconference where the taskforce provided their recommendations.¹ The report stated: “...passing rates for all California candidates across attempts at the end of each of the examination seasons for the five years reviewed ranged from 99.2% to 99.8%.”²
 - The current CODA faculty to student ratios have been in place since January 1, 2010.³
 - Additionally, the OPES report stated: “The passing rates for the patient-based WREB Dental Hygiene Examination indicate that California candidates perform exceptionally well. OPES concurs with WREB’s assessment that the high passing rates may indicate that California candidates are receiving adequate training in education programs to prepare them for demonstrating minimum competence for practice.”⁴
- A member of the public stated she has been a site visitor for the 29 California DHEPs. She stated at every site visit, she has met with the students and the number one barrier to success is the lack of adequate faculty contact time. By increasing the faculty student ratio, it would lead to a situation where the students may not have enough faculty to evaluate patients to successfully complete their competencies or patient care requirements, leading to greater student attrition rates.

On Friday, March 24, 2023, Executive Officer Anthony Lum requested feedback from California DHEP directors regarding their and their faculty’s thoughts and opinions about this change and how it would or wouldn’t affect their DHEP should the CODA Standard change. Executive Officer Lum received 13 letters from DHEP directors and

¹ Data regarding elimination of the clinical board exam in statute may be found in the October 7, 2022 Licensing and Examination Committee Meeting Minutes/Meeting Materials and October 8, 2022 Full Board Teleconference Minutes/Meeting Materials.

² October 7, 2022 Meeting Materials page 122 of document, and October 8, 2022 Meeting Materials page 123 of document.

³ CODA Accreditation Standards for Dental Hygiene Education Programs, January 1, 2010.

⁴ October 7, 2022 Meeting Materials page 123 of document, and October 8, 2022 Meeting Materials page 124 of document.

also from six students replying between March 24, 2023 and April 7, 2023. All DHEP director letters and student letters were opposed to a change in the faculty to student ratio, citing concerns about the competence of graduating students who have not had enough clinical guidance and that a higher faculty to student ratio would negatively impact the ability to deliver safe patient care.

From June 14, 2023 until July 1, 2023, the Board received an additional 49 letters from the CDHA, program directors, faculty, students, and licensees urging the Board to address the faculty to student ratio at the next scheduled Board meeting, citing “Consumer and patient safety may be compromised with students having less attention in gaining their foundational knowledge.”⁵ Additionally, CDHA stated in their June 20, 2023 letter “In addition to these concerns, CDHA is currently supporting the DHBC Sunset Review Bill, which includes language to eliminate a clinical exam for California graduates. CDHA’s support of this language is based on exam pass rate statistics for graduates of programs with the current 1:5 faculty-to-student ratio.”⁶

At the Board’s July 22, 2023, Full Board meeting, the Board addressed the faculty to student ratio concerns raised by stakeholders, approved the proposed language, and delegated authority to the Board’s Executive Officer to make any technical, non-substantive changes, if necessary.

This proposal amends section 1105 by establishing a faculty to student ratio in regulation which maintains the faculty to student ratio in preclinical and clinical sessions as 5 students to 1 faculty, radiography laboratory sessions as 5 students to 1 faculty, and other dental sciences laboratory sessions as 10 students to 1 faculty, that are currently in place in DHEPs.

2. Anticipated Benefit(s) from this Regulatory Action:

The anticipated benefits of the proposed regulation of establishing the faculty to student ratio in regulation are:

- First, by maintaining the faculty to student ratios currently in place in DHEPs, it will protect the data the Board utilized in their decision to eliminate the clinical board exam in statute, thereby protecting consumer safety in newly licensed RDHs.
- Second, by maintaining the faculty to student ratios currently in place in DHEPs, it provides for adequate supervision of RDH students during preclinical, clinical, and laboratory sessions, thereby protecting the consumer safety during their treatment as patients at DHEPs.
- Third, as students of DHEPs are also considered consumers, it protects their right to receive adequate faculty guidance in their quest to gain foundational

⁵ See Faculty to Student Ratio letters received June 14, 2023 to July 1, 2023.

⁶ See June 20, 2023 CDHA letter received on June 20, 2023.

knowledge to be a well-educated and safe practitioner.

- Fourth, by placing the current faculty to student ratios currently in regulation, it places the faculty to student ratios under the purview of the Board, thereby ensuring adequate supervision of RDH students during preclinical, clinical, and laboratory practice should CODA be inclined to change the faculty to student ratio indiscriminately at a future date.

Factual Basis/Rationale **Section 1105**

Subdivision (b)(4)

The Board proposes to amend subdivision (b)(4) by deleting “approved Commission on Dental Accreditation standards referenced in subsection (c) of section 1103 of this article.” and adding the faculty to student ratio shall “meet specific requirements.” This is necessary to address that specific faculty to student ratio requirements will no longer follow CODA Standards, but meet faculty to student ratio requirements that are currently in effect.

Subdivision (b)(4)(A) specifically addresses that in preclinical and clinical sessions, the ratio shall not exceed five students to one faculty member. This is necessary to ensure faculty have enough time to devote to their assigned students and oversee all procedures the students are scheduled to accomplish with the patients. An individual student minimally needs eight student interactions with the faculty per day.

For example, a sample daily student/faculty interaction for a three-to-four-hour clinic/preclinic session may include:

- Pre-Op Check In – Student meets with faculty to go over their daily treatment plan.
- Check in – Faculty reviews the update on a patient’s medical history and confirms treatment plan for the day.
- Intraoral and Extraoral Exam – Faculty reviews the patient’s intraoral (inside the mouth) and extraoral (outside the mouth) exam the student performed to ensure no contraindications for patient treatment.
- Local Anesthesia and/or Nitrous Oxide/Oxygen Analgesia Administration – Faculty provides direct monitoring of administration of local anesthesia (i.e., lidocaine administered with a needle injection providing a complete block of nerve sensation) and/or nitrous oxide/oxygen analgesia (i.e., administration of a combination of nitrous oxide and oxygen gases through a nasal mask resulting in a diminished nerve pain sensation.) This may occur once or several times during the visit, depending on patients’ ability to become anesthetized or to maintain anesthesia (i.e., “numb”).
- Periodontal Exam – Confirming the student’s assessment of the patient’s periodontal status which includes probing a patient’s gingiva (i.e., “gums”) to see if there is any bone loss in their jaws, as well as exploring for amount of calculus

(i.e., “tartar”) present on the patient’s teeth.

- Periodontal scaling checks – This will occur several (two to four) times, ensuring complete calculus removal from the patient’s teeth.
- Postoperative Exam – The faculty checks the patient oral cavity to ensure bleeding has stopped and to ensure there is no soft or hard tissue damage is present.
- Post-Op Check In – The student and faculty meet to review the daily activities, provide constructive feedback, and ensure the daily activities have been recorded in patient charts correctly.

Additionally, faculty are tasked with constantly monitoring infection control to prevent breaches in asepsis (aseptic technique is a standard healthcare practice that helps prevent the transfer of germs to or from an open wound and other susceptible areas on a patient’s body) and minimize the risk of patient infection.

If the faculty to student ratio were to increase to six students to one faculty member in preclinical and clinical sessions, it is not simply an increase of one student. It would increase the faculty load from 40 student/faculty interactions to 48 student/faculty interactions per three-to-four-hour sessions, along with infection control monitoring of the additional student.

Therefore, limiting the faculty to student ratio to not exceed five students to one faculty member in preclinical and clinical sessions maintains a manageable caseload for each faculty and optimizes student/faculty interaction, thereby ensuring proper oversight of students and maintain patient safety.

Subdivision (b)(4)(B) specifically addresses that in radiography laboratory sessions, the ratio shall not exceed five students to one faculty member. This is necessary to ensure faculty have enough time to devote to their assigned students and oversee all radiology [the science of using x-rays to capture radiographs (the actual “picture”)] procedures. Utilizing x-rays in dentistry is considered relatively safe. However, x-rays if used improperly or if the patient is not protected properly, may cause serious damage to a patient (e.g., burns, cancer, infertility.)

For example, a patient requires a full mouth set of radiographs consisting of 18 individual radiographs. These radiographs are very technique sensitive, requiring students to capture very specific oral landmarks within each radiograph (e.g., specific teeth, bone level, sinuses, etc.). The faculty member ensures the student takes only necessary radiographs with minimal retakes of the radiographs (if the landmarks are not captured properly) to achieve diagnostic quality radiographs, thereby allowing the dentist to diagnose health or disease present in the patient.

Therefore, limiting the faculty to student ratio to not exceed five students to one faculty member in radiology sessions again maintains a manageable caseload for each faculty and optimizes student/faculty interaction, thereby ensuring proper oversight of students and maintain patient safety.

Subdivision (b)(4)(B) specifically addresses that in other dental sciences laboratory sessions, the ratio shall not exceed ten students to one faculty member. This is necessary to ensure faculty have enough time to devote to their assigned students and oversee all procedures in the lab. As these lab procedures do not involve clinical patients, the supervision is not necessary to be as strict as preclinical/clinical/radiology, yet still important as the students need the education to perform procedures properly.

For example, in dental materials students are instructed in the use of impressions (a way to capture an imprint of a patient's teeth and surrounding structures.) The students use alginate (a type of dental putty which hardens in the mouth) to capture the impression (a negative copy) and then place dental stone (similar to plaster of Paris) to create an positive, accurate representation of the patient's teeth and oral structures for use by the dental team for other procedures [e.g., models to make tooth whitening trays to hold whitening solution on the patient's teeth, models to send during crown (a "cap" to cover a tooth) manufacturing, etc.]. This procedure is not a substantially invasive procedure; however, it is technique sensitive, and students must learn proper patient management (e.g., avoidance of overfilling the impression tray with alginate, staying with the patient during the impression for patient safety, etc.).

Therefore, limiting the faculty to student ratio to not exceed ten students to one faculty member in other dental sciences laboratory sessions again maintains a manageable caseload for each faculty and optimizes student/faculty interaction, thereby ensuring proper oversight of students.

Proposed subdivision (b)(4) is consistent with the use of student requirement minimums in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§1105.2(d)(3)(B) and (d)(4)).

Underlying Data:

- Minutes: Licensing and Examination Committee Meeting, Friday, October 7, 2022.
- Meeting Materials: Licensing and Examination Committee Meeting, Friday, October 7, 2022.
- Minutes: Full Board Teleconference, Friday, October 8, 2022.
- Meeting Materials: Full Board Teleconference, Friday, October 8, 2022.
- Minutes: Full Board Teleconference, Saturday, March 18, 2023.
- Meeting Materials: Full Board Teleconference, Saturday, March 18, 2023.
- Minutes: Full Board Meeting, Saturday, July 22, 2023.
- Meeting Materials: Full Board Meeting, Saturday, July 22, 2023.
- California Dental Hygienists' Association Letter, June 20, 2023.
- Faculty to Student Ratio DHEP Letters received March 24, 2023 to April 7, 2023.
- Faculty to Student Ratio Student Letters received April 6, 2023 to April 7, 2023.
- Faculty to Student Ratio Letters received June 14, 2023 to July 1, 2023.
- "Aseptic Technique" definition: [medicalnewstoday.com/articles/323615](https://www.medicalnewstoday.com/articles/323615), retrieved on September 8, 2023.

- “Dental X-Rays”: my.clevelandclinic.org/health/articles/11199, retrieved on September 11, 2023.

Business Impact:

This regulation will not have an economic impact on businesses. This initial determination is based on the following facts:

The proposed amendments to the regulation will simply maintain the current faculty to student ratios already in place at DHEPs.

Economic Impact Assessment:

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the regulations are aimed at maintaining current faculty to student ratios already in place within DHEPs.
- It will not create new businesses or eliminate existing business within the State of California because the regulations are aimed at maintaining current faculty to student ratios already in place within DHEPs.
- It will not affect the expansion of businesses currently doing business within the State of California because the regulations are aimed at maintaining current faculty to student ratios already in place within DHEPs.
- This regulatory proposal benefits the health and welfare of California residents because it maintains current faculty to student ratios already in place within DHEPs. This ensures DHEP faculty will closely monitor student dental hygiene practice when working with the clinical patients, thereby ensuring the safety of the public.
- This regulatory proposal does not affect worker safety because it does not involve worker safety.
- This regulatory proposal does not affect the state’s environment because it does not involve environmental issues.
- The regulations do not result in costs or savings in federal funds to the state.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

The Board has initially determined that 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 or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner which ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

- 1) Not adopt the regulation: This alternative was rejected by the Board as protecting the consumer is paramount in their mission. Additionally, CDA, CDHA, faculty, students and DHEP graduates have come forward to request the Board protect the current faculty to student ratios to ensure the competence of graduating students who have had appropriate preclinical and clinical guidance.
- 2) Adopt the regulation: The Board determined this alternative is the most feasible because it establishes a regulation to protect the current faculty to student ratios already in place at DHEPs. The regulation ensures student supervision learning is maintained at the current standard, maintains a manageable caseload for each faculty, and optimizes student/faculty interaction, thereby ensuring proper oversight of students and maintenance of patient safety.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed, however, the Board welcomes comments from the public.