



## **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:** Mobile Dental Hygiene Clinics; Issuance of Approval; and Registered Dental Hygienist in Alternative Practice, Physical Facility Registration.

**Sections Affected:** Section 1116 and 1116.5 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 (RDHs), registered dental hygienists in alternative practice (RDHAPs), and registered dental hygienists in extended functions (RDHEFs). 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 1202 (Leno, Chapter 331, Statutes of 2012) (SB 1202) added BPC sections 1926.1 and 1926.2 to the Code, authorizing RDHAPs to operate mobile dental hygiene clinics (MDHCs). In addition, SB 1202 created BPC sections 1944(g) and (h) which state: "(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150)"; and "(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred and fifty dollars (\$250)."

Additionally, SB 1202 added BPC sections 1926.3, and 1926.4, requiring RDHAPs to register their place or places of practice with the executive officer and to receive permission from the Board, subject to a biennial renewal fee, to have an additional place of practice. SB 1202 also created BPC sections 1944(i) and (j) which state: "(i) The fee for an additional office permit shall not exceed two hundred fifty dollars (\$250)"; and "(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars (\$250)."

During the initial regulatory process, the Board determined there was a lack of authority to conduct reviews and inspections of MDHCs and physical facilities to ensure the health and safety of services provided to consumers at MDHCs and physical facilities. To address this, Senate Bill 534 (Jones, Chapter 491, Statutes of 2021) (SB 534) granted the Board authority for announced and unannounced reviews and inspections to ensure the health and safety of services provided at MDHCs and physical facilities, as well as to ensure continued compliance with all laws and regulations applicable to MDHCs and physical facilities.

This proposal implements sections 1926.1, 1926.2, 1926.3, and 1926.4 by: (1) establishing a process by which an RDHAP may apply to register a MDHC or physical facility; (2) establishing minimum operating requirements for MDHCs and physical facilities; (3) requiring RDHAPs to provide the Board access to MDHCs and physical facilities to determine compliance with all laws and regulations applicable to MDHCs and physical facilities; (4) establishing a registration renewal process for MDHCs and physical facilities; and (5) establishing a process for the RDHAP to notify the Board and active patients of record of the cessation of operation of a MDHC or physical facility and for the preservation of patient care records.

The Board approved the proposed texts, associated forms incorporated by reference, established fees by resolution at the Board's November 19, 2022, Full Board teleconference, and delegated authority to the Board's Executive Officer to make any technical, non-substantive changes, if necessary.

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

The anticipated benefits of the proposed regulation are:

- First, establishing a process by which an RDHAP may apply to register and renew registration of an MDHC or physical facility promotes a fair, equal, and clear process for RDHAPs to apply for registration and renewal from the Board.
- Second, establishing minimum operating requirements for MDHCs and physical facilities ensures MDHCs and physical facilities operate at established, safe levels, ensuring clean and safe facilities for treatment of the RDHAP's patients.
- Third, requiring RDHAPs to provide the Board access to MDHCs and physical facilities will promote RDHAPs' compliance and cooperation with Board reviews of MDHC and physical facility requirements. This promotes safety of the public because it incentivizes RDHAPs to follow all laws, regulations, and standards applicable to MDHCs and physical facilities.
- Fourth, establishing a process for the RDHAP to notify the Board and active patients of record of the cessation of operation of an MDHC or physical facility ensures the patients are given adequate notice of the closure, allowing patients adequate time to find another provider to continue their care, as well as provides adequate time to access to their records for transfer to the new provider. This enhances patient safety by ensuring the patient's records are available for the patient's new provider and ensures continuity of care for the RDHAPs' patients.

**Factual Basis/Rationale**  
**Section 1116**

**Subdivision (a)**

Subdivision (a) provides definitions applicable to the regulation, as well as for the forms incorporated by reference. Definitions are necessary to provide clear and consistent interpretations of words utilized within the form language to prevent misinterpretation by the reader.

Proposed subdivision (a) is consistent with the use of definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

**Subdivision (a)(1)**

Subdivision (a)(1) provides the definition of a “Mobile Dental Hygiene Clinic (MDHC).” “MDHC” is defined using generally understood language to specify an MDHC is any self-contained facility (e.g., a camper retrofitted with dental chairs, compressor to run equipment, etc.) which may be moved, towed, or transported from one location to another to provide dental hygiene services. This definition is necessary to ensure an RDHAP is clear on the specifics of the type of mobile facility required to be registered with the Board.

Additionally, the Board determined it necessary to differentiate “MDHC” from hand-carried, portable equipment used and transported by RDHAPs in settings authorized by BPC section 1926. This is necessary to provide clarity as to the type of individual, portable equipment [e.g., hand instruments for scaling teeth, cavitron (an ultrasonic scaler which uses high frequency vibrations and water flow to clean teeth), portable oral suction evacuators (to evacuate water and saliva from the mouth while cleaning teeth), etc.] which need not be registered by the RDHAP.

Proposed subdivision (a)(1) is consistent with definitions found in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (a).]

**Subdivision (a)(2)**

Subdivision (a)(2) provides the definition of “dental hygiene services” using generally understood language to specify the services provided by an RDHAP as those authorized by BPC section 1925. This definition is necessary to clarify the RDHAP is to provide only the dental hygiene services they are authorized to provide by law in the MDHC.

Proposed subdivision (a)(2) is consistent with the use of definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (a)(3)**

Subdivision (a)(3) provides the definition of “equipment” using generally understood language to mean any tool, instrument, or device (e.g., hand instruments for scaling teeth, cavitron, etc.) used by an RDHAP to provide dental hygiene services. This definition is necessary to specify the types of equipment the RDHAP uses and is required to maintain in sterile, clean, and proper working order at an MDHC.

Proposed subdivision (a)(3) is consistent with the use of definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1005, 1100, and 1103.)

### **Subdivision (a)(4)**

Subdivision (a)(4) provides the definition of “owner” using generally understood language to specify an RDHAP who applies for registration or operates an MDHC, is responsible for the MDHC’s registration, and is licensed to practice dental hygiene in alternative practice pursuant to BPC section 1922. This definition is necessary to clarify an owner must be a licensed RDHAP because RDHs and RDHEFs are not eligible to own or operate an MDHC. Additionally, it is necessary to specify the RDHAP is responsible for the operation and all the requirements of the MDHC, as the RDHAP owner may hire other RDHAPs and/or dentists to practice in the MDHC, but they will not be responsible for the regulatory requirements and maintenance of the MDHC.

Proposed subdivision (a)(4) is consistent with the use of definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (a)(5)**

Subdivision (a)(5) provides the definition of “provider” to mean an individual licensed to practice dental hygiene in alternative practice or dentist who provides dental hygiene treatment and/or services in an MDHC, but who is not necessarily the owner registering the MDHC. This definition is necessary to clarify a provider in the MDHC may not necessarily be an owner of the MDHC, but may still provide dental hygiene services within the MDHC.

Proposed subdivision (a)(5) is consistent with the use of definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (a)(6)**

Subdivision (a)(6) provides the definition of “protected health information (PHI)” to mean the patient’s “individually identifiable health information,” and shall include a patient’s medical or dental history (i.e., a written record of the patient’s personal health history, including information about allergies, illnesses, surgeries, immunizations, and results of physical exams and tests.) The Board referenced the universally recognized language determined by section 1320d of Title 42 of the United States Code and as defined by the United States Department of Health and Human Services

<https://www.hhs.gov/hipaa/for-professionals/privacy/special-topics/de-identification/index.html#protected.>)

Proposed subdivision (a)(6) is consistent with the use of definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (a)(7)**

Subdivision (a)(7) provides the definition of “necessary parties” to include emergency responders, medical/dental/dental hygiene clinics, care facility or school staff, guardians, and designated family members. This is necessary to identify individuals responsible for the patient and legally entitled to the patient’s PHI should the patient be incapacitated and unable to make decisions regarding their care due to emergency, illness, or incapacitation (e.g., accident, stroke, dementia, etc.). As these patients may be cognitively impaired, a necessary party shall hold the patient’s best interest in consideration when making a decision regarding the patient’s health, safety, and treatment.

Proposed subdivision (a)(7) is consistent with the use of definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (a)(8)**

Subdivision (a)(8) provides the definition of “patient of record.” The Board referenced definitions as provided by the American Dental Association, [www.lawinsider.com](http://www.lawinsider.com), and using generally understood language, to specify a “patient of record” as a patient who has a medical and dental history completed and evaluated, has oral conditions assessed and documented, and has a written plan developed by the RDHAP for treatment. This definition is necessary because RDHAPs shall ensure a patient is fully evaluated and established as a patient under their care prior to performing any dental hygiene procedures.

Proposed subdivision (a)(8) is consistent with definitions in the Dental Board of California’s statute [see e.g., Bus. & Prof. Code, §1684.5., subd.(a).]

### **Subdivision (a)(9)**

Subdivision (a)(9) provides the definition of “active patient.” The Board referenced the definition as provided by [www.lawinsider.com](http://www.lawinsider.com), and using generally understood language, to specify an “active patient” as a patient of record for whom the owner or provider has examined, treated, or cared for within the two (2) year period prior to discontinuation of practice, or the owner or provider moving from or leaving the city in which services were provided to the patient. This definition is necessary to establish a minimum timeframe for a patient to be considered “active” because the regulation places requirements on the RDHAP for recordkeeping and notification of “active” patients.

Proposed subdivision (a)(9) is consistent with definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (a)(10)**

Subdivision (a)(10) provides the definition of “patient treatment records.” The Board referenced the definition as provided by <https://medical-dictionary.thefreedictionary.com/patient+record>, and using generally understood language, to specify “patient treatment records” as documents relevant to patient care and management (e.g., patient’s dental history, medical history, dental hygiene evaluation(s), dental hygiene diagnosis(es), dental hygiene procedures and treatment, response to dental hygiene treatment, documented consultations with other dental care and healthcare providers, and referrals for dental care and healthcare follow-up treatment) and are usually arranged in chronologic order.

Proposed subdivision (a)(10) is consistent with definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (a)(11)**

Subdivision (a)(11) provides the definition of “communication capability.” The Board referenced the definition as provided by [www.lawinsider.com](http://www.lawinsider.com), and using generally understood language, to specify “communication capability” means an owner has telephone service they can access twenty-four (24) hours per day. This definition is important because as the MDHC is mobile and may be moved to various locations, the MDHC must be able to contact emergency services if a medical (e.g., heart attack, anaphylaxis, etc.) or dental emergency [e.g., dental abscess (dental infection with swelling and pain)] arises for the patient.

Proposed subdivision (a)(11) is consistent with definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (b)**

Subdivision (b) provides the application requirements an RDHAP must submit to the Board to operate a MDHC. This requirement is necessary because BPC sections 1926.1 and 1926.2 requires an RDHAP to provide specific documentation to the Board to register an MDHC to ensure the MDHC is equipped with necessary equipment, thereby ensuring adequate facilities are available to the patient for their safety (e.g., sterilizers to render dental instruments sterile, lead aprons for protecting the patient from scatter radiation when using x-rays, etc.).

### **Subdivision (b)(1)**

Subdivision (b)(1) requires an MDHC owner applicant to submit a completed application to the Board on form DHBC MDHC-01 (New 11/2022) “Application for Registration of a Mobile Dental Hygiene Clinic (MDHC).”

BPC section 1926.1(b) requires an RDHAP to register the MDHC with the Board in compliance with BPC sections 1926.2 and 1926.3. BPC section 1926.2(a) requires an MDHC owner applicant to provide documentation to the Board they meet requirements for MDHC operation. This requirement is necessary because it ensures the MDHC owner meets all requirements established by BPC sections 1926.2 and 1926.3, and are eligible to operate an MDHC. Additionally, requiring a form allows the applicant to report requirements in a clear and consistent manner.

Proposed subdivision (b)(1) is consistent with requirements in other Board regulations. [See e.g., Cal. Code Regs., tit. 16, §11119, subd. (a)(2).]

### **Application form DHBC MDHC-01 (New 11/2022), Incorporated by Reference**

Subdivision (b)(1) requires an RDHAP applying to register an MDHC to complete and submit an “Application for Registration of a Mobile Dental Hygiene Clinic (MDHC)” form DHBC MDHC-01 (New 11/2022), which the subdivision incorporates by reference.

The Board creates form DHBC MDHC-01 (New 11/2022) to assist an RDHAP to apply to register an MDHC to and ensures pertinent information is collected from applicants in a consistent manner to enable fair and efficient processing of the request by the Board. Additionally, the application provides a convenient way for applicants to understand the regulatory requirements, including requisites for approval of registration of an MDHC by the Board. Application form DHBC MDHC-01 (11/2022) includes:

- Notification of all questions on the registration/renewal application must be answered, all information requested in the registration/renewal must be supplied by the applicant, and if something does not apply, to check the “N/A” box.

This notice is necessary because proposed section 1116 is specific on requirements necessary to issue a MDHC registration. If proof of those requirements is not provided on the application, the Board may not be able to ensure all requirements are met, and therefore may not be able to issue the MDHC registration.

- Notification of failure to answer all questions on the application will cause a delay in processing the registration/renewal.

This notice is necessary because proposed section 1116 is specific on requirements necessary to issue a MDHC registration, and if not provided on the application, the Board may not be able to ensure all requirements are met. The Board will then be required to request the missing information from the applicant, which will cause the delay in processing due to awaiting the response from the applicant.

- Notification to type or print legibly and that illegible registrations will be returned.

This notice is necessary because the application provides the vehicle by which the Board ensures all requirements necessary to issue a MDHC registration. If the

application is illegible, the Board may not be able to ensure all requirements are met.

- Notification of a non-refundable registration fee for initial applicants of \$100.

BPC section 1944(g) provides that the fee for an initial application for an MDHC shall not exceed one hundred fifty dollars (\$150). Fees fixed by the Board by resolution pursuant to BPC section 1944 are not subject to the approval of the Office of Administrative Law (OAL). [Bus. & Prof. Code, § 1944, subd. (c).] This notice is necessary so the applicant understands the cost of the application.

- Notification of a biennial renewal fee of \$160

BPC section 1944(h) provides the biennial renewal fee for a MDHC shall not exceed two hundred fifty dollars (\$250). Fees fixed by the Board by resolution pursuant to BPC section 1944 are not subject to the approval of the OAL. [Bus. & Prof. Code, § 1944, subd. (c).] This notice is necessary so the applicant understands the cost of the renewal fee.

- Notification that payment of fees must be made by personal check, cashier's check, business check, or money order and must be made payable to "DHBC".

This notice is necessary so the applicant is aware of the types of payment accepted by the Board for the initial and renewal application fees.

- Notification the registration information provided in questions 1 and 2 [the RDHAP name and license number(s)] will be used to establish the expiration date of the registration and will be the point-of-contact for this application.

This notice is necessary to establish identification of the MDHC owner and to establish the expiration date of the MDHC to coincide with the RDHAP's license expiration date. BPC section 142(a) allows the Board to synchronize the renewal dates of licenses granted to applicants with more than one license issued by the Board.

- In questions one through ten, form DHBC MDHC-01 (11/2022) collects MDHC owner information (name, RDHAP license number, RDH license number, Social Security Number/Individual Taxpayer Number, Registered Fictitious Name (if applicable), Fictitious Name Permit number (if applicable), type of MDHC registration (new or renewal and if it is a renewal, the MDHC's registration number), address of record/ mailing address of RDHAP (RDHAP physical address, RDHAP email address, and RDHAP contact number), and MDHC information (address of record/ mailing address for the MDHC, MDHC email address, and MDHC contact number.)

This is necessary to enable identification of the requester and to link the requester to the specific MDHC to ensure accuracy in the processing of the application for MDHC registration.



Additionally, Form DHBC MDHC-01 (11/2022) requires the following to be answered:

- A question (11) as to if the MDHC’s owner has a written procedure that specifies the means of obtaining emergency follow-up care for patients treated in the MDHC as required by CCR section 1116, as well as providing the specifics as to what a “written procedure” shall include (arrangements for treatment by a licensed dentist or physician whose place of practice is established within the city or county in which the MDHC provides or intends to provide dental hygiene services.)

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(1)(A).

- A notice as to if the answer in question 11 is “yes,” the MDHC’s owner is to provide a copy of the written procedure and label it as Exhibit 1. Additionally, if it is a renewal application, the MDHC’s owner is to attach a copy if the written procedure has changed from initial registration, or if no changes have been made, to check the N/A box.

This notice is necessary because application review staff shall verify the MDHC’s RDHAP owner provides a new or updated written procedure that specifies the means of obtaining emergency follow-up care for patients treated in the MDHC as required by CCR section 1116, thereby ensuring the safety and continuity of care for patients treated by the MDHC.

- A question (12) as to if the MDHC’s owner has a relationship with at least one licensed dentist located in California for referral, consultation, and emergency services pursuant to section 1117.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(1)(B).

- If the answer in question 12 is “yes,” the MDHC’s owner is to provide a copy of their completed “Documentation of Registered Dental Hygienist in Alternative Practice (RDHAP) Relationship with Dentist” [form RDHAP-01 (07-2021)].

This is necessary because application review staff shall verify the MDHC’s RDHAP owner maintains a relationship with at least one licensed dentist located in California for referral, consultation, and emergency services pursuant to section 1117, thereby ensuring the safety and continuity of care for patients treated by the MDHC.

- A question (13) as to if the MDHC’s owner has telephone service for the MDHC that the MDHC can access twenty-four (24) hours per day that enables the owner or any provider of dental hygiene services to contact emergency responders, medical/dental/dental hygiene clinics, care facility or school staff, guardians, and designated family members, in the event of a medical or dental emergency.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(1)(C).

- A question (14) as to if there is a telephone number where patients are able to contact the MDHC's owner or provider with questions, concerns, or emergency needs, and have their calls returned within four calendar days.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(1)(D).

- A question (15) as to if a live person is not available to answer calls, does the telephone line include a recorded message with information about whom to contact in case of a dental emergency.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(1)(D).

- A question (16) as to if the owner will comply with all state and local laws and ordinances regarding business licensing and operations.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(1)(E).

- A question (17) as to if the MDHC's owner will obtain and maintain all state and local licenses and permits necessary to provide the dental hygiene services being rendered by the applicant or provider at the MDHC, including a local or county business license, a fictitious name permit as provided in BPC section 1962 if applicable, and/or a seller's permit if a permit is required under the Sales and Use Tax Law (Part 1 commencing with section 6001) of Division 2 of the Revenue and Taxation Code.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(1)(E).

- A notice in question 17 as to copy of each current license and permit shall be submitted with the application to include a local or county business license, a fictitious name permit as provided in BPC section 1962 if applicable, and/or a seller's permit if a permit is required under the Sales and Use Tax Law (Part 1 commencing with section 6001) of Division 2 of the Revenue and Taxation Code, and to be labeled as Exhibit 3.

This notice is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(1)(E).

- A question (18) as to if the MDHC's radiographic operatory complies with California Radiation Control Regulations (Cal. Code Regs., tit. 17, Div. 1,

Subchapter 4, Ch. 5, §§ 30100 and following

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(1)(F).

- A question (19) as to if the driver of the MDHC possesses a current, active and unrestricted California driver's license.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(1)(G).

- A notice as to if the answer in question 19 is “yes,” the MDHC’s owner is to provide the name of the driver, driver’s license number and date of expiration.

This notice is necessary because a current driver’s license is necessary to transport a MDHC. As the Board’s primary responsibility is for the protection of the public (Bus. & Prof. Code, §1902.1), the Board shall ensure a currently licensed individual is legally responsible for the transport of the MDHC.

- A question (20) as to if the MDHC’s owner acknowledges receiving notice that the MDHC must maintain all dental hygiene patient treatment records and communications relating to the care and treatment of the patient following the discharge of a patient for a minimum of seven years pursuant to the minimum MDHC operating standards as found in proposed section 1116.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(2)(C).

- A question (21) as to if the MDHC’s owner uses infection control equipment and follows infection control procedures according to the requirements of CCR section 1005.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(3)(A).

- A question (22) as to if the MDHC complies with HIPAA’s security standards in Subpart C of Part 164, 45 C.F.R. §164.302 et seq., with respect to the patient’s “Protected Health Information.”

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(3)(B).

- A notice in question 22 as to the definition of PHI is defined in section 1320d of Title 42 of the United States Code (a patient’s medical history, or dental history, which is a written record of the patient’s personal health history that provides information about allergies, illnesses, surgeries, immunizations, and results of physical exams and tests.)

This notice is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(3)(B).

- A question (23) as to if the MDHC is readily accessible to and useable by individuals with disabilities pursuant to the federal Americans with Disabilities Act of 1990 (ADA)(42 U.S.C. Sec. 12101, et seq.), in accordance with the ADA's implementing rules under 28 C.F.R Part 36 and Subparts A-D of Part 36.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(3)(C).

- A question (24) as to if the MDHC has access to a sufficient water supply to meet patients' health and safety needs at all times to include hot water.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(3)(D).

- A notice in question 24 as to the definition of "water quality" as to meet guidelines set forth in the "Guidelines for Infection Control in Dental Health-Care Settings – 2003" from the Centers for Disease Control and Prevention, in addition to the "Safe Drinking Water Act" (42 U.S.C. Sec. 300f et seq.).

This notice is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(3)(D).

- A question (25) as to if the MDHC has access to toilet facilities available to staff and the patients of the MDHC.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(3)(E).

- A question (26) as to if the MDHC has a covered galvanized, stainless steel, or other noncorrosive metal container for deposit of refuse and waste materials.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(3)(F).

- A question (27) as to if the MDHC has a working Automated External Defibrillator (AED).

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(3)(G).

- A question (28) as to if the MDHC has a self-contained, portable emergency oxygen unit with administration equipment (wheeled cart with oxygen cylinder, variable regulator, demand valve system, supplemental adult and child oxygen

masks, hoses, and nasal cannulas) to assist with administration of basic life support.

This question is necessary for the reasons set forth herein with respect to the proposed adoption of subdivision (d)(3)(H).

- A question (29) as to if the MDHC's owner has reviewed BPC sections 1926.1, 1926.2, and 1944, and CCR sections 1116 and 1117.

This question is necessary because this question ensures that the MDHC applicant is familiar with the requirements for registration of an MDHC.

- A notice in question 29 advising the MDHC's owner that failure to comply with these provisions is grounds for denial or revocation of the MDHC's registration.

This notice is necessary because this question ensures that the MDHC applicant is aware that failure to comply with the laws applicable thereto may result in the loss of registration.

- "Registration Certification" Section:
  - A statement certifying all licensed persons practicing at the location designated in the registration hold valid licenses and no charges of unprofessional conduct are pending against any person practicing at that location [BPC section 1962(b)(4)].

This is necessary because BPC section 1962(b)(4) requires all licensed persons practicing in the MDHC shall hold valid licenses and no charges of unprofessional conduct are pending against any person practicing in the MDHC. This promotes safety of the public by preventing unlicensed or potentially negligent individuals from treating patients at the MDHC.

- A statement certifying, under penalty of perjury under the laws of the State of California, the applicant meets all the requirements for the MDHC, and the information submitted in the application is accurate, to the best of their knowledge.

This is necessary to ensure the applicant meets all the requirements for issuance of a MDHC registration, and the information submitted in the application is accurate, as well as in compliance with BPC section 115.6(c)(3). [See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal. App.4th 1214, 1223 (judicial explanation for the use of certifications).]

- A statement that by signing and submitting the registration application, I the signee grants permission to the Board or its assignees and agents to verify the information provided and to perform any investigation pertaining to the information provided in the registration application.

This is necessary because it promotes transparency of the registration verification process, informs the applicant all statements and documentation should be reported accurately to the Board, and is subject to verification by Board staff.

- A statement that falsification or misrepresentation of any item or response on the application or any attachment is grounds for denying or revoking the application.

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

Form DHBC MDHC-01 (New 11/2022) also includes the required notices and disclosures to the applicant for the Board’s collection of personal information in compliance with Civil Code section 1798.17.

Form DHBC MDHC-01 (New 11/2022), referenced in subdivision (b)(1), would be cumbersome, unduly expensive and otherwise impractical to publish in the CCR, as this form will be completed by applicants. The form will be available on the Board’s website and hardcopies will be available from the Board upon request.

### **Subdivision (b)(2)**

Subdivision (b)(2) provides for the MDHC registration applicant to provide all documents required by form DHBC MDHC-01. This is necessary because all documents required by form DHBC MDHC-01 are essential to the review of the registration application, thereby ensuring requirements set by section 1116 are met.

### **Subdivision (b)(3)**

Subdivision (b)(3) provides for an initial registration fee of \$100. This is necessary so the MDHC owner understands the cost of the initial registration fee. BPC section 1944(g) provides for the establishment of an initial application fee for an MDHC registration to not exceed one hundred fifty dollars (\$150). Fees fixed by the Board by resolution pursuant to BPC section 1944 are not subject to the approval of the Office of Administrative Law (OAL). [Bus. & Prof. Code, §1944, subd. (c).]

### **Subdivision (c)**

Subdivision (c) provides conditions by which an application may be considered abandoned. This is necessary to ensure timely submission of required documentation needed to issue an MDHC registration. Additionally, subdivision (c) provides grounds for

denial, withdrawal, citation or issuance of registration of an MDHC. This is necessary to establish processes for denials, withdrawals, issuance of citations, or issuance of registrations that are clear, fair, and equitable.

### **Subdivision (c)(1)**

Subdivision (c)(1) provides that an applicant for a license who fails to complete registration application requirements as set forth in subdivision (b) within one year after being notified by the Board of deficiencies in their application, the application shall be deemed abandoned. BPC section 142(b) provides the abandonment date for an application that has been returned to the applicant as incomplete shall be 12 months from the date of returning the application. This is necessary so that staff does not expend resources processing an application that is later abandoned.

Additionally, subdivision (c)(1) provides an MDHC registration applicant shall be required to file a new application if the initial application was abandoned, and meet all of the requirements in effect at the time of reapplication. This is necessary because laws and regulations may change at a future date, therefore the most current laws and regulations would apply at the date of a future application.

### **Subdivision (c)(2)**

Subdivision (c)(2) provides the Board may deny, place on probation, issue a citation, or withdraw a registration as provided in BPC section 1926.1 for failure to meet the requirements of this section. This is necessary because failure to meet all the requirements as provided by section 1116 demonstrates the MDHC owner's lack of accountability and warrants discipline. For example, a MDHC owner refuses to conduct spore testing on their autoclave (i.e., a machine using steam and pressure to render the contents of the autoclave sterile.) Failing to conduct spore testing ensuring sterility of instruments places the public at risk for infections due to possibly improperly sterilized instruments [e.g., scalers (bladed metal instruments) used in the patient's mouth to clean teeth], and therefore withdrawal of registration is warranted.

Additionally, the Board provides a registration may be withdrawn if compliance with this section is not demonstrated within 60 days from the date of written notice of the areas of noncompliance found by the Board and/or upon a final decision upholding the withdrawal in accordance with the notice and hearing procedures contained in the Administrative Procedure Act (commencing with Section 11500 of the Government Code). BPC section 1926.1(d) requires compliance be demonstrated within reasonable timelines, In the Board's experience, 60 days provides the MDHC's owner sufficient time to remedy compliance to the recorded deficiency or violation. Again, this is necessary because failure to meet all the requirements as provided by section 1116 demonstrates the MDHC owner's lack of accountability and warrants further discipline.

Proposed subdivision (c)(2) is consistent with requirements in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §1104.3.)

### **Subdivision (c)(3)**

Subdivision (c)(3) provides upon meeting the requirements of subdivision (b), the MDHC shall be registered with the Board and the RDHAP operator shall be issued an MDHC registration. This is necessary because BPC section 1926.2(a) provides an RDHAP may operate one MDHC and shall be registered and operated in accordance with regulations established by the Board.

### **Subdivision (d)**

Subdivision (d) provides minimum operating requirements for an MDHC. This is necessary to establish requirements for the safe operation of a MDHC.

Proposed subdivision (d) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c).]

### **Subdivision (d)(1)**

Subdivision (d)(1) provides the MDHC applicant or owner shall meet all of the following requirements in subdivision (d) as required by BPC sections 1926.1 and 1926.2 to obtain or maintain registration of the MDHC. This is necessary because BPC sections 1926.1 and 1926.2 do not explicitly provide the minimum criteria for MDHC registration and therefore, subdivision (d)(1) provides a convenient way for applicants to understand the regulatory requirements.

### **Subdivision (d)(1)(A)**

Subdivision (d)(1)(A) provides the MDHC owner has a written procedure that specifies the means of obtaining emergency follow-up care for patients treated in the MDHC. This is necessary to ensure patients have a readily available dental facility in which they can obtain care after receiving dental hygiene clinic services. For example, after a scaling and root planing procedure [i.e., a “deep cleaning” utilizing scalers deeply under the gum line with patients with moderate to severe periodontal (gum) disease] a patient experiences a periodontal abscess (i.e., a painful bacterial infection under the gumline.) This infection requires immediate treatment by a dentist to not only relieve the pain and prevent the patient from losing the tooth associated with the abscess, but to prevent the spread of the infection to other areas of the body (blood and heart.) As the nature of an MDHC is transitory, this requirement ensures availability of care if the mobile dental hygiene clinic is not in the area when an emergency occurs.

Additionally, subdivision (d)(1)(A) provides the written emergency procedure shall include arrangements an RDHAP must make for treatment by a licensed dentist or physician whose place of practice is established within the city or county in which the MDHC provides or intends to provide dental hygiene services. This is necessary so if the patient experiences a dental emergency, there is a dentist close to the patient to prevent delay in obtaining care.



Furthermore, subdivision (d)(1)(A) provides a copy of the written emergency procedures shall be given to each provider at the MDHC prior to any dental hygiene services being performed on a patient. This is necessary to ensure each provider at the MDHC is aware of the emergency services and procedures available for the MDHC patients to prevent delay in seeking emergency care for the patient and allows a readily accessible reference for the provider should an emergency arise.

Proposed subdivision (d)(1)(A) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(1)(A).]

### **Subdivision (d)(1)(B)**

Subdivision (d)(1)(B) provides an MDHC owner (who is an RDHAP) shall maintain a relationship with at least one licensed dentist located in California for referral, consultation, and emergency services pursuant to section 1117. This is necessary because both section 1117 and BPC section 1930 require an RDHAP to maintain a relationship with at least one dentist for referral, consultation, and emergency services. This will ensure safety for the patient because they will have access to that dentist for follow-up care. Additionally, the Board incorporates by reference its response to subdivision (d)(1)(A).

Proposed subdivision (d)(1)(B) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(1)(A).]

### **Subdivision (d)(1)(C)**

Subdivision (d)(1)(C) provides an MDHC owner shall have communication capability that enables the owner to contact necessary parties in the event of a medical or dental emergency. This is necessary so the operator can quickly and timely obtain medical assistance and support for patients who need emergency care.

Proposed subdivision (d)(1)(C) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(1)(B).]

### **Subdivision (d)(1)(D)**

Subdivision (d)(1)(D) provides an MDHC owner shall maintain a telephone number where patients are able to contact the MDHC owner or provider with questions, concerns, or emergency needs, and have their calls returned within four (4) calendar days. This is necessary so a patient can contact the RDHAP with any non-emergency questions and obtain timely emergency assistance if the RDHAP is unavailable, or with the contracted dentist if the emergency is beyond the RDHAP's scope of practice.

Additionally, subdivision (d)(1)(D) provides if a live person is not available to answer calls, the telephone line shall include a recorded message with information about whom to contact in case of a dental emergency after receiving dental hygiene services. Again,

this is necessary because having a telephone line with a recorded message ensures the critical, emergency contact information is relayed to the patient without delay.

### **Subdivision (d)(1)(E)**

Subdivision (d)(1)(E) provides an MDHC owner shall comply with all state and local laws and ordinances regarding business licensing and operations. This is necessary to ensure the MDHC's owner is aware of, and responsible for, all permits they are required to obtain to safely operate a MDHC, and the types of laws with which they are required to comply.

Additionally, subdivision (d)(1)(E) provides an MDHC owner shall obtain and maintain all state and local licenses and permits necessary to provide the dental hygiene services being rendered by the applicant or provider at the MDHC, including a local or county business license, a fictitious name permit as provided in BPC section 1962 if applicable, and/or a seller's permit if a permit is required under the Sales and Use Tax Law (Part 1 commencing with section 6001) of Division 2 of the Revenue and Taxation Code. Again, this is necessary to ensure the MDHC's owner is aware of, and responsible for, all permits they are required to obtain to safely operate a MDHC, and the types of laws with which they are required to comply.

Proposed subdivision (d)(1)(E) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(1)(C).]

### **Subdivision (d)(1)(F)**

Subdivision (d)(1)(F) provides if the MDHC owner or any provider performs radiographs (i.e., films of a patient's mouth utilizing x-rays), a radiographic operator must be used that complies with California Radiation Control Regulations (Cal. Code Regs., tit. 17, Div. 1, Subchapter 4, Ch. 5, §§ 30100 and following.) As the Board's highest priority is consumer protection, it is necessary to require each radiographic operator to comply with the radiation control regulations (17 CCR 30100, et seq.), to provide equipment that is safe for patient and operator utilization. 17 CCR 30311 sets forth requirements regarding the safe installation and use of dental radiographic equipment (i.e., x-ray machines) and 17 CCR 30311.1 provides requirements for quality assurance for dental radiography when used on patients.

Proposed subdivision (d)(1)(F) is consistent with requirements in other Board regulations [see e.g., Cal. Code Regs., tit. 16, §1105.2., subd. (d)(4)(B)(i)] and is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(1)(C).]

### **Subdivision (d)(1)(G)**

Subdivision (d)(1)(G) provides the driver of the MDHC shall possess a current, active, and unrestricted California driver's license. This is necessary because an MDHC is mobile and requires transport on streets, highways, and roadways. A driver's license is

necessary for these activities.

Proposed subdivision (d)(1)(G) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(1)(D).]

### **Subdivision (d)(2)**

Subdivision (d)(2) provides requirements for the MDHC's official place of business and maintenance of records. This is necessary to ensure the RDHAP owner maintains a current address for the MDHC and for proper storage of records relating to patient care.

Proposed subdivision (d)(2) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(2).]

### **Subdivision (d)(2)(A)**

Subdivision (d)(2)(A) provides the owner shall maintain a physical address of record for the MDHC registered with the Board and shall notify the Board in writing of any change in that address within thirty (30) days of the change (Bus. & Prof. Code §1943.) Again, as MDHCs are transitory, this is necessary to ensure RDHAPs operating an MDHC receive all correspondence (e.g., registration renewal notices, alerts, etc.) relating to their MDHC from the Board.

Proposed subdivision (d)(2)(A) is consistent with address reporting requirements in other Board regulations [see e.g., Cal. Code Regs., tit. 16, §1105.3., subd. (a)(1)] and consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(2).]

### **Subdivision (d)(2)(B)**

Subdivision (d)(2)(B) provides an MDHC owner shall include the name of the MDHC (including any fictitious name authorized by BPC section 1962), physical address of record and MDHC registration number for all forms of advertisement, solicitation, or other presentments made to the public in connection with the rendition of dental hygiene services, including any advertisement, card, letterhead, telephone listing, Internet Web site, written solicitation or communications to a prospective patient or patients, or contract proposal. As MDHCs are transitory, this is necessary to establish a connection between the MDHC and the owner of the MDHC and allow patients of the MDHC to contact the MDHC for any patient needs (e.g., future appointments, referrals to dentists, etc.). Additionally, BPC section 137 allows the Board to promulgate regulations requiring licensees to include their license numbers in any advertising, soliciting, or other presentments to the public.

### **Subdivision (d)(2)(C)**

Subdivision (d)(2)(C) provides an MDHC owner shall maintain all dental hygiene patient treatment records and communications relating to the care and treatment of the patient

following the discharge of a patient for a minimum of seven (7) years. The ADA in their “Guidelines for Practice Success” recommends maintaining inactive patient records for a minimum of seven years, thereby ensuring a patient’s dental history is maintained. This is necessary because in dentistry, there are many “hidden” conditions a patient might have [e.g., a multilocular radiolucency (many dark spaces on a radiograph)] which may be normal or may indicate disease. If previous history and radiographs are not maintained, the current dental professional will not be able to compare the past condition to the current one, and may repeat unnecessary diagnostics or treatment because they didn’t have an accurate, documented history by which to refer. Additionally, as patients are laypeople and may not always remember dental conditions accurately (or not at all), the dental records are key to memorialize previous dental conditions a patient may have.

Proposed subdivision (d)(2)(C) is consistent with requirements in other healthcare statutes [see e.g., Bus. & Prof. Code, §§ 2620.7, subd. (b), 2919, 3007, 2570.18.5, subd. (d).]

### **Subdivision (d)(3)**

Subdivision (d)(3) provides additional operating requirements for the MDHC. This is necessary because subdivision (d)(3) specifies the requirements the Board established for the safe operation of a MDHC.

Proposed subdivision (d)(3) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(3).]

### **Subdivision (d)(3)(A)**

Subdivision (d)(3)(A) provides the MDHC use infection control equipment and follow infection control procedures according to the requirements of California Code of Regulations (CCR), Title 16, section 1005. This is necessary because BPC section 1906 allows regulations adopted by the Dental Board continue to apply to RDHAPs unless other regulations are adopted by the Board. Additionally, this provision ensures compliance with accepted standards of infection control for dental healthcare settings and ensures the safety of patients. For example, when scalers are used on a patient during a cleaning, they need to be properly cleaned and sterilized in an autoclave [i.e., an infection control machine used to ensure sterility (free from live bacteria or other microorganisms which may cause infection or disease) of instruments placed in the autoclave] so those scalers may be used on another patient. If those instruments are not properly sterilized, those instruments may carry bacteria and microorganisms from the initial patient to the subsequent patient and place the subsequent patient at risk for infections or disease.

### **Subdivision (d)(3)(B)**

Subdivision (d)(3)(B) provides the MDHC comply with HIPAA’s security standards in Subpart C of Part 164, 45 C.F.R. §164.302 et seq, with respect to the patient’s PHI.

This is necessary because HIPAA [Code of Federal Regulations, tit. 45, § 164.530, subd. (c)(1)] requires a covered entity to have appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information, thereby ensuring a patient's confidential medical information is secure.

Additionally, subdivision (d)(3)(B) provides the definition for "HIPAA" to mean the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §§ 1320d - 1320d-8) as amended by subsequent legislation and the implementation of Privacy, Security, and Enforcement Rules under 45 C.F.R. Part 160 and Subparts A, C, D, and E of Part 164. This is necessary to eliminate ambiguity and ensure consistent identification of HIPAA.

Proposed subdivision (d)(3)(B) is consistent with definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (d)(3)(C)**

Subdivision (d)(3)(C) provides the MDHC be readily accessible to and useable by individuals with disabilities pursuant to the federal Americans with Disabilities Act of 1990 (ADA)(42 U.S.C. Sec. 12101, et seq.), in accordance with the ADA's implementing rules under 28 C.F.R Part 36 and Subparts A-D of Part 36. This is necessary because it ensures disabled patients may access an MDHC. For example, an RDHAP practicing at a MDHC has a patient in a wheelchair with no use of their legs. Without a wheelchair lift (i.e., a motorized "elevator" to raise the wheelchair up to the entrance of the MDHC), the patient will not be able to access the MDHC and therefore will not be able to access necessary dental hygiene care.

Proposed subdivision (d)(3)(C) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(3)(A).]

Additionally, subdivision (d)(3)(C) provides the definition for "disability" as set forth in Section 51 of the Civil Code. This is necessary to eliminate ambiguity and ensure consistent interpretation of "disability."

Proposed subdivision (d)(3)(C) is consistent with definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (d)(3)(D)**

Subdivision (d)(3)(D) provides the MDHC have access to a sufficient water supply to meet patients' health and safety needs at all times, including hot water. This is necessary because safe and hygienic potable water is necessary for all dental hygiene procedures (e.g., ultrasonic instruments used within the mouth are water powered, as a part of patient oral rinses, etc.), as well as for housekeeping procedures, thereby ensuring cleanliness of the MDHC.

Additionally, subdivision (d)(3)(D) provides for water quality in the MDHC to meet guidelines as set forth in the "Guidelines for Infection Control in Dental Health-Care

Settings – 2003” from the Centers for Disease Control and Prevention (CDC), in addition to the “Safe Drinking Water Act.” (42 U.S.C. Sec. 300f et seq.). This is necessary to eliminate ambiguity and ensure water quality is safe for patient use.

Proposed subdivision (d)(3)(D) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(3)(C).]

### **Subdivision (d)(3)(E)**

Subdivision (d)(3)(E) provides the MDHC have toilet facilities available to staff and patients of the MDHC. This is necessary for patients and staff to be able to use the restroom as needed for relief, as well as for hand hygiene use.

Proposed subdivision (d)(3)(E) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(3)(D).]

### **Subdivision (d)(3)(F)**

Subdivision (d)(3)(F) provides the MDHC have a covered galvanized, stainless steel, or other noncorrosive metal container for deposit of refuse and waste materials. This is necessary because many disposable items utilized by an MDHC may be contaminated with patient fluids (blood, saliva, etc.) and must be transported safely by the MDHC for proper disposal at another facility appropriate for the disposal of these contaminated items.

Proposed subdivision (d)(3)(F) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (c)(3)(E).]

### **Subdivision (d)(3)(G)**

Subdivision (d)(3)(G) provides the MDHC have a working Automated External Defibrillator (AED). This is necessary because the combination of CPR and early defibrillation by AEDs is effective in saving lives when used in the first few minutes following a collapse from sudden cardiac arrest (<https://www.fda.gov/medical-devices/cardiovascular-devices/automated-external-defibrillators-aeds>.) Therefore, requiring an MDHC to have a working AED promotes safety of the public by having necessary equipment to assist in saving a patient’s life should they have a cardiac emergency.

### **Subdivision (d)(3)(H)**

Subdivision (d)(3)(H) provides the MDHC have a self-contained, portable emergency oxygen unit with administration equipment (wheeled cart with oxygen cylinder, variable regulator, demand valve system, supplemental adult and child oxygen masks, hoses, and nasal cannulas) to assist with administration of basic life support (BLS). This is necessary for oxygen to be immediately available because it ensures oxygen is present to assist with BLS and/or CPR should an emergency requiring the need for oxygen

administration arise. Additionally, BPC section 1926.01(b)(2) requires oxygen be immediately available during performing soft tissue curettage and administration of local anesthesia which an RDHAP may provide at an MDHC.

Additionally, this requirement is necessary to comply with the abovementioned law, and also because it is the standard of care in dental and dental hygiene practices for oxygen to be present and immediately available should an emergency arise. For example, an MI is due to a blockage of a coronary artery (heart blood vessel) delivering blood to the heart. This blockage, in turn, results in a decreased amount of oxygen reaching the heart, causing death of the portion of the heart that has the blockage. Oxygen administration during the MI is crucial to increase the patient's oxygen levels to deliver the additional oxygen to the heart to decrease the amount of damage from the MI and increase patient survival rate. Additionally, it is standard practice for the dental professional to have portable oxygen available in the office for use in an emergency situation, regardless if it is during a dental hygiene procedure or a patient waiting in the waiting room [e.g., 16 CCR section 1043.3(c)(13)].

#### **Subdivision (d)(4)**

Subdivision (d)(4) provides each MDHC owner shall notify the Board in writing within thirty (30) days of any change in operational status or ownership of the MDHC. BPC section 1926.2 requires the owner of the MDHC to be registered and operated in accordance with regulations established by the Board. As such, the Board determined 30 days would provide sufficient time for the MDHC owner to supply the Board with the necessary documentation as required by subdivisions (b)(1) and (b)(2). This is necessary to ensure current and accurate reporting information is supplied to the Board in a clear and consistent manner, thereby ensuring requirements set by section 1116 are met.

Proposed subdivision (d)(4) is consistent with reporting requirements in other Board regulations [see e.g., Cal. Code Regs., tit. 16, §§ 1105.3., subd. (a)(1) and 1117., subd. (c).]

#### **Subdivision (d)(5)**

Subdivision (d)(5) provides the RDHAP operator to provide access during business hours to the RDHAP's records and facility to the Board, or its authorized representative(s), to review the MDHC for compliance with all laws, regulations, and standards applicable to MDHCs including, but not limited to, the BPC, CCR, CDC, and HIPAA.

As the Board's highest priority is consumer protection, it is necessary DHEPs adhere to all laws, regulations, and standards. (Bus. & Prof. Code, § 1902.1.) These include the BPC, the CCR, the CDC, and HIPAA. Requiring MDHCs to provide access to the MDHC enables the Board to review the MDHC's facilities (e.g., clinical chairs, suction equipment, sterilizing facilities, etc.).

For example, with regard to patient confidentiality, HIPAA [Code of Federal Regulations, tit. 45, § 164.530, subd. (c)(1)] requires a covered entity to have appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information. Therefore, allowing the Board access to the MDHC’s facilities to inspect where patient records are maintained, the Board can determine if the MDHC is in compliance with HIPAA, thereby ensuring their confidential medical information is secure.

With regard to infection control: (1) 16 CCR section 1005 provides minimum standards of infection control as required for dental health-care facilities; (2) BPC section 5193 provides requirements regarding bloodborne pathogens (occupational exposure by dental hygiene staff to blood or other potentially infectious bodily fluids); and (3) the “Centers for Disease Control and Prevention, Guidelines for Infection Control in Dental Health-Care Settings – 2003” provides CDC infection control guidelines for dental health-care settings. Therefore, allowing the Board access to the MDHC’s facilities to inspect infection control equipment, policies, and procedures, the Board can determine if the MDHC is in compliance with the CCR, BPC, and CDC guidelines, thereby ensuring the facilities provide a safe and clean environment with which to treat patients.

Proposed subdivision (d)(5) is consistent with requirements in other Board regulations [see e.g., Cal. Code Regs., tit. 16, §1104.3., subd. (a).]

### **Subdivision (e)**

Subdivision (e) provides an MDHC registration is not transferable. This is necessary because MDHC registrations are permanently linked to an RDHAP’s licensure and therefore provides the Board with necessary information as to what RDHAP is responsible for and providing treatment at that MDHC. For example, a patient may wish to obtain their patient treatment records from an RDHAP. The patient doesn’t remember the RDHAP, or the dates of service, but remembers the name of the MDHC. The Board may assist the patient by researching the MDHC’s registration and provide the correct name of the RDHAP to the patient so they may obtain their records in an expeditious manner and avoid delay of further dental treatment. Additionally, if the patient had a concern about hygiene services provided at an MDHC but again unsure of the treatment dates, the Board is aware of which RDHAP is responsible for the services provided to the patient and may investigate the concerns expeditiously.

Proposed subdivision (e) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (d).]

### **Subdivision (f)**

Subdivision (f) provides an MDHC registration shall expire at the same time as the registration holder's RDHAP license. This is necessary so an MDHC owner is aware of when the duty to provide the documentation is triggered. BPC section 142(a) allows the Board to synchronize the renewal dates of licensing services granted to applicants with



more than one license service issued by the Board. This is necessary so an MDHC owner is aware of when the duty to provide the documentation is triggered.

Proposed subdivision (f) is consistent with requirements in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (e).]

### **Subdivision (f)(1)**

Subdivision (f)(1) provides to renew an MDHC registration an owner shall submit a completed renewal application and related documents and fees.

BPC section 1926.1(b) requires an RDHAP to register the MDHC with the Board in compliance with BPC sections 1926.2 and 1926.3. BPC section 1926.2(a) requires an MDHC owner to provide documentation to the Board they continue to meet requirements for MDHC operation. This requirement is necessary because it ensures the MDHC owner continues meeting all requirements established by BPC sections 1926.2 and 1926.3, and are eligible to continue to operate an MDHC. Additionally, requiring a form allows the applicant to report requirements in a clear and consistent manner.

Proposed subdivision (f)(1) is consistent with requirements in other Board regulations [see e.g., Cal. Code Regs., tit. 16, §1117, subd. (e),] and in other Mobile Dental Clinic regulations [see e.g., Cal. Code Regs., tit. 16, §1049., subd. (e).]

### **Subdivision (f)(1)(A)**

Subdivision (f)(1)(A) requires the submission of form DHBC MDHC-01 (New 11/2022).

The Board incorporates by reference its response to section 1116, subdivision (b)(1).

### **Subdivision (f)(1)(B)**

Subdivision (f)(1)(B) requires submission of a biennial renewal fee in the amount of \$160.

BPC section 1944(h) provides the biennial renewal fee for a MDHC shall not exceed two hundred fifty dollars (\$250). Fees fixed by the Board by resolution pursuant to BPC section 1944 are not subject to the approval of the OAL. [Bus. & Prof. Code, § 1944, subd. (c).] This requirement is necessary to allow the RDHAP to understand the cost of the renewal fee.

### **Subdivision (f)(1)(C)**

Subdivision (f)(1)(C) requires submission of all supporting documentation required by form DHBC MDHC-01 (New 11/2022).

The Board incorporates by reference its response to section 1116, subdivision (b)(2).

## **Subdivision (f)(2)**

Subdivision (f)(2) provides ways for the submission of MDHC renewal forms, fees, and any documentation required by subdivision (f)(1) to the Board. This is necessary so the renewal applicants are advised as to the ways the required forms, fees, and documentation may be submitted to the Board.

### **Subdivision (f)(2)(A) through (f)(2)(A)(iii)**

Subdivision (f)(2)(A) provides the Department of Consumer Affairs' online licensing system ("BreEZe") web link for the electronic submission of an MDHC renewal, including form DHBC MDHC-01 (New 11/2022), fees, and any documentation required by subdivision (f)(1). This is necessary because the Board utilizes the "BreEZe" system almost exclusively for all licensure and registration submissions due to its ability to provide a convenient and expeditious way to submit requests to the Board.

Subdivision (f)(2)(A)(i) provides information for the MDHC owner and operator to first register for a "BreEZe" user account on the by creating a username and password This is necessary because "BreEZe" requires registration for an account which will link the licensee to the licensee's vital information, along with their license details and number(s).

Subdivision (f)(2)(A)(ii) provides the MDHC owner and operator to provide all required documentation referenced in (f)(1) through the "BreEZe" link. This is necessary because it ensures the MDHC owner submits all required documentation established by this section, as well as required by BPC sections 1926.2 and 1926.3, to operate an MDHC, as well as for expeditious collection and verification of documents for review by the Board.

Subdivision (f)(2)(A)(iii) provides for when a signature is required by the particular instructions of any filing to be made through the online portal, including any attestation under penalty of perjury, the MDHC owner shall affix their electronic signature to the filing by typing their name in the appropriate field and submitting the filing via the Board's online portal. This is necessary to ensure all information submitted in the application is accurate, as well as in compliance with BPC section 115.6(c)(3). [See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal. App.4th 1214, 1223 (judicial explanation for the use of certifications).]

Additionally, subdivision (f)(2)(A)(iii) states submission of a filing in this manner shall constitute evidence of legal signature by any individual whose name is typed on the filing. This is necessary because Government Code (GOV) section 16.5 allows any written communication in which a signature is required or used, may affix a signature by use of a digital signature that complies with the requirements of GOV section 16.5 as legal and valid.

### **Subdivision (f)(2)(B)**

Subdivision (f)(2)(B) provides for mail submission of an MDHC renewal form and all required documentation referenced in subdivision (f)(1) to the Board's physical address. This is necessary because the Board is aware not all licensees have access to a computer, or prefer "physical" submissions. Therefore, the Board allows "physical" submissions to the Board's headquarters to maintain application process equity for all licensees.

### **Subdivision (g)**

Subdivision (g) provides for an exemption for those MDHCs that fall within the definition of BPC section 1926.2(b). This is necessary because mobile units operated by an entity that is exempt from licensure pursuant to subdivision (b) [clinics directly conducted, maintained, or operated by the United States], (c) [clinics conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization], or (h) [clinics operated by a primary care community or free clinic] of Health and Safety Code (HSC) section 1206 are exempt from registering with the Board.

### **Subdivision (h)**

Subdivision (h) provides for the identification of personnel, notification of changes in written procedures, and display of licenses. This is necessary to ensure current and accurate reporting information is supplied to the Board in a clear and timely manner.

### **Subdivision (h)(1)**

Subdivision (h)(1) provides the MDHC owner shall advise the Board in writing within 30 days of any change to any of the information provided to the Board in the application form [DHBC MDHC-01 (New 11/2022)], whether for initial or renewal. This is necessary to allow licensing staff to verify new or updated MDHC information to be in compliance with requirements of CCR section 1116. For example, the owner RDHAP's dentist with which they have a referral relationship retires. Therefore, the RDHAP is required to find another dentist to have a dental relationship with to provide referral, consultation, and emergency services to the patients of the MDHC. If the Board is not informed of the change, the Board may not verify full compliance with the requirements set by BPC sections 1926.1, 1926.2, 1926.3, and 1930, in addition to 16 CCR sections 1116 and 1117, thereby ensuring the safety and continuity of care for patients treated by the MDHC.

### **Subdivision (h)(2)**

Subdivision (h)(2) provides each RDHAP, or any other provider licensed by the Board to provide dental hygiene services in the MDHC, shall prominently display evidence of their California RDHAP or other Board license in a conspicuous location accessible to public view on the premises where the RDHAP or other Board licensee provides the licensed services pursuant to BPC section 680. BPC section 138 grants the Board the

ability to adopt regulations to require its licensees to provide notice to their patients the practitioner is licensed by this state. Additionally, BPC section 104 allows the Board to adopt regulations to require licensees to display their licenses or registrations in the locality in which they are treating patients. This is necessary to advise the patient the providers are licensed by the Board or Dental Board and advise the patients only duly licensed individuals are responsible for patient care.

### **Subdivision (h)(3) through (h)(3)(B)**

Subdivision (h)(3) provides a licensed RDHAP engaged in the practice of dental hygiene in the MDHC to provide notice to each patient of the fact the RDHAP is licensed and regulated by the Board. BPC section 104 allows the Board to adopt regulations to inform patients as to the identity of the regulatory agency they may contact if they have any questions or complaints regarding the licensee. This is necessary to ensure the patient is fully informed and provides an avenue for patients to receive answers to their questions from the licensing authority directly.

Subdivision (h)(3)(A) provides the content requirements for the notice. The notice contains the statement “Dental Hygienists in Alternative Practice are licensed and regulated by the Dental Hygiene Board of California. This is necessary to clarify and inform patients the Board is the agency responsible for licensing RDHAPs so they may contact the Board if they have any questions or complaints regarding RDHAPs.

Additionally, the notice in subdivision (h)(3)(A) contains the Board’s phone number and web address. This is necessary to provide clarity as to the contact information for the Board and provides the most efficient way to contact the board for expedited service.

Subdivision (h)(3)(B) provides the notice required by subdivision (h)(3) shall be prominently posted in a conspicuous location accessible to public view on the premises where the RDHAP provides the licensed services. This is necessary to ensure the notice is accessible and can be seen by patients. Additionally, the notice shall be in at least 48-point type font (0.664 or 2/3-inch.) This is necessary because ADA compliant sign characters shall be a minimum of 5/8-inch (0.625.) (<https://www.speedpro.com:> What Are the Sign Requirements Under ADA Accessibility Guidelines?)

Proposed subdivisions (h)(3) through (h)(3)(B) are consistent with requirements in other Dental regulations (see e.g., Cal. Code Regs., tit. 16, §1065.)

### **Subdivision (i)**

Subdivision (i) provides the identification of location of service. This is necessary because MDHCs are transitory and provide services to multiple patients in multiple locations. Therefore, by identifying the location of service, the RDHAP will memorialize the place of service accurately in the patient’s record should there be questions about where and type of services provided to patients.

### **Subdivision (i)(1) through (i)(1)(D)**

Subdivision (i)(1) provides each MDHC owner shall maintain a confidential written or electronic record detailing specific information for each patient to whom services are provided. BPC section 1953 requires an RDHAP who performs a service on a patient in a dental office, to identify themselves in the patient record by signing their name or identification number and initials next to the service performed, and shall date those treatment entries in the record. This is necessary to memorialize services provided to the patient. For example, a patient was provided scaling and root planing services to their upper right teeth. That night, the patient develops a periodontal abscess in that area and needs emergency services to treat the infection. Because of the treatment record, the dentist is able to make an educated diagnosis as to the cause of the abscess and provide the appropriate treatment and medication to the patient. Additionally, it is necessary for the RDHAP to identify themselves in the treatment record because it allows anyone reviewing the record to identify the treating provider for further information regarding the patient's treatment.

The information required to be maintained by electronic record includes: name of patient served [subdivision (i)(1)(A)]; closest street address near the service location of the MDHC where service was provided [subdivision (i)(1)(B)]; date of each treatment session [subdivision (i)(1)(C)]; and types of dental hygiene services provided to each patient [subdivision (i)(1)(D).] Again, these specifics are required by BPC section 1953 and are necessary to memorialize each patient, date(s) of treatment, and pertinent details of services provided by the MDHC.

### **Subdivision (i)(2)**

Subdivision (i)(2) provides the confidential written or electronic record shall be made available to a Board representative within fifteen days of the date of the Board's written request pursuant to BPC section 1955. BPC section 1955(a)(1) requires a licensee to release a patient's dental or dental hygiene records to the dental hygiene board, within fifteen days of receiving the request and authorization, or be subject to administrative penalty or fine unless the licensee is unable to provide the documents within this time period for good cause. This is necessary because as the Board's primary responsibility is for the protection of the public (Bus. & Prof. Code, §1902.1), the Board requires access to patient records ensuring treatment of the patient is appropriate and in their best interest. For example, an elderly patient submits a complaint to the Board citing excessive treatment received from a provider at an MDHC. Without access to records, Board staff and subject matter experts would not be able to review patient records [e.g., dental hygiene care plan, radiographs, periodontal charting (showing the health of a patient's gingiva, a.k.a. "gums"), etc.] to determine if care provided by the MDHC provider was appropriate and in the patient's best interest.

### **Subdivision (j)**

Subdivision (j) provides requirements for cessation of operation. This is necessary because the patients of the MDHC are dependent on the services of MDHCs and need

to be advised the MDHC is closing. By advising the patient, the patient will have time to seek another MDHC or dental office to maintain continuity of care.

### **Subdivision (j)(1)**

Subdivision (j)(1) provides upon cessation of operation of an MDHC, the MDHC owner shall notify the Board in writing within thirty days after the last day of operation. This is necessary to allow the Board enough time to process the closure of the MDHC registration, as well as record any future contact information for the MDHC.

Additionally, subdivision (j)(1) provides the MDHC owner shall inform the Board of the final disposition of patient treatment records, including the physical mailing address or location where the treatment records are maintained and the name, telephone number and address for the custodian of records or other person whom the owner designates as responsible for maintaining those records. This is necessary to allow the Board to maintain a record of the MDHC's treatment records, as well as a future contact for those records should any questions arise. For example, a patient temporarily moved to Europe and now returned to California. The patient did not receive notification of the MDHC's closing (e.g., notification duly mailed but became "lost"), and tried contacting the MDHC's owner at the previous contact without success. By the Board retaining the closing contact information, the Board is able to assist the patient in retrieving their records to transfer to another provider, thereby maintaining continuity of care.

### **Subdivision (j)(2)**

Subdivision (j)(2) provides if an MDHC is sold to another RDHAP, that RDHAP ("succeeding MDHC owner") must register with the Board by filing a new form [DHBC MDHC-01 (New 11/2022)] and comply with this section prior to operating the MDHC. This is necessary because MDHC registrations are not transferable per subdivision (e), ensures the new MDHC owner meets all requirements established by BPC sections 1926.2 and 1926.3, and are eligible to operate an MDHC. .

### **Subdivision (j)(3)**

Subdivision (j)(3) provides upon cessation of operation of an MDHC, the previous owner shall preserve all records for a minimum of seven years.

The Board incorporates by reference its response to subdivision (d)(2)(C).

### **Subdivision (j)(4)**

Subdivision (j)(4) provides within thirty days before the last day of operation, the MDHC owner provide written notice via first class mail to all active patients of record of the date of closure or cessation, including the last date the MDHC will remain open. This is necessary because patients of the MDHC are reliant on the MDHC for their dental hygiene care. Thirty days provides active patients ample notice to find a new dental hygiene provider to allow for continuity of care. Additionally, BPC section 1950.5(s)

provides abandonment of the patient by the licensee, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another RDH, RDHAP, or RDHEF and provided the health of the patient is not jeopardized as unprofessional conduct and subject to Board discipline.

Additionally, the notice shall include and the name, telephone number and address of an individual the patient may contact to request transfer of copies of their patient treatment records to a succeeding MDHC owner or to the patient. This is necessary for the patient to be aware of who to contact to obtain their treatment records for transfer to another dental care provider. Again, this ensures continuity of care [see subdivision (j)(1).]

Also, subdivision (j)(4) provides the owner maintain proof the notice was provided to all active patients in accordance with this section and upon request to the Board in accordance with BPC section 1955. This is necessary to hold the MDHC owner accountable for the proper notification of MDHC patients, thereby dismissing any ambiguity of notification.

Additionally, subdivision (j)(4) provides within fifteen days of receipt of a written request by the patient, the MDHC owner provide for the transfer of copies of the patient's treatment records, including radiographs, to the succeeding MDHC owner or to the patient as specified by the patient. This is necessary to ensure the expeditious transfer of records to the patient, thereby allowing the new dental provider access to the records, avoiding delay in care for the patient.

Furthermore, subdivision (j)(4) provides the MDHC owner provide written acknowledgement of receipt of the patient's request to the patient within five business days of receipt of the written request, and also notify the patient of the method and date of expected delivery of the patient's treatment records. This is necessary to ensure the patient is notified the record transfer request was received by the MDCH owner, and advises the patient of a timeframe they may plan on so they may seek care at another dental care provider. For example, a patient only received a scaling and root planing on half of their mouth by the MDHC owner. Because the MDHC is closing, the patient needs to arrange with another dental care provider to scale and root plane the other half of their mouth. By receiving a timeframe by which they will receive their records, the patient is able to schedule their appointment with the new dental care provider with the necessary information for their in-progress treatment to avoid delay in their necessary hygiene care.

Proposed subdivision (j)(4) is consistent with dental statute [see e.g., Bus. & Prof. Code, §1625.4., subd.(a)(3).]

### **Subdivision (j)(5)**

Subdivision (j)(5) provides the definition of "Proof the notice was provided" to mean proof of service of any notice required by this section to patients by mail by completion of a document showing the document's name and the person served, the person

making service, and the date and manner of service (e.g., by first class mail, regular mail, or in person). This is necessary to ensure clarity of the types of proof required to be provided by the MDHC owner should the MDHC owner is asked for proof of documentation provided to the Board.

Additionally, proof of service shall be in writing, but need not be signed, signed under oath, or in any particular format. This is necessary because an MDHC owner shall determine, other than the notice to be in writing, how they see fit as to service of a notice to patients. For example, an MDHC owner saw fit to send a notice to patients via physical, postal mail, while another determined to send the notice via electronic mail. Both forms are legally valid and meets the Board's requirements.

## **Section 1116.5**

### **Subdivision (a)**

Subdivision (a) provides definitions applicable to the regulation, as well as for the forms incorporated by reference.

The Board incorporates by reference its response to section 1116, subdivision (a).

### **Subdivision (a)(1)**

Subdivision (a)(1) provides the definition of "physical facility." The Board referenced the definition as provided by [www.lawinsider.com](http://www.lawinsider.com), and using generally understood language, to specify to mean a fixed structure in which dental hygiene services are rendered or where portable equipment is maintained. This definition is necessary to ensure an RDHAP is clear on the specifics of the type of facility required to be registered with the Board.

Proposed subdivision (a)(1) is consistent with the use of definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

### **Subdivision (a)(2)**

Subdivision (a)(2) provides the definition of "dental hygiene services."

The Board incorporates by reference its response to section 1116, subdivision (a)(2).

### **Subdivision (a)(3)**

Subdivision (a)(3) provides the definition of "equipment."

The Board incorporates by reference its response to section 1116, subdivision (a)(3).



#### **Subdivision (a)(4)**

Subdivision (a)(4) provides the definition of “portable equipment.” The Board referenced the definition as provided by [www.lawinsider.com](http://www.lawinsider.com), and using generally understood language, to specify “portable equipment” as any tool, instrument, or device used by an RDHAP to provide dental hygiene services designed for and capable of being carried or moved from one location to another. This is necessary to provide clarity as to the type of individual, portable equipment [e.g., hand instruments for scaling teeth, cavitron (an ultrasonic scaler which uses high frequency vibrations and water flow to clean teeth), portable oral suction evacuators (to evacuate water and saliva from the mouth while cleaning teeth), etc.] considered as “portable equipment”.

Proposed subdivision (a)(4) is consistent with the use of definitions in other Board regulations (see e.g., Cal. Code Regs., tit. 16, §§ 1100 and 1103.)

#### **Subdivision (a)(5)**

Subdivision (a)(5) provides the definition of “owner.”

The Board incorporates by reference its response to section 1116, subdivision (a)(4).

#### **Subdivision (a)(6)**

Subdivision (a)(6) provides the definition of “provider.”

The Board incorporates by reference its response to section 1116, subdivision (a)(5).

#### **Subdivision (a)(7)**

Subdivision (a)(7) provides the definition of “protected health information.”

The Board incorporates by reference its response to section 1116, subdivision (a)(6).

#### **Subdivision (a)(8)**

Subdivision (a)(8) provides the definition of “necessary parties.”

The Board incorporates by reference its response to section 1116, subdivision (a)(7).

#### **Subdivision (a)(9)**

Subdivision (a)(9) provides the definition of “patient of record.”

The Board incorporates by reference its response to section 1116, subdivision (a)(8).

### **Subdivision (a)(10)**

Subdivision (a)(10) provides the definition of “active patient.”

The Board incorporates by reference its response to section 1116, subdivision (a)(9).

### **Subdivision (a)(11)**

Subdivision (a)(11) provides the definition of “patient treatment records.”

The Board incorporates by reference its response to section 1116, subdivision (a)(10).

### **Subdivision (b)**

Subdivision (b) provides application registration requirements an RDHAP must submit to the Board to operate a physical facility or to utilize portable equipment. This requirement is necessary because BPC section 1926.3 and 1926.4 requires an RDHAP to provide specific documentation to the Board to operate a physical facility or to utilize portable equipment to ensure the physical facility or portable equipment is equipped with necessary equipment, thereby ensuring adequate facilities are available to the patient for their safety.

### **Subdivision (b)(1)**

Subdivision (b)(1) provides, an RDHAP shall provide specific information to the Board within 30 days after the date of the issuance of their initial license. This is necessary because BPC section 1926.3(a) requires RDHAPs licensed by the Board to register with the executive officer within 30 days after the date of the issuance of the person’s license as an RDHAP.

### **Subdivision (b)(1)(A)**

Subdivision (b)(1)(A) provides if an RDHAP owns a physical facility or utilizes portable equipment, the RDHAP shall register the physical facility where the dental hygiene services are rendered, or where the portable equipment is maintained. BPC section 1926.3(a) requires the RDHAP to register all of the physical facilities, on forms prescribed by the Board, with the executive officer. Additionally, BPC section 1926.3(b)(1) requires an RDHAP who utilizes portable equipment to register the RDHAP’s physical facility where the portable equipment is maintained, on forms prescribed by the Board, with the executive officer as well. This is necessary to ensure the physical facilities possess the necessary equipment, thereby ensuring adequate facilities are available to the patient for their safety (e.g., sterilizers to render dental instruments sterile, lead aprons for protecting the patient from scatter radiation when using x-rays, etc.), as well as possess the appropriate equipment to maintain portable equipment the RDHAP uses when providing hygiene services [e.g., sterilizers, disinfectant solutions to wipe down non-critical items (not used in the mouth) such as instrument carrying cases, etc.].

Proposed subdivision (b)(1)(A) is consistent with requirements in other Board regulations [see e.g., Cal. Code Regs., tit. 16, §11119., subd. (a)(2).]

### **Application form DHBC HAPR-01 New (11/2022), Incorporated by Reference**

Subdivision (b)(1)(A) requires an RDHAP applying to register a physical facility to complete and submit an “Registered Dental Hygienists in Alternative Practice: Registration of Physical Facilities” form DHBC HAPR-01 New (11/2022), which the subdivision incorporates by reference.

The Board creates form DHBC HAPR-01 New (11/2022) to assist an RDHAP to apply to register a physical facility to and ensures pertinent information is collected from applicants in a consistent manner to enable fair and efficient processing of the request by the Board. Additionally, the application provides a convenient way for applicants to understand the regulatory requirements, including requisites for approval of registration of a physical facility by the Board. Application form DHBC HAPR-01 New (11/2022) includes:

- Notification of all questions on the registration/renewal application must be answered, all information requested in the registration/renewal must be supplied by the applicant, and if something does not apply, to check the “N/A” box.

This is necessary because proposed section 1116.5 is specific on requirements necessary to register a physical facility. If proof of those requirements is not provided on the application, the Board may not be able to ensure all requirements are met, and therefore may not be able to register the physical facility.

- Notification of failure to answer all questions on the application will cause a delay in processing the registration/renewal.

This is necessary because proposed section 1116.5 is specific on requirements necessary to register a physical facility, and if not provided on the application, the Board may not be able to ensure all requirements are met. The Board will then be required to request the missing information from the applicant, which will cause the delay in processing due to awaiting the response from the applicant.

- Notification to type or print legibly and that illegible registrations will be returned.

This is necessary because the application provides the vehicle by which the Board ensures all requirements necessary to register a physical facility. If the application is illegible, the Board may not be able to ensure all requirements are met.

- Notification of a non-refundable registration fee for an additional physical facility of \$160.

BPC section 1944(i) provides that the fee for an initial application to register an

additional physical facility shall not exceed two hundred fifty dollars (\$250). Fees fixed by the Board by resolution pursuant to BPC section 1944 are not subject to the approval of the Office of Administrative Law (OAL) [Bus. & Prof. Code, § 1944, subd. (c).] This notice is necessary so the applicant understands the cost of the application.

- Notification of a biennial renewal fee for an additional physical facility of \$250.

BPC section 1944(j) provides the biennial renewal fee for an additional physical facility shall not exceed two hundred fifty dollars (\$250). Fees fixed by the Board by resolution pursuant to BPC section 1944 are not subject to the approval of the OAL [Bus. & Prof. Code, § 1944, subd. (c).] This notice is necessary so the applicant understands the cost of the renewal fee.

- Notification that payment of fees must be made by personal check, cashier's check, business check, or money order and must be made payable to "DHBC".

This notice is necessary so the applicant is aware of the types of payment accepted by the Board for the initial and renewal application fees.

- Notification the registration information provided in questions 1 and 2 [the RDHAP name and license number(s)] will be used to establish the expiration date of the registration and will be the point-of-contact for this application.

This is necessary to establish identification of the MDHC owner and to establish the expiration date of the MDHC to coincide with the RDHAP's license expiration date. BPC section 142(a) allows the Board to synchronize the renewal dates of licenses granted to applicants with more than one license issued by the Board.

- In questions one through ten, form DHBC HAPR-01 (11/2022) collects physical facility owner information (name, RDHAP license number, RDH license number, Social Security Number/Individual Taxpayer Number, Registered Fictitious Name (if applicable), Fictitious Name Permit number (if applicable), type of physical facility registration (new or renewal and if it is a renewal, the physical facility's registration number), address of record/ mailing address of RDHAP (RDHAP physical address, RDHAP email address, and RDHAP contact number), and physical facility information (address of physical facility, physical facility's email address, and physical facility's contact number.)

This is necessary to enable identification of the requester and to link the requester to the specific physical facility, thereby ensuring accuracy in the processing of the application for physical facility registration.

Additionally, Form DHBC HAPR-01 (11/2022) requires the following to be answered:

- A question (11) as to if the physical facility's owner has a written procedure that specifies the means of obtaining emergency follow-up care for patients treated in

the physical facility or during use of portable equipment as required by CCR section 1116, as well as providing the specifics as to what a “written procedure” shall include (arrangements for treatment by a licensed dentist or physician whose place of practice is established within the city or county in which the RDHAP provides dental hygiene services.)

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 11 [and proposed section 1116, subdivision (d)(1)(A).]

- A notice as to if the answer in question 11 is “yes,” the physical facility’s owner is to provide a copy of the written procedure and label it as Exhibit 1. Additionally, if it is a renewal application, the physical facility’s owner is to attach a copy if the written procedure has changed from initial registration, or if no changes have been made, to check the N/A box.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 11 notice [and proposed section 1116, subdivision (d)(1)(A).]

- A question (12) as to if the physical facility’s owner has a relationship with at least one licensed dentist located in California for referral, consultation, and emergency services pursuant to section 1117.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 12 [and proposed section 1116, subdivision (d)(1)(B).]

- If the answer in question 12 is “yes,” the physical facility’s owner is to provide a copy of their completed “Documentation of Registered Dental Hygienist in Alternative Practice (RDHAP) Relationship with Dentist” [form RDHAP-01 (07-2021).]

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 12.

- A question (13) as to if there is a telephone number where patients are able to contact the physical facility’s owner or provider with questions, concerns, or emergency needs, and have their calls returned within four calendar days.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 14 [and proposed section 1116, subdivision (d)(1)(D).]

- A question (14) as to if a live person is not available to answer calls, does the telephone line include a recorded message with information about whom to contact in case of a dental emergency.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 15 [and proposed section 1116, subdivision (d)(1)(D).].

- A question (15) as to if the owner will comply with all state and local laws and ordinances regarding business licensing and operations.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 16 [and proposed section 1116, subdivision (d)(1)(E).]

- A question (16) as to if the physical facility's owner will obtain and maintain all state and local licenses and permits necessary to provide the dental hygiene services being rendered by the applicant or provider at the physical facility, including a local or county business license, a fictitious name permit as provided in BPC section 1962 if applicable, and/or a seller's permit if a permit is required under the Sales and Use Tax Law (Part 1 commencing with section 6001) of Division 2 of the Revenue and Taxation Code.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 17 [and proposed section 1116, subdivision (d)(1)(E).]

- A notice in question 16 as to copy of each current license and permit shall be submitted with the application to include a local or county business license, a fictitious name permit as provided in BPC section 1962 if applicable, and/or a seller's permit if a permit is required under the Sales and Use Tax Law (Part 1 commencing with section 6001) of Division 2 of the Revenue and Taxation Code, and to be labeled as Exhibit 3.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 17 notice [and proposed section 1116, subdivision (d)(1)(E).]

- A question (17) as to if the physical facility's radiographic operatory complies with California Radiation Control Regulations (Cal. Code Regs., tit. 17, Div. 1, Subchapter 4, Ch. 5, §§ 30100 and following.)

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 18 [and proposed section 1116, subdivision (d)(1)(F).]

- A notice in question 17 that question 17 is not applicable to Portable Equipment Registration, and if registering portable equipment to check an N/A box.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 18 notice [and proposed section 1116, subdivision (d)(1)(F).]

- A question (18) as to if the physical facility's owner acknowledges receiving notice that the physical facility must maintain all dental hygiene patient treatment records and communications relating to the care and treatment of the patient following the discharge of a patient for a minimum of seven years pursuant to the minimum physical facility operating standards as found in proposed section 1116.5.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 20 [and proposed section 1116, subdivision (d)(2)(C).]

- A question (19) as to if the physical facility's owner uses infection control equipment and follows infection control procedures according to the requirements of CCR section 1005.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 21 [and proposed section 1116, subdivision (d)(3)(A).]

- A question (20) as to if the physical facility complies with HIPAA's security standards in Subpart C of Part 164, 45 C.F.R. §164.302 et seq, with respect to the patient's "Protected Health Information."

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 22 [and proposed section 1116, subdivision (d)(3)(B).]

- A notice in question 20 as to the definition of PHI is defined in section 1320d of Title 42 of the United States Code (a patient's medical history, or dental history, which is a written record of the patient's personal health history that provides information about allergies, illnesses, surgeries, immunizations, and results of physical exams and tests.)

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 22 notice [and proposed section 1116, subdivision (d)(3)(B).]

- A question (21) as to if the physical facility is readily accessible to and useable by individuals with disabilities pursuant to the federal Americans with Disabilities Act of 1990 (ADA)(42 U.S.C. Sec. 12101, et seq.), in accordance with the ADA's implementing rules under 28 C.F.R Part 36 and Subparts A-D of Part 36.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 23 [and proposed section 1116, subdivision (d)(3)(C).]

- A notice in question 21 that question 21 is not applicable to Portable Equipment Registration, and if registering portable equipment to check an N/A box.

This is necessary because portable equipment (e.g., a box to hold hand instruments and various other portable instruments) is hand carried or has wheels, brought to the patient, and does not require patient "access."

- A question (22) as to if the physical facility has access to a sufficient water supply to meet patients' health and safety needs at all times to include hot water.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 24 [and proposed section 1116, subdivision (d)(3)(D).]

- A notice in question 22 as to the definition of “water quality” as to meet guidelines set forth in the “Guidelines for Infection Control in Dental Health-Care Settings – 2003” from the Centers for Disease Control and Prevention, in addition to the “Safe Drinking Water Act.” (42 U.S.C. Sec. 300f et seq.).

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 24 notice [and proposed section 1116, subdivision (d)(3)(D).]

- A question (23) as to if the physical facility has access to toilet facilities available to staff and the patients of the physical facility.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 25 [and proposed section 1116, subdivision (d)(3)(E).]

- A question (24) as to if the physical facility has a covered galvanized, stainless steel, or other noncorrosive metal container for deposit of refuse and waste materials.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 26 [and proposed section 1116, subdivision (d)(3)(F).]

- A question (25) as to if the physical facility has a working Automated External Defibrillator (AED).

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 27 [and proposed section 1116, subdivision (d)(3)(G).]

- A notice in question 25 that question 25 is not applicable to Portable Equipment Registration, and if registering portable equipment to check an N/A box.

This is notice necessary because portable equipment is not considered as a “physical facility” and therefore doesn’t require an AED as a part of portable equipment registration.

- A question (26) as to if the physical facility has a self-contained, portable emergency oxygen unit with administration equipment (wheeled cart with oxygen cylinder, variable regulator, demand valve system, supplemental adult and child oxygen masks, hoses, and nasal cannulas) to assist with administration of basic life support.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) question 28 [and proposed section 1116, subdivision (d)(3)(H).]

- A question (27) as to if the physical facility’s owner has reviewed BPC sections 1926.3, 1926.4, and 1944, and CCR sections 1116.5 and 1117.

This question is necessary because this question ensures that the physical facility



applicant is familiar with the requirements for registration of a physical facility.

- A notice in question 27 advising the physical facility's owner that failure to comply with these provisions is grounds for denial or revocation of the physical facility's registration.

This notice is necessary because this question ensures that the physical facility applicant is aware that failure to comply with the laws applicable thereto may result in the loss of registration.

- "Registration Certification" Section:
  - A statement certifying all licensed persons practicing at the location designated in the registration hold valid licenses and no charges of unprofessional conduct are pending against any person practicing at that location [BPC section 1962(b)(4)].

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) "Registration Certification" section.

- A statement certifying, under penalty of perjury under the laws of the State of California, the applicant meets all the requirements for the physical facility, and the information submitted in the application is accurate, to the best of their knowledge.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) "Registration Certification" section.

- A statement that by signing and submitting the registration application, I the signee grants permission to the Board or its assignees and agents to verify the information provided and to perform any investigation pertaining to the information provided in the registration application.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) "Registration Certification" section.

- A statement that falsification or misrepresentation of any item or response on the application or any attachment is grounds for denying or revoking the application.

The Board incorporates by reference its response to section 1116, form MDHC-01 (New 11/2022) "Registration Certification" section.

Form DHBC HAPR-01 (New 11/2022) also includes the required notices and disclosures to the applicant for the Board's collection of personal information in compliance with Civil Code section 1798.17.

Form DHBC HAPR-01 (New 11/2022), referenced in subdivision (b)(1), would be cumbersome, unduly expensive and otherwise impractical to publish in the CCR, as this form will be completed by applicants. The form will be available on the Board's website and hardcopies will be available from the Board upon request.

### **Subdivision (b)(1)(B)**

Subdivision (b)(1)(B) provides if the RDHAP does not own a physical facility, the RDHAP shall notify the Executive Officer by providing a written statement, signed and dated by the RDHAP, stating that they do not own a physical facility where dental hygiene services are rendered. BPC section 1926.3(a) requires an RDHAP to notify the executive officer if the RDHAP does not have a physical facility. Therefore, this is necessary to be in compliance with BPC section 1926.3(a). Additionally, the Board requires the notification to be in writing to memorialize and have a historical record of the notification to the Board.

### **Subdivision (b)(2)**

Subdivision (b)(2) provides an RDHAP who desires to have more than one place of practice shall apply to and obtain permission from the Board to have an additional place of practice before opening the additional physical facility or facilities. BPC section 1926.4 requires an RDHAP, before opening the additional office, to apply to the Board, pay the fee required by Section 1944, and obtain permission in writing from the Board to have the additional place of practice, subject to a biennial renewal fee described in Section 1944. This is necessary because the RDHAP category was created by the Board to provide dental hygiene care to the public in dental health professional shortage areas, as certified by the Department of Health Care Access and Information (DHCAI). This will allow the Board to verify the RDHAP's additional practice(s) are in DHCAI dental health professional shortage areas.

Additionally, subdivision (b)(2) requires an RDHAP to submit a completed "Registered Dental Hygienists in Alternative Practice: Registration of Physical Facilities." [form DHBC HAPR-01 (New 11/2022)], pay an additional office registration fee of \$160, and meet all of the requirements of this section before the additional facility or facilities will be registered with the Board.

BPC section 1926.3(a) requires an RDHAP to register the physical facility with the Board in compliance with BPC sections 1926.3 and 1926.4. This requirement is necessary because it ensures the physical facility owner meets all requirements established by BPC sections 1926.3 and 1926.4, and are eligible to operate a physical facility. Additionally, requiring a form allows the applicant to report requirements in a clear and consistent manner.

Proposed subdivision (b)(2) is consistent with requirements in other Board regulations. [See e.g., Cal. Code Regs., tit. 16, §1119, subd. (a)(2).]

### **Subdivision (b)(3)**

Subdivision (b)(3) provides the Board shall inform an RDHAP owner in writing whether the registration application [DHBC HAPR-01 (New 11/2022)] is complete and accepted for filing or is deficient and what further specific information is required. This is necessary because the physical facility owner shall meet all requirements set forth by section 1116 [Bus. & Prof. Code §1926.3., subd. (a)], and if not, the Board determined to provide the applicant time to provide all required documentation. Additionally, providing the information in writing is necessary to memorialize the deficiencies and have a historical record of the notification by the Board.

Additionally, subdivision (b)(3) provides an applicant for a license who fails to complete registration application requirements within one year after being notified by the Board of deficiencies in their application, shall be deemed to have abandoned the application and shall be required to file a new application and meet all of the requirements in effect at the time of reapplication. The Board incorporates by reference its response to section 1116, subdivision (c)(1).

### **Subdivision (b)(4)**

Subdivision (b)(4) provides the Board may deny or withdraw a registration or issue a citation as provided in BPC section 1926.3 for failure to meet the requirements of section 1116.5. Pursuant to BPC section 1926.3(c), an RDHAP may be placed on probation with terms, issued a citation and fine, or have the owned physical facility registration withdrawn if compliance is not demonstrated within reasonable timelines. This is necessary because failure to meet all the requirements as provided by section 1116.5 demonstrates the physical facility owner's lack of accountability and warrants discipline. For example, a physical facility owner refuses to conduct spore testing on their autoclave. Failing to conduct spore testing ensuring sterility of instruments places the public at risk for infections due to possibly improper sterilized instruments, and therefore withdrawal of registration is warranted.

### **Subdivision (b)(5)**

Subdivision (b)(5) provides upon meeting the requirements of section 1116.5, the physical facility or facilities shall be registered with the Board and the RDHAP owner shall be issued an office registration for the initial facility, and, if applicable, an additional office registration if additional facilities are registered. This is necessary because BPC section 1926.3(a) provides an RDHAP may operate a physical facility(ies) and shall be registered and operated in accordance with regulations established by the Board.

### **Subdivision (c)**

Subdivision (c) provides minimum operating requirements for a physical facility.

The Board incorporates by reference its response to section 1116, subdivision (d).

### **Subdivision (c)(1)**

Subdivision (c)(1) provides requirements for an RDHAP applicant or owner to obtain or maintain registration of their physical facility or facilities.

The Board incorporates by reference its response to section 1116, subdivision (d)(1).

### **Subdivision (c)(1)(A)**

Subdivision (c)(1)(A) provides requirements for a written procedure that specifies the means of obtaining emergency follow-up care for patients treated by an RDHAP at the physical facility or after use of portable equipment.

The Board incorporates by reference its response to section 1116, subdivision (d)(1)(A).

### **Subdivision (c)(1)(B)**

Subdivision (c)(1)(B) provides requirements for an RDHAP-dentist relationship.

The Board incorporates by reference its response to section 1116, subdivision (d)(1)(B).

### **Subdivision (c)(1)(C)**

Subdivision (c)(1)(C) provides requirements for telephone maintenance and contact information for patients of physical facilities..

The Board incorporates by reference its response to section 1116, subdivision (d)(1)(D).

### **Subdivision (c)(1)(D)**

Subdivision (c)(1)(D) provides requirements for business licensing and operations for physical facilities.

The Board incorporates by reference its response to section 1116, subdivision (d)(1)(E).

### **Subdivision (c)(1)(E)**

Subdivision (c)(1)(E) provides radiology requirements for physical facilities.

The Board incorporates by reference its response to section 1116, subdivision (d)(1)(F).

### **Subdivision (c)(2)**

Subdivision (c)(2) provides requirements for the for a physical facilities' maintenance of records

The Board incorporates by reference its response to section 1116, subdivision (d)(2).

### **Subdivision (c)(2)(A)**

Subdivision (c)(2)(A) provides the owner shall maintain a physical address of record for the physical facility(ies) registered with the Board and shall notify the Board in writing of any change in that address within thirty (30) days of the change.

The Board incorporates by reference its response to section 1116, subdivision (d)(2)(A).

### **Subdivision (c)(2)(B)**

Subdivision (c)(2)(B) provides an RDHAP owner shall include the name of the facility (including any fictitious name authorized by BPC section 1962), physical address of record and office registration number of their physical facility for all forms of advertisement, solicitation, or other presentments made to the public in connection with the rendition of dental hygiene services, including any advertisement, card, letterhead, telephone listing, Internet Web site, written solicitation or communications to a prospective patient or patients, or contract proposal.

The Board incorporates by reference its response to section 1116, subdivision (d)(2)(B).

### **Subdivision (c)(2)(C)**

Subdivision (c)(2)(C) provides all dental hygiene patient treatment records and communications following the discharge of a patient shall be maintained by the RDHAP owner for a minimum of seven years.

The Board incorporates by reference its response to section 1116, subdivision (d)(2)(C).

### **Subdivision (c)(3)**

Subdivision (c)(3) provides additional operating requirements for each physical facility.

The Board incorporates by reference its response to section 1116, subdivision (d)(3).

### **Subdivision (c)(3)(A)**

Subdivision (c)(3)(A) provides the physical facility use infection control equipment and follow infection control procedures according to the requirements of California Code of Regulations, title 16, section 1005.

The Board incorporates by reference its response to section 1116, subdivision (d)(3)(A).

### **Subdivision (c)(3)(B)**

Subdivision (c)(3)(B) provides the physical facility shall comply with HIPAA's security standards in Subpart C of Part 164, 45 C.F.R. §164.302 et seq., with respect to the patient's PHI.

The Board incorporates by reference its response to section 1116, subdivision (d)(3)(B).

**Subdivision (c)(3)(C)**

Subdivision (c)(3)(C) provides the physical facility be readily accessible to and useable by individuals with disabilities pursuant to the federal Americans with Disabilities Act of 1990 (ADA)(42 U.S.C. Sec. 12101, et seq.), in accordance with the ADA's implementing rules under 28 C.F.R Part 36 and Subparts A-D of Part 36.

The Board incorporates by reference its response to section 1116, subdivision (d)(3)(C).

**Subdivision (c)(3)(D)**

Subdivision (c)(3)(D) provides the physical facility shall have access to a sufficient water supply (to include hot water) to meet patients' health and safety needs at all times.

The Board incorporates by reference its response to section 1116, subdivision (d)(3)(D).

**Subdivision (c)(3)(E)**

Subdivision (c)(3)(E) provides the physical facility shall have toilet facilities within the dental hygiene facility available to staff and the public.

The Board incorporates by reference its response to section 1116, subdivision (d)(3)(E).

**Subdivision (c)(3)(F)**

Subdivision (c)(3)(F) provides the physical facility shall have a covered galvanized, stainless steel, or other noncorrosive metal container for deposit of refuse and waste materials.

The Board incorporates by reference its response to section 1116, subdivision (d)(3)(F).

**Subdivision (c)(3)(G)**

Subdivision (c)(3)(G) provides the physical facility shall have a working Automated External Defibrillator (AED).

The Board incorporates by reference its response to section 1116, subdivision (d)(3)(G).

**Subdivision (c)(3)(H)**

Subdivision (c)(3)(H) provides the physical facility shall have a self-contained, portable emergency oxygen unit with administration equipment to assist with administration of basic life support.

The Board incorporates by reference its response to section 1116, subdivision (d)(3)(H).

**Subdivision (c)(4)**

Subdivision (c)(4) provides each RDHAP owner shall notify the Board in writing within thirty days of any change in operational status or ownership of all registered physical facilities.

The Board incorporates by reference its response to section 1116, subdivision (d)(4).

**Subdivision (c)(5)**

Subdivision (c)(5) provides an RDHAP operator shall provide access to the Board (during business hours) to review the RDHAP's records and the physical facility for compliance with all laws, regulations, and standards applicable to physical facilities.

The Board incorporates by reference its response to section 1116, subdivision (d)(5).

**Subdivision (d)**

Subdivision (d) provides a physical facility's registration is not transferable.

The Board incorporates by reference its response to section 1116, subdivision (e).

**Subdivision (e)**

Subdivision (e) provides the physical facility's registration shall expire at the same time as the registration holder's RDHAP license.

The Board incorporates by reference its response to section 1116, subdivision (f).

**Subdivision (e)(1)**

Subdivision (e)(1) provides to renew a physical facility registration an owner shall submit a completed renewal application and related documents and fees.

The Board incorporates by reference its response to section 1116, subdivision (f)(1).

**Subdivision (e)(1)(A)**

Subdivision (e)(1)(A) requires the submission of form DHBC HAPR-01 (New 11/2022) for each physical facility.

The Board incorporates by reference its response to section 1116, subdivision (f)(1)(A).

### **Subdivision (e)(1)(B)**

Subdivision (e)(1)(B) requires submission of a biennial renewal fee in the amount of \$250 for each additional physical facility if the RDHAP has more than one registered with the Board.

BPC section 1944(j) provides the biennial renewal fee for an additional office shall not exceed two hundred fifty dollars (\$250). Fees fixed by the Board by resolution pursuant to BPC section 1944 are not subject to the approval of the OAL. [Bus. & Prof. Code, § 1944, subd. (c).] This requirement is necessary to allow the RDHAP to understand the cost of the renewal fee.

### **Subdivision (e)(1)(C)**

Subdivision (e)(1)(C) provides Subdivision (f)(1)(C) requires submission of all supporting documentation required by form DHBC HARP-01 (New 11/2022).

The Board incorporates by reference its response to section 1116, subdivision (f)(1)(C).

### **Subdivisions (e)(2) through (e)(2)(B)**

Subdivision (e)(2) provides the process by which renewal of each physical facility registration shall be accomplished by the submission of form DHBC HARP-01 (New 11/2022), fee, and documentation required in subdivision (e)(1).

The Board incorporates by reference its response to section 1116, subdivisions (f)(2) through (f)(2)(B).

### **Subdivisions (f) through (f)(3)(B)**

Subdivisions (f) through (f)(3)(B) provides the process by which the owner of the physical facility(ies) identify the Board of changes to any information provided to the Board (initial or subsequent renewal) or to written procedures, identification of personnel, and display of licenses.

The Board incorporates by reference its response to section 1116, subdivisions (h) through (h)(3)(B).

### **Subdivisions (g) through (g)(5)**

Subdivisions (g) through (g)(5) provides the process and procedures by which the owner of the physical facility(ies) ceases operation of the physical facility(ies).

The Board incorporates by reference its response to section 1116, subdivisions (j) through (j)(5).



## **Underlying Data:**

- Senate Bill 1202 (Leno, Chapter 331, Statutes of 2012).
- Senate Bill 534 (Jones, Chapter 491, Statutes of 2021).
- Minutes: Legislative & Regulatory Subcommittee Meeting, Friday, November 16, 2018.
- Meeting Materials: Legislative & Regulatory Subcommittee Meeting, Friday, November 16, 2018.
- Minutes: Dental Hygiene Committee Meeting, Saturday, November 17, 2018.
- Minutes: DHBC Full Board Teleconference Meeting, Tuesday, August 6, 2019.
- 1116 Fee Resolution: August 6, 2019.
- Meeting Materials: DHBC Full Board Teleconference Meeting, Tuesday, August 6, 2019.
- Minutes: DHBC Full Board Meeting, November 19, 2022.
- 1116 Fee Resolution: November 19, 2022.
- 1116.5 Fee Resolution: November 19, 2022.
- Meeting Materials: DHBC Full Board Meeting, November 19, 2022.
- “PHI” definition: <https://www.hhs.gov/hipaa/for-professionals/privacy/special-topics/de-identification/index.html#protected>, retrieved on January 20, 2022.
- “Patient of Record” definition: [www.lawinsider.com](http://www.lawinsider.com), retrieved on December 29, 2022.
- “Active Patient” definition: <https://www.ada.org/resources/practice/practice-management/active-vs-inactive-patients>, retrieved on December 29, 2022.
- “Active Patient” definition: [www.lawinsider.com](http://www.lawinsider.com), retrieved on April 7, 2023.
- “Patient Treatment Record” definition: <https://medical-dictionary.thefreedictionary.com/patient+record>, retrieved on January 4, 2023.
- “Communication Capability” definition: [www.lawinsider.com](http://www.lawinsider.com), retrieved on January 9, 2023.
- “Portable Equipment” definition: [www.lawinsider.com](http://www.lawinsider.com), retrieved on April 6, 2023.
- “Record Maintenance”: <https://www.ada.org/resources/practice/practice-management/active-vs-inactive-patients>, retrieved on December 29, 2022.
- “Automated External Defibrillators”: <https://www.fda.gov/medical-devices/cardiovascular-devices/automated-external-defibrillators-aeds>, retrieved on May 22, 2023.
- What Are the Sign Requirements Under ADA Accessibility Guidelines?: <https://www.speedpro.com>, retrieved on May 25, 2023.

## **Business Impact:**

This regulation will have an economic impact on businesses. This initial determination is based on the following facts:

The initial physical facility (first location) registration and portable equipment does not impose any regulatory fee. Again, this is necessary because the RDHAP category was created by the Board to provide dental hygiene care to the public in DHCAI dental

health professional shortage areas, thereby increasing access to care for Californians.

The proposed regulations impose an initial MDHC registration fee of \$100 and a \$160 biennial renewal registration fee, as well as an initial registration fee of \$160 for each additional (second) physical facility registration and a \$250 biennial renewal registration fee.

The Board estimates MDHC and physical facility registration fee costs ranging from \$360 to \$3,480 per year and up to \$17,660 over a ten-year period as follows:

Dental Hygiene Board of California												
Mobile Dental Hygiene Clinics (MDHC) & Physical Facility (PF)												
Economic Impact (Costs)												
Registration Type	Amount	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
MDHC (initial)	Variable	2	2	2	3	3	3	3	3	4	4	29
MDHC Fee (initial)	\$100	\$200	\$200	\$200	\$300	\$300	\$300	\$300	\$300	\$400	\$400	\$2,900
<b>Sub-Total Costs:</b>		<b>\$200</b>	<b>\$200</b>	<b>\$200</b>	<b>\$300</b>	<b>\$300</b>	<b>\$300</b>	<b>\$300</b>	<b>\$300</b>	<b>\$400</b>	<b>\$400</b>	<b>\$2,900</b>
MDHC (renewal)	Variable	-	-	2	2	4	5	7	8	10	11	49
MDHC Fee (renewal)	\$160	-	-	\$320	\$320	\$640	\$800	\$1,120	\$1,280	\$1,600	\$1,760	\$7,840
<b>Sub-Total Costs:</b>		<b>-</b>	<b>-</b>	<b>\$320</b>	<b>\$320</b>	<b>\$640</b>	<b>\$800</b>	<b>\$1,120</b>	<b>\$1,280</b>	<b>\$1,600</b>	<b>\$1,760</b>	<b>\$7,840</b>
PF 1st Location (initial)	Variable	2	2	2	3	3	3	3	3	4	4	29
PF 1st Location Fee (initial)	N/A*	-	-	-	-	-	-	-	-	-	-	-
PF 2nd Location (initial)	1	1	1	1	1	1	1	1	1	2	2	12
PF 2nd Location Fee (initial)	\$160	\$160	\$160	\$160	\$160	\$160	\$160	\$160	\$160	\$320	\$320	\$1,920
<b>Sub-Total Costs:</b>		<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$320</b>	<b>\$320</b>	<b>\$1,920</b>
PF 1st Location (renewal)	Variable	-	-	2	2	4	5	7	8	10	11	49
PF 1st Location Fee (renewal)	N/A*	-	-	-	-	-	-	-	-	-	-	-
PF 2nd Location (renewal)	Variable	-	-	1	1	2	2	3	3	4	4	20
PF 2nd Location Fee (renewal)	\$250	-	-	\$250	\$250	\$500	\$500	\$750	\$750	\$1,000	\$1,000	\$5,000
<b>Sub-Total Costs:</b>		<b>-</b>	<b>-</b>	<b>\$250</b>	<b>\$250</b>	<b>\$500</b>	<b>\$500</b>	<b>\$750</b>	<b>\$750</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$5,000</b>
<b>Total Costs:</b>		<b>\$360</b>	<b>\$360</b>	<b>\$930</b>	<b>\$1,030</b>	<b>\$1,600</b>	<b>\$1,760</b>	<b>\$2,330</b>	<b>\$2,490</b>	<b>\$3,320</b>	<b>\$3,480</b>	<b>\$17,660</b>

\*N/A – No fee charged for first location initial or renewal

The proposed regulatory language defines parameters for the Board to conduct inspections of MDHCs and physical facilities to ensure compliance. In the event, a registrant is determined to be out-of-compliance with the proposed regulations, the Board is authorized to issue a citation and fine of up to \$5,000. Because the number of future violations of non-compliance is unknown, the Board does not have a total cost estimate related to citations and fines at this time.

Any workload related to reporting requirements related to this proposal are anticipated to be incurred within normal business operations and not anticipated to result in additional costs.

**Economic Impact Assessment:**

The Board has determined this regulatory action will not create jobs within the State of California because the proposed language in the regulation only allows already licensed RDHAPs to open MDHCs and physical facilities, as specified.

The Board determined this regulatory action will not create new businesses or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California as the proposed language in the regulation only

allows already licensed RDHAPs to open MDHCs and physical facility facilities, as specified.

This regulatory proposal will positively impact worker safety as the proposed language in the regulation would ensure MDHCs and physical facilities adhere to all laws, regulations, and standards applicable to a MDHCs and physical facilities, including worker safety (OSHA).

This regulatory proposal will positively impact the health and welfare of California residents as the proposed language in the regulation would ensure MDHCs and physical facilities to adhere to all laws, regulations, and standards applicable to a DHEP, including patient safety (HIPAA, HSC, CDC).

Additionally, this regulatory proposal will increase access to care to the public in DHCAI dental health professional shortage areas, as well as those patients unable to access traditional dental care due to disabilities.

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

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

The Board anticipates modest participation with initial MDHC applications ranging from 2 to 4 per year and initial physical facility applications (first and second locations) ranging from 3 to 6 per year, which would result in workload costs and revenues as follows:

**Registration (costs):** The Board estimates workload and costs ranging from \$1,647 to \$12,823 per year and up to \$63,107 over a ten-year period as follows:

Dental Hygiene Board of California												
Mobile Dental Hygiene Clinics (MDHC)/Physical Facility (PF)												
Registration - Fiscal Impact (Workload Costs)												
Registration Type	Amount	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
MDHC Registration (initial)	Variable	2	2	2	3	3	3	3	3	4	4	29
*SSA Workload (3.2 hours @ \$104 per hour)	\$329	\$659	\$678	\$699	\$1,080	\$1,112	\$1,145	\$1,180	\$1,215	\$1,669	\$1,719	\$11,155
MDHC Registration (renewal)	Variable	-	-	2	2	4	5	7	8	10	11	49
*SSA Workload (2.4 hours @ \$104 per hour)	\$251	-	-	\$533	\$549	\$1,132	\$1,457	\$2,101	\$2,473	\$3,184	\$3,607	\$15,036
<b>Sub-Total Costs:</b>		<b>\$659</b>	<b>\$678</b>	<b>\$1,232</b>	<b>\$1,629</b>	<b>\$2,244</b>	<b>\$2,602</b>	<b>\$3,280</b>	<b>\$3,688</b>	<b>\$4,853</b>	<b>\$5,326</b>	<b>\$26,191</b>
PF Registrations	Amount	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
PF (initial)	Variable	3	3	3	4	4	4	4	4	6	6	41
*SSA Workload (3.2 hours @ \$104 per hour)	\$329	\$988	\$1,018	\$1,048	\$1,439	\$1,483	\$1,527	\$1,573	\$1,620	\$2,503	\$2,578	\$15,778
PF (renewal)	Variable	-	-	3	3	6	7	10	11	14	15	69
*SSA Workload (2.4 hours @ \$104 per hour)	\$251	-	-	\$900	\$824	\$1,697	\$2,040	\$3,001	\$3,400	\$4,457	\$4,919	\$21,138
<b>Sub-Total Costs:</b>		<b>\$988</b>	<b>\$1,018</b>	<b>\$1,848</b>	<b>\$2,263</b>	<b>\$3,180</b>	<b>\$3,567</b>	<b>\$4,574</b>	<b>\$5,020</b>	<b>\$6,960</b>	<b>\$7,497</b>	<b>\$36,916</b>
<b>Total Costs:</b>		<b>\$1,647</b>	<b>\$1,696</b>	<b>\$3,080</b>	<b>\$3,892</b>	<b>\$5,423</b>	<b>\$6,169</b>	<b>\$7,854</b>	<b>\$8,708</b>	<b>\$11,813</b>	<b>\$12,823</b>	<b>\$63,107</b>

\*SSA – Staff Services Analyst @ approximately \$104 per hour (includes DCA Administrative Costs)

Additionally, the Board will incur one-time workload and costs of approximately \$2,000 to update the current MDHC and physical facility registration forms and \$35,000 to post them on the Board’s website.

**Compliance Inspection (costs):** The Board estimates workload and costs ranging from \$8,940 to \$21,976 per year and up to \$140,992 over a ten-year period as follows:

Dental Hygiene Board of California Mobile Dental Hygiene Clinics (MDHC) & Physical Facilities (PF) Compliance Inspections - Fiscal Impact (Workload Costs)												
Initial Compliance MDHC Inspections	Amount	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
Initial Compliance MDHC Inspections	Variable	2	2	2	3	3	3	3	3	4	4	29
Site Inspection (*AGPA 8 hours @ \$112 per hour)	\$896	\$1,792	\$1,846	\$1,901	\$2,937	\$3,025	\$3,116	\$3,210	\$3,306	\$4,540	\$4,676	\$30,350
Travel (airline, car rental & per diem @ \$296 per trip)	\$296	\$592	\$592	\$592	\$888	\$888	\$888	\$888	\$888	\$1,184	\$1,184	\$8,584
<b>Sub-Total Costs:</b>		<b>\$2,384</b>	<b>\$2,438</b>	<b>\$2,493</b>	<b>\$3,825</b>	<b>\$3,913</b>	<b>\$4,004</b>	<b>\$4,098</b>	<b>\$4,194</b>	<b>\$5,724</b>	<b>\$5,860</b>	<b>\$38,934</b>
MDHC Compliance Re-Inspections	Amount	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
**MDHC Re-inspections	Variable	1	1	1	1.5	1.5	1.5	1.5	1.5	2	2	15
Site Inspection (*AGPA 8 hours @ \$112 per hour)	\$896	\$896	\$923	\$951	\$1,469	\$1,513	\$1,558	\$1,605	\$1,653	\$2,270	\$2,338	\$15,175
Travel (airline, car rental & per diem @ \$296 per trip)	\$296	\$296	\$296	\$296	\$444	\$444	\$444	\$444	\$444	\$592	\$592	\$4,292
<b>Sub-Total Costs:</b>		<b>\$1,192</b>	<b>\$1,219</b>	<b>\$1,247</b>	<b>\$1,913</b>	<b>\$1,957</b>	<b>\$2,002</b>	<b>\$2,049</b>	<b>\$2,097</b>	<b>\$2,862</b>	<b>\$2,930</b>	<b>\$19,467</b>
Initial Compliance PF Inspections	Amount	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
Initial Compliance PF Inspections (1st & 2nd PFs)	Variable	3	3	3	4	4	4	4	4	6	6	41
Site Inspection (*AGPA 8 hours @ \$112 per hour)	\$896	\$2,688	\$2,769	\$2,852	\$3,916	\$4,034	\$4,155	\$4,279	\$4,408	\$6,810	\$7,014	\$42,925
Travel (airline, car rental & per diem @ \$296 per trip)	\$296	\$888	\$888	\$888	\$1,184	\$1,184	\$1,184	\$1,184	\$1,184	\$1,776	\$1,776	\$12,136
<b>Sub-Total Costs:</b>		<b>\$3,576</b>	<b>\$3,657</b>	<b>\$3,740</b>	<b>\$5,100</b>	<b>\$5,218</b>	<b>\$5,339</b>	<b>\$5,463</b>	<b>\$5,592</b>	<b>\$8,586</b>	<b>\$8,790</b>	<b>\$55,061</b>
PF Compliance Re-Inspections	Amount	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
**PF Re-inspections (1st & 2nd PFs)	Variable	1.5	1.5	1.5	2	2	2	2	2	3	3	21
Site Inspection (*AGPA 8 hours @ \$112 per hour)	\$896	\$1,344	\$1,384	\$1,426	\$1,958	\$2,017	\$2,077	\$2,140	\$2,204	\$3,405	\$3,507	\$21,463
Travel (airline, car rental & per diem @ \$296 per trip)	\$296	\$444	\$444	\$444	\$592	\$592	\$592	\$592	\$592	\$888	\$888	\$6,068
<b>Sub-Total Costs:</b>		<b>\$1,788</b>	<b>\$1,828</b>	<b>\$1,870</b>	<b>\$2,550</b>	<b>\$2,609</b>	<b>\$2,669</b>	<b>\$2,732</b>	<b>\$2,796</b>	<b>\$4,293</b>	<b>\$4,395</b>	<b>\$27,531</b>
<b>Total Costs:</b>		<b>\$8,940</b>	<b>\$9,142</b>	<b>\$9,349</b>	<b>\$13,388</b>	<b>\$13,697</b>	<b>\$14,014</b>	<b>\$14,342</b>	<b>\$14,679</b>	<b>\$21,465</b>	<b>\$21,976</b>	<b>\$140,992</b>

\*AGPA - Associate Governmental Program Analyst @ approximately \$112 per hour (includes DCA Administrative Costs)

\*\*Assumes 50 percent of inspections require re-inspection

**Enforcement-Related (costs):** In the event a registrant is determined to be in non-compliance, the Board may issue a citation and fine. The total workload and costs, including an appeal of the citation is estimated to be approximately \$10,000 per issuance. The Board does not have a total fiscal estimate of enforcement-related costs at this time.

Any workload and costs are anticipated to be absorbed within existing resources.

**Registration Fee (revenues):** The proposed regulations are anticipated to generate initial and renewal registration fee revenues ranging from \$360 to \$3,480 per year and up to \$17,660 over a ten-year period as follows:

Dental Hygiene Board of California Mobile Dental Hygiene Clinics (MDHC) & Physical Facilities (PF) Fiscal Impact (Revenues)												
Registration Type	Amount	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
MDHC (initial)	Variable	2	2	2	3	3	3	3	3	4	4	29
MDHC Fee (initial)	\$100	\$200	\$200	\$200	\$300	\$300	\$300	\$300	\$300	\$400	\$400	\$2,900
<b>Sub-Total Revenues:</b>		<b>\$200</b>	<b>\$200</b>	<b>\$200</b>	<b>\$300</b>	<b>\$300</b>	<b>\$300</b>	<b>\$300</b>	<b>\$300</b>	<b>\$400</b>	<b>\$400</b>	<b>\$2,900</b>
MDHC (renewal)	Variable	-	-	2	2	4	5	7	8	10	11	49
MDHC Fee (renewal)	\$160	-	-	\$320	\$320	\$640	\$800	\$1,120	\$1,280	\$1,600	\$1,760	\$7,840
<b>Sub-Total Revenues:</b>		<b>-</b>	<b>-</b>	<b>\$320</b>	<b>\$320</b>	<b>\$640</b>	<b>\$800</b>	<b>\$1,120</b>	<b>\$1,280</b>	<b>\$1,600</b>	<b>\$1,760</b>	<b>\$7,840</b>
PF 1st Location (initial)	Variable	2	2	2	3	3	3	3	3	4	4	29
PF 1st Location Fee (initial)	N/A*	-	-	-	-	-	-	-	-	-	-	-
PF 2nd Location (initial)	1	1	1	1	1	1	1	1	1	2	2	12
PF 2nd Location Fee (initial)	\$160	\$160	\$160	\$160	\$160	\$160	\$160	\$160	\$160	\$320	\$320	\$1,920
<b>Sub-Total Revenues:</b>		<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$160</b>	<b>\$320</b>	<b>\$320</b>	<b>\$1,920</b>
PF 1st Location (renewal)	Variable	-	-	2	3	3	3	3	3	4	4	25
PF 1st Location Fee (renewal)	N/A*	-	-	-	-	-	-	-	-	-	-	-
PF 2nd Location (renewal)	Variable	-	-	1	1	2	2	3	3	4	4	20
PF 2nd Location Fee (renewal)	\$250	-	-	\$250	\$250	\$500	\$500	\$750	\$750	\$1,000	\$1,000	\$5,000
<b>Sub-Total Revenues:</b>		<b>-</b>	<b>-</b>	<b>\$250</b>	<b>\$250</b>	<b>\$500</b>	<b>\$500</b>	<b>\$750</b>	<b>\$750</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$5,000</b>
<b>Total Revenues:</b>		<b>\$360</b>	<b>\$360</b>	<b>\$930</b>	<b>\$1,030</b>	<b>\$1,600</b>	<b>\$1,760</b>	<b>\$2,330</b>	<b>\$2,490</b>	<b>\$3,320</b>	<b>\$3,480</b>	<b>\$17,660</b>

\*N/A - No fee charged for first location

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

**Enforcement-Related (revenues):** In the event, a registrant is determined to be out-of-compliance with the proposed regulations, the Board is authorized to issue a citation and fine of up to \$5,000. Because the number of future violations of non-compliance is unknown, the Board does not have a total revenue estimate related to citations and fines at this time.

**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 BPC sections 1926.1, 1926.2, 1926.3, and 1926.4 provides statutory authority for the Board to establish regulations to provide MDHC and physical facility registrations. Additionally, RDHAP licensees have come forward to request MDHC and physical facility registrations to increase their ability to provide access to care to the underserved communities of California.
- 2) Adopt the regulation: The Board determined this alternative is the most feasible because it establishes a regulation, including an application process, for the issuance of MDHC and physical facility registrations. The regulation would promote access to dental healthcare for California residents who do not have access, or the physical ability to access, traditional dental hygiene care.

**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.