



**DEPARTMENT OF CONSUMER AFFAIRS
 TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
 DIVISION 11.
 DENTAL HYGIENE BOARD OF CALIFORNIA**

**NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
 Appeals Process and Reinstatement of Withdrawn Dental Hygiene Educational
 Programs**

NOTICE IS HEREBY GIVEN that the Dental Hygiene Board of California (hereafter Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than Monday, December 2, 2024**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 1905, and 1906, and to implement, interpret or make specific BPC sections 1905, 1906, and 1941, and section 8625 of the Government Code, the Board is considering amending 1105.4 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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

Existing law provides the Board shall renew approval of a DHEP provided the DHEP continues to meet requirements prescribed by the Board. More specifically the Board may deny or withdraw its approval of an educational program. If the Board denies or withdraws approval of a program, the reasons for withdrawal or denial will be provided. Existing law already provides that any educational program whose approval is denied or withdrawn shall be granted an informal conference before the Executive Officer or his or her designee prior to the effective date of such action. However, the Board determined there was no clear process within California Code of Regulations (CCR), Title 16, section 1105.4 to reinstate Board approval of DHEPs withdrawn due to noncompliance with Board laws and regulations. Additionally, the Board determined there was no clear guidance as to requirements to maintain the withdrawn status of DHEPs should the DHEP not comply with the Board directives.

This regulatory proposal will: 1) establish a process by which to reinstate Board approval of DHEPs withdrawn due to noncompliance with Board laws and regulations; and 2) establish requirements to maintain the withdrawn status of DHEPs should the DHEP not comply with Board directives.

The Board approved the proposed text at the November 18, 2023 Full Board Meeting, and delegated authority to the Board's Executive Officer to make any technical, non-substantive changes, if necessary.

Anticipated Benefits of the Proposed Regulation:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents and worker safety:

- First, by establishing a process by which to reinstate Board approval of DHEPs withdrawn due to noncompliance with Board laws and regulations affords a DHEP procedural due process. This establishes a clear, fair, and equitable process for the DHEP to provide evidence they have complied with Board requirements in order to reinstate their approval.
- Second, by establishing requirements to maintain the withdrawn status of DHEPs should the DHEP not comply with Board directives ensures graduates of withdrawn DHEPs are not eligible for California licensure. This promotes safety of the public as the Board will not license RDH graduates that do not meet the minimum standards for safe practice in California.

This regulatory proposal does not affect the state's environment because it does not involve environmental issues.

Evaluation of Consistency and Compatibility with Existing State Regulations:

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on this topic and has concluded this regulation is neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The Board anticipates one DHEP per year will have their registration withdrawn and be subject to probationary actions with costs ranging from approximately \$10,790 to \$13,141 per year and up to \$124,407 over a ten-year period.

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

Nondiscretionary Costs/Savings to Local Agencies: None.

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

Mandate Imposed on Local Agencies or School Districts: None.

Significant Effect on Housing Costs: None.

BUSINESS IMPACT ESTIMATES

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

This initial determination is based on the following facts/evidence/documents or testimony:

The proposed amendments to the regulation will simply allow a process by which to reinstate Board approval of DHEPs withdrawn due to noncompliance with Board laws and regulations who have come into compliance, or to maintain a DHEP's withdrawn status if the DHEP fails to correct violations cited by the Board.

According to the Board, the types of violations resulting in a DHEP having their registration withdrawn varies significantly. As a result, the Board does not have a cost estimate for a DHEP to come into compliance at this time. However, the Board anticipates a DHEP will be able to remedy non-compliance within normal business operations.

Cost Impact on a Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have significant impact on the following:

- 1) the creation or elimination of jobs within the state,
- 2) the creation of new businesses or the elimination of existing businesses within the state, or,
- 3) the expansion of businesses currently doing business within the state.

This proposal would not have any of the above-referenced impacts as explained in the “Business Impact Estimates” section of this notice.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state’s environment:

This proposal positively benefits the health and welfare of California residents because the proposed language in the regulation would ensure DHEPs to adhere to all laws, regulations, and standards applicable to a DHEP, including patient safety (HIPAA, HSC, CDC).

This regulatory proposal positively impacts worker safety as the proposed language in the regulation would ensure DHEPs adhere to all laws, regulations, and standards applicable to a DHEP, including worker safety (OSHA).

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

Business Reporting Requirements:

This regulatory action requires a business (the withdrawn DHEP) to furnish the Board with written proof of compliance pursuant to 16 CCR section 1104 within the Board-provided deadline. It is necessary for the Board to receive this documented proof to memorialize compliance of the cited violation, in addition to providing a record for the proof of compliance.

Pursuant to GC code sec 11346.5(a)(11), 113463.(d):

The Board finds that it is necessary for the health, safety, or welfare of the people of this state that proposed regulation apply to businesses.

Effect on Small Business:

The Board has determined that the proposed regulations will not affect small businesses. Although small businesses owned by licensees of the Board may be impacted the Board does not maintain data relating to the number or percentage of

licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

CONSIDERATION OF ALTERNATIVES

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

Any interested person may submit comments to the Board in writing relevant to the above determinations at [2005 Evergreen St, Ste. 1350, Sacramento, CA 95815](#) during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

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

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board, at [2005 Evergreen St, Ste. 1350, Sacramento, CA 95815](#).

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the persons designated in this Notice as the Contact Persons and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Adina A. Pineschi-Petty DDS
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The backup contact person is:

Anthony Lum
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AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.