



**Title 16, Division 11, Article 4, Section 1114
Dental Hygiene Board of California**

**NOTICE OF PROPOSED RULEMAKING CONCERNING TEMPORARY LICENSURE
(MILITARY SPOUSES OR PARTNERS)**

NOTICE IS HEREBY GIVEN that the Dental Hygiene Board of California (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office on **Tuesday, June 6, 2023 by 5:00 p.m.**

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

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

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 115.6, 1905, and 1906, and to implement, interpret or make specific BPC sections 115.6, 141, 480, 490, 1902.3, 1905, 1906, 1916, 1926.3, 1927, 1931, 1949, 1950, 1950.5, 1952, 1954, 1955, 1956, 1958.1, and 1962, the Board is considering changes to Division 11 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Dental Hygiene Board of California (Board or DHBC) 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.

Existing law requires specific boards (not DHBC) within the Department of Consumer Affairs (DCA) to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements. These requirements include supplying evidence satisfactory to the Board the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders (military spouse/partner).

Assembly Bill 107 (Salas, Chapter 693, Statutes of 2021) (AB 107) expanded the requirement to issue temporary licenses to practice a profession or vocation to include licenses issued by any board within DCA, and amended BPC section 115.6 of the Code to include the DHBC. BPC section 115.6 authorizes the Board to issue temporary licenses to military spouse/partner applicants within 30 days of receiving required documentation and upon passing a California law and ethics examination. Additionally, AB 107 amended BPC section 115.6 providing temporary licenses are nonrenewable and shall expire 12 months after issuance. (Bus. & Prof. Code, § 115.6, subd. (h).)

This proposal implements AB 107 by providing a means for a military spouse/partner to apply for temporary RDH licensure.

The Board approved the proposed language after review at the November 19, 2022, Board meeting and delegated authority to the Board's EO to make any technical, non-substantive changes, if necessary.

Anticipated Benefits of the Proposed Regulation:

The anticipated benefits of the proposed regulation are:

- First, this proposal will allow an RDH licensed in another state to practice their chosen profession. This promotes safety of the public because the Board will ensure the military spouse/partner meets California licensing requirements and only issue temporary RDH licensure to those applicants meeting all Board requirements.
- Second, this proposal will allow a military spouse/partner to work and provide income for their family while the military member is assigned to a duty station in California. This promotes the welfare of the public by providing a military member who is devoted to protecting our country the means to offset the financial hardship and burden for the relocating military member, and their family.

Determination of Inconsistency and Incompatibility with Existing State Regulations:

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

Document Incorporated by Reference: Application for Temporary Licensure to Practice Dental Hygiene (Military Spouses/Partners), Form DHBC TEMP-01 (New 11/2022).

DISCLOSURES REGARDING PROPOSED ACTION

The DHBC has made the following initial determinations:

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

Under the proposed regulations, the Board anticipates the following fiscal impact:

A typical license review takes approximately 3.2 hours (1.5 hours of review time plus 1.7 hours to receive and process application (30 minutes), cashier and data entry (20 minutes), respond to any inquiries (20 minutes), and the issuance of the license (20 minutes.) The work is conducted by a Staff Services Analyst at a cost of approximately \$241 per license application.

The Board estimates receipt of 10 military spouses/partners temporary licensure applicants per year, based on historical data. The total costs to the Board to issue 10 license applications is estimated to be \$2,460 in year-one of implementation (with a 3 percent staffing costs annual growth factor) and up to \$28,128 over a ten-year period.

The Department of Justice will receive revenues of \$32 per applicant related to processing fingerprint background checks, which would result in estimated revenues of \$320 per year and up to \$3,200 over a ten-year period.

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

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

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

Business Impact

The proposed regulation will not have a significant, statewide adverse economic directly affecting business, including the ability of California businesses to compete with businesses in other states.

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

The proposed regulatory language defines parameters for the Board to issue temporary licensure to military spouses/partners and will provide additional, qualified licensees for businesses to employ. Based on historical numbers regarding expedited military license applications, the Board estimates approximately 10 applicants will apply for temporary licensure, thereby increasing the employment pool of qualified RDHs.

Cost Impacts on a Representative Private Person or Businesses:

The Board has determined this regulatory action may have a minor impact on individuals applying for temporary licensure based on the cost for fingerprint processing of approximately \$75. This cost consists of a fingerprint processing center fee of \$26, a Department of Justice processing fee \$32, and a Federal Bureau of Investigation processing fee \$17, with all fees going to the respective businesses and state/federal agencies.

Additionally, a temporary licensure applicant is required to take a California Law and Ethics exam with an exam cost of \$29, with the fee going directly to the exam center (PSI Services.)

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

As mentioned above, private businesses providing fingerprint processing for temporary licensure applicants will collect a fee of \$26 per applicant, which will result in estimated revenues of \$260 per year.

Significant Effect on Housing Costs: None.

Business Reporting Requirement:

This regulation does not have any business reporting requirements.

Results of the Economic Impact Analysis/Assessment:

Impact on Jobs/Businesses: The Board has determined this regulatory action may impact job availability slightly within the State of California because the proposed language in the regulation allows military spouses/partners licensed in other states to

become employed as dental hygienists, thereby possibly decreasing the ability for currently licensed dental hygienists to gain employment in California.

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. The proposed language in the regulation defines parameters for the Board to issue temporary licensure to military spouses/partners.

The Board has determined this regulatory action would not impact new businesses within the State of California. The proposed language in the regulation defines parameters for the Board to issue temporary licensure to military spouses/partners.

Benefits of the Proposed Action: This regulatory proposal positively impacts the health and welfare of California residents as the proposed language in the regulation ensures only qualified military spouses/partners become licensed as dental hygienists.

This regulatory proposal will not impact worker safety because this proposed regulation does not involve worker safety.

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

Effect on Small Business: The Board determined this regulatory action would have a positive impact on small businesses, including the ability of small business to compete in this state because the proposed language in the regulation defines parameters for the Board to issue temporary licensure to military spouses/partners and will provide additional, qualified licensees for small businesses to employ.

CONSIDERATION OF ALTERNATIVES

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

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

CONTACT PERSONS

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

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

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

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

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

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

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

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

TEXT OF THE PROPOSAL

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

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