

**TITLE 16. DENTAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS**

**INITIAL STATEMENT OF REASON**

**HEARING DATE:** Monday, August 8, 2016

**SUBJECT MATTER OF PROPOSED REGULATION:** Fee Increase

**SECTION(S) AFFECTED:** California Code of Regulations, Title 16, Division 10, Sections 1021 and 1022

**INTRODUCTION:**

The Dental Board of California (Board) regulates approximately 101,500 licensees; consisting of 45,400 dentists (DDS), 54,500 registered dental assistants (RDA), and 1,600 registered dental assistants in extended functions (RDAEF). In addition, the Board has the responsibility for setting the duties and functions of approximately 50,000 unlicensed dental assistants. The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Board achieves this goal are: issuing licenses to eligible applicants; investigating complaints against licensees and disciplining licensees for violations of the Dental Practice Act (Act); monitoring licensees whose licenses have been placed on probation; and managing the Diversion Program for licensees whose practice may be impaired due to abuse of dangerous drugs or alcohol.

Existing law, Business and Professions Code Section 1724, authorizes the Board to charge various fees for dentists licensed and permitted by the Board as is necessary for the purpose of carrying out the responsibilities required by the Act. Business and Professions Code Section 1724 also establishes the maximum fee amount the Board may assess its dentist licensees by regulation.

Existing law, Business and Professions Code Section 1725, authorizes the Board to charge various fees for dental assistants licensed and permitted by the Board as is necessary for the purpose of carrying out the responsibilities required by the Act. Code Section 1725 also establishes the maximum fee amount the Board may assess its dental assistant licensees by regulation.

The Dental Board is a self-supporting, special fund agency that obtains its revenues from licensing and permits fees of dentists and dental assistants. The revenues are deposited and maintained in two separate funds which are not comingled. The Dentistry Fund (0741) supports operations for dentists and related ancillary services, and the Dental Assisting Fund (3142) supports operations for dental assistants and related ancillary services. Although there is no statutory requirement, the Board's objective is to maintain a three-month reserve of funds for economic uncertainties and to operate with a prudent reserve in each fund.

According to the State Dentistry Fund Condition for the Governor's Budget 2016-17, the Board is projecting a fund balance deficit of \$2.24 million in Budget Year (BY) 2017-18 as well as an ongoing fund balance deficit thereafter. According to the State Dental Assistant Fund Condition for the Governor's Budget 2016-17, the Board is projecting a fund balance deficit of \$158,000 in BY 2017-18 as well as an ongoing fund balance deficit thereafter.

The Dentistry Fund is maintained by the Board and includes the revenues and expenditures related to licensing for dentists. For sixteen years, the license fee for dentists was set at \$365. In 2013, for the first time in 16 years, the Board increased its license fee for dentists from \$365 to its statutory cap at the time of \$450. These regulations went into effect on July 1, 2014. During that time, the Board also pursued an increase in statute from \$450 to \$525. SB 1416 (Block, Chapter 73, Statutes of 2014) raised the Board's fee for initial and renewal licenses for dentists from \$450 to \$525, and set fees at that level. During that time, an analysis conducted by the DCA's Budget Office determined that the license fees should be raised to \$525 to ensure solvency into the foreseeable future. While fees increased have generated additional revenue, the Board expenditures, projected to be over \$12M per year, continue to outpace its revenue, projected to be less than \$11M per year, thus perpetuating a structural imbalance.

Part of the reason for the increase in projected and actual expenditures in recent years has been due to funding 12.5 CPEI positions; funding the diversion program; increased expenses associated with BreZE; unexpected litigation expenses; and the general increase in the cost of doing business over the past 16 years. While the Board has expended less than what it has been authorized by the budget due to some cost savings and reimbursements, the Board emphasizes that its fund should be able to sustain expenditures without relying on estimated savings or reimbursements.

As part of its effort to manage its financial resources wisely, the Board contracted with a consultant to prepare a detailed cost analysis of its fees. The Board's objectives for the study were to ensure that the Board is fully accounting for all of its costs and recovering adequate revenues to be reimbursed for its expenses. The Board's only sources of revenues are fees charged for each of the various licenses and permits. The Board also has a mandate to be fully self-supporting so it is vital that the fees charged to dentists and dental assistants for permits and licenses fully recover the costs of the program. The scope of this study included the following objectives: calculate full cost of fee based services; determine allocation methodology for enforcement activities; develop revenue projections for 5-10 years; and pass high level audits. The process used for collecting and analyzing the data required active participation by the Board's management and staff.

As a result of the fee audit, the Board was able to pursue increases in the statutorily authorized maximum fee amounts. Assembly Bill 179 (Chapter 510, Statutes of 2015) increased the maximum fee amounts that the Board may assess so that it may

establish increase licensure and ancillary fees for dentists and dental assistants to ensure a healthy program budget.

**SPECIFIC PURPOSE OF EACH ADOPTION OR AMENDMENT:**

The Board proposes to amend California Code of Regulations, Title 16, Sections 1021 and 1022 relative to an increase in the fees assessed to dentists and dental assistants. Specifically, the Board is proposing the following:

- Amend Section 1021(a) to raise the application fee for those dental applicants qualifying for licensure pursuant to Business and Professions Code Section 1632(c)(2) from \$100 to \$400 and delete the provision pertaining to the application fee for those qualifying pursuant to Business and Professions Code Section 1634.1.
- Amend Section 1021(b) to replace the current language pertaining to the initial application fee for the restorative technique examination with proposed language to increase the initial application fee for those qualifying pursuant to Business and Professions Code Section 1634.1 from \$100 to \$400. The initial application fee for those qualifying pursuant to Business and Professions Code Section 1634.1 was originally found in Section 1021(a). The Board no longer administers the restorative technique examination and does not currently have statutory authority to assess the \$250 fee.
- Amend Section 1021(c) to replace the current language pertaining to applications for re-examination with proposed language to establish the initial application fee of \$800 for those applicants qualifying pursuant to Business and Professions Code Section 1634.1. The Board no longer administers its own clinical examination for dental licensure; therefore, the re-examination fee is obsolete and the Board does not currently have statutory authority to assess the \$75 fee.
- Delete Section 1021(d) to delete the \$250 fee associated with the restorative technique examination or re-examination. The Board no longer administers the restorative technique examination and does not currently have statutory authority to assess the \$250 fee.
- Amend Section 1021(e) to increase the application fee for those applicants applying pursuant to Business and Professions Code Section 1635.5 from \$283 to \$525. This section also contains technical amendments to correct the lettering of the subsections and to clearly cite the Business and Professions Code Section associated with the "Licensure by Credential" pathway to dental licensure.
- Amend Section 1021(f) to increase the initial licensure fee for dentists from \$450 to \$650. This section also contains a technical amendment to correct the lettering of the subsection.

- Amend Section 1021(g) to increase the biennial license renewal fee for dentists from \$450 to \$650. This section also contains a technical amendment to correct the lettering of the subsection.
- Amend Section 1021(h) to correct the lettering of the subsection.
- Amend Section 1021(i) to correct the lettering of the subsection and correct the reference to Code Section 1724(f).
- Amend Section 1021(j) to correct the lettering of the subsection.
- Amend Section 1021(k) to correct the lettering of the subsection and increase the application fee for an additional office permit from \$100 to \$350.
- Amend Section 1021(l) to correct the lettering of the subsection and increase the biennial renewal fee for an additional office permit from \$100 to \$250.
- Amend Section 1021(m) to correct the lettering of the subsection.
- Amend Section 1021(n) to correct the lettering of the subsection.
- Amend Section 1021(o) to correct the lettering of the subsection and increase the fictitious name permit renewal fee from \$150 to \$650.
- Amend Section 1021(p) to correct the lettering of the subsection.
- Amend Section 1021(q) to correct the lettering of the subsection and increase the application fee to be a continuing education registered provider from \$250 to \$410.
- Amend Section 1021(r) to correct the lettering of the subsection and increase the fee for an application for a general anesthesia or conscious sedation permit or adult or minor oral conscious sedation permit from \$200 to \$500.
- Amend Section 1021(s) to correct the lettering of the subsection and increase the fee for an oral conscious sedation permit renewal from \$75 to \$500.
- Amend Section 1021(t) to correct the lettering of the subsection and increase the fee for the renewal of a general anesthesia or conscious sedation permit from \$200 to \$325.
- Amend Section 1021(u) to correct the lettering of the subsection and increase the fee for the on-site inspection and evaluation of general anesthesia and conscious sedation permit holders from \$250 to \$2,000.

- Add Section 1021(u) to establish the fee for an application for a special permit to be \$1,000.
- Add Section 1021(v) to establish the fee for the renewal of a special permit to be \$125.
- Add Section 1021(w) to establish the fee for the initial application for an elective facial cosmetic surgery permit to be \$850.
- Add Section 1021(x) to establish the fee for the renewal of an elective facial cosmetic surgery permit to be \$800.
- Add section 1021(y) to establish the fee for the application for an oral and maxillofacial surgery permit to be \$500.
- Add Section 1021(z) to establish the fee for the renewal of an oral and maxillofacial surgery permit to be \$650.
- Add Section 1021(aa) to establish the renewal fee for a continuing education registered provider to be \$325.
- Add Section 1021(ab) to establish the fee for a dental license certification to be \$50.
- Add Section 1021(ac) to establish the fee for the application to take the dental law and ethics examination to be \$125.
- Amend Section 1022(a) to increase the application fee for registered dental assistant and registered dental assistant in extended functions licensure from \$20 to \$120.
- Add new Section 1022(b) to establish the application fee for the Dental Sedation Assistant Permit at \$120.
- Add new Section 1022(c) to establish the application fee for the Orthodontic Assistant Permit at \$120.
- Amend existing Section 1022(b) to correct the lettering of the subsection and increase the fee for the registered dental assistant examination or re-examination from \$30 to \$100.
- Amend existing Section 1022(c) to correct the lettering of the subsection and increase the fee for the registered dental assistant examination and re-examination from \$50 to \$500.

- Amend existing Section 1022(d) to correct the lettering of the subsection and increase the registered dental assistant biennial renewal fee from \$12 to \$100.
- Amend existing Section 1022(e) to correct the lettering of the subsection and increase the registered dental assistant in extended functions biennial renewal fee from \$10 to \$100.
- Amend existing Section 1022(f) to correct the lettering of the subsection, delete the renewal fee for registered dental hygienist licensees, and establish the biennial renewal fee for dental sedation assistant permit holders at \$100.
- Amend existing Section 1022(g) to correct the lettering of the subsection, delete the renewal fee for registered dental hygienist in extended functions licensees, and establish the biennial renewal fee for orthodontic assistant permit holders at \$100.
- Amend existing Section 1022(h) to correct the lettering of the subsection and to increase the delinquency fee for late registered dental assistant licensure renewals from \$6 to \$50.
- Amend existing Section 1022(i) to correct the lettering of the subsection and to increase the delinquency fee for late registered dental assistant in extended functions renewals from \$5 to \$50.
- Amend existing Section 1022(j) to correct the lettering of the subsection, delete the delinquency fee for late registered dental hygienist licensure renewal, and establish the delinquency fee for late dental sedation assistant permit renewals at \$50.
- Amend existing Section 1022(k) to correct the lettering of the subsection, delete the delinquency fee for late registered dental hygienist in extended functions licensure renewal, and establish the delinquency fee for late orthodontic assistant permit renewals at \$50.
- Add new Section 1022(n) to establish the application fee for Registered Dental Assistant Educational Programs at \$1,400.
- Add new Section 1022(o) to establish the application fee for registered dental assistant in extended functions educational programs at \$1,400.
- Add new Section 1022(p) to establish the application fee for orthodontic assistant permit educational courses at \$300.
- Add new Section 1022(q) to establish the application fee for dental sedation assistant permit educational courses at \$300.

- Add new Section 1022(r) to establish the application fee for infection control educational courses at \$300.
- Add new Section 1022(s) to establish the application fee for coronal polishing educational courses at \$300.
- Add new Section 1022(t) to establish the application fee for pit and fissure sealants educational courses at \$300.
- Add new Section 1022(u) to establish the application fee for radiation safety educational courses at \$300.
- Add new Section 1022(v) to establish the application fee for ultrasonic scaling educational courses at \$300.
- Amend existing Section 1022(l) to correct the lettering of the subsection, increase the fee for a duplicate license from \$25 to \$50, and establish the fee for a license certification at \$50.

As a result of raising the initial licensure fee and the biennial renewal fee, the following fees assessed by the Board will be impacted; this is because these fees are determined by the fee amounts assessed by the Board for initial licensure and biennial renewal as specified in statute:

- Inactive Licenses;
- Licenses on Retirement Status;
- Licenses on Disability Status;

The proposed increase in fees is necessary to enable the Board to sustain operations to effectively protect consumers through its licensing and enforcement functions.

**FACTUAL BASIS/RATIONALE:**

The Board maintains two funds: (1) the State Dentistry Fund and (2) the State Dental Assistant Fund. The State Dentistry Fund includes the revenues and expenditures related to DDS licensing. The State Dental Assistant Fund includes the revenues and expenditures as it relates to dental assistants, RDAs, and RDAEFs.

According to the State Dentistry Fund Condition for the Governor's Budget 2016-17, the Board is projecting a fund balance deficit of \$2.24 million in Budget Year (BY) 2017-18 as well as an ongoing fund balance deficit thereafter. According to the State Dental Assistant Fund Condition for the Governor's Budget 2016-17, the Board is projecting a fund balance deficit of \$158,000 in BY 2017-18 as well as an ongoing fund balance deficit thereafter.

As part of its effort to manage its financial resources wisely, the Board contracted with a consultant to prepare a detailed cost analysis of its fees. The Board's objectives for the study were to ensure that the Board is fully accounting for all of its costs and recovering adequate revenues to be reimbursed for its expenses. The Board's only sources of revenues are fees charged for each of the various licenses and permits. The Board also has a mandate to be fully self-supporting so it is vital that the fees charged to dentists and dental assistants for permits and licenses fully recover the costs of the program. The scope of this study included the following objectives: calculate full cost of fee based services; determine allocation methodology for enforcement activities; develop revenue projections for 5-10 years; and pass high level audits. The process used for collecting and analyzing the data required active participation by the Board's management and staff.

As a result of the fee audit, the Board was able to pursue increases in the statutorily authorized maximum fee amounts. Assembly Bill 179 (Chapter 510, Statutes of 2015) increased the maximum fee amounts that the Board may assess so that it may establish increase licensure and ancillary fees for dentists and dental assistants to ensure a healthy program budget.

Averting or delaying an immediate fee increase will cause the Board to become insolvent in BY 2017-18. The Board is proposing to correct a structural imbalance between its revenue and expenditures. These fees are utilized by the Board to carry out its responsibilities, including: issuing licenses to eligible applicants; investigating complaints against licensees and disciplining licensees for violations of the Act; monitoring licensees whose licenses have been placed on probation; and managing the Diversion Program for licensees whose practice may be impaired due to abuse of dangerous drugs or alcohol. As previously stated, the Board's highest priority is the protection of the public. To provide better public protection, the Board has made enhancements to its enforcement program over the last fifteen years; these enhancements have included increased analytical and investigative staffing to process and investigate consumer complaints in an effective and efficient manner. The proposed fee increases will support the Board's enforcement program so that it may continue to process and investigate consumer complaints efficiently and effectively.

If the Board does not increase the fees for dentists and dental assistants, the Board's operations will suffer and it would become necessary for the Board to reduce expenditures, including the reduction of staffing and reduction of operating resources and equipment. The Board's licensing program would suffer from reductions in staffing and would result in delayed response times to licensing inquiries and application approvals. Such delays would create a barrier to licensure for those applicants seeking licensure and employment in a timely-manner. Students must gain licensure and employment as soon as possible after graduation to begin paying down debt accumulated during school. Additionally, the Board's enforcement program would suffer from reductions in staffing and resources. Such reductions would lead to delays in processing consumer complaints, conducting investigations, and referring egregious

cases to the Attorney General's Office for prosecution. Those types of delays ultimately would prevent the Board from being able to protect the public efficiently and effectively.

Rulemaking Authority:

Pursuant to Business and Professions Code (Code) Section 1614, the Board is authorized to adopt, amend, or repeal, such rules and regulations as may be reasonably necessary to enable the Board to carry into effect the provisions of the Act.

Authority to Assess Fees to Dentists:

Code Section 1724 authorizes the Board to establish the amount of charges and fees for dentists licensed pursuant to the Dental Practice Act as is necessary for the purpose of carrying out its responsibilities.

Applicants Qualifying Pursuant to Code Section 1632(c)(2) (Western Regional Examining Board (WREB) Examination):

Code Section 1724(a) authorizes the Board to establish a fee for an application for licensure qualifying pursuant to Code Section 1632(c)(2) up to a maximum of \$1,000. The Board receives approximately 800 applications from candidates qualifying pursuant to Code Section 1632(c)(2) annually.

Applicants Qualifying Pursuant to Code Section 1634.1 (Licensure by Residency):

Code Section 1724(b) authorizes the Board to establish a fee for an application for licensure qualifying pursuant to Code Section 1634.1 up to a maximum of \$1,000. The Board receives approximately 190 applications from candidates qualifying pursuant to Code Section 1634.1 annually.

Applicants Qualifying Pursuant to Code Section 1632(c)(1) (Portfolio Examination):

Code Section 1724(a) authorizes the Board to establish a fee for an application for licensure qualifying pursuant to Code Section 1632(c)(1) up to a maximum of \$1,500. The Board anticipates receiving approximately 100 applications from candidates qualifying pursuant to Code Section 1632(c)(1) annually.

Applicants Qualifying Pursuant to Code Section 1635.5 (Licensure by Credential):

Code Section 1724(c) authorizes the Board to establish a fee for an application for licensure qualifying pursuant to Code Section 1635.5 up to a maximum of \$1,000. The Board receives approximately 170 applications from candidates qualifying pursuant to Code Section 1635.5 annually.

Initial License/Biennial Renewal:

Code Section 1724(d), authorizes the Board to establish a fee for an initial license and for the renewal of a license up to a maximum of \$650 for dentists. Code Section 1716, specifies that every person practicing dentistry in California shall pay a renewal fee irrespective of the time when he was licensed or first had the right to lawfully practice dentistry in California or elsewhere. Code Section 1717, provides that in order to renew an unexpired license, the licensee shall apply for renewal and pay the renewal fee to the Board. The Board receives approximately 1,200 applications for initial DDS licensure annually and receives approximately 36,000 active DDS license renewals biennially.

Delinquency Fee for Late Renewal:

Code Section 1724(f) specifies that the delinquency fee shall be fifty per cent (50%) of the renewal fee for such a license or permit in effect on the date of the renewal of the license or permit. The Board receives approximately 400 delinquent renewals for DDS license and permit-holders annually.

Application for Additional Office Permit:

Code Section 1724(h) authorizes the Board to establish a fee for an application for an additional office permit up to a maximum of \$750. The Board receives approximately 400 applications for additional office permits annually.

Biennial Renewal of Additional Office Permit:

Code Section 1724(h) authorizes the Board to establish a fee for the biennial renewal of an additional office permit up to a maximum of \$375. The Board receives approximately 1,050 renewals for additional office permits annually.

Application for Fictitious Name Permit:

Code Section 1724.5, specifies that the initial permit fee for a fictitious name permit is an amount equal to the renewal fee for the applicant's license to practice dentistry. Except that, if the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee. California Code of Regulations, Title 16, Section 1021(o) specifies that the Board's initial fee for the fictitious name permit is the fee prescribed by Business and Professions Code Section 1724.5. The Board receives approximately 400 applications for fictitious name permits annually that would require paying the full renewal fee amount as the application fee and approximately 250 applications for fictitious name permits annually that require paying 50 percent of the renewal fee amount as the application fee.

Renewal/Delinquency of Fictitious Name Permit:

Code Section 1724.5 specifies that the renewal and delinquency fees for a fictitious name permit shall be fixed by the Board at not more than the then current amount of the renewal fee for a license to practice dentistry nor less than five dollars. The Board has approximately 6,594 active fictitious name permit-holders that renew on a biennial basis.

Application for Continuing Education Registered Provider:

Code Section 1724(j) authorizes the Board to establish a fee for a provider of continuing education up to a maximum of \$500 per year. The Board receives approximately 100 applications to become continuing education registered providers annually.

Application for General Anesthesia/Conscious Sedation/Adult or Minor Oral Conscious Sedation Permit:

Code Section 1724(o) authorizes the Board to establish a fee for an application for a general anesthesia permit up to a maximum of \$1,000. The Board receives approximately 60 applications for general anesthesia permits annually.

Code Section 1724(q) authorizes the Board to establish a fee for an application for a conscious sedation permit up to a maximum of \$1,000. The Board receives approximately 45 applications for conscious sedation permits annually.

Code Section 1724(r) authorizes the Board to establish the fee for an application for an oral conscious sedation permit up to a maximum of \$1,000. The Board receives approximately 180 applications for oral conscious sedation permits annually.

Renewal of Oral Conscious Sedation Permit:

Code Section 1724(r) authorizes the Board to establish the fee for the renewal of an oral conscious sedation permit up to a maximum of \$600. The Board has approximately 2,400 oral conscious sedation permit holders that renew on a biennial basis.

Renewal of General Anesthesia/Conscious Sedation Permit:

Code Section 1724(o) authorizes the Board to establish the fee for the renewal of a general anesthesia permit up to a maximum of \$600. The Board has approximately 842 general anesthesia permit holders that renew on a biennial basis.

Code Section 1724(q) authorizes the Board to establish the fee for the renewal of a conscious sedation permit up to a maximum of \$600. The Board has approximately 520 conscious sedation permit holders that renew on a biennial basis.

Onsite Inspection and Evaluation for General Anesthesia/Conscious Sedation Permit:

Code Section 1724(p) authorizes the Board to establish the fee for an onsite inspection and evaluation related to a general anesthesia or conscious sedation permit up to a maximum of \$4,500. The Board performs approximately 200 onsite inspections and evaluations on an annual basis.

Application for Special Permit:

Code Section 1724(e) authorizes the Board to establish the fee for an application for a special permit up to a maximum of \$1,000. The Board receives approximately 10 applications for special permits annually.

Renewal of Special Permit:

Code Section 1724(e) authorizes the Board to establish the fee for the renewal of a special permit up to a maximum of \$600. The Board has approximately 44 special permit holders that renew annually.

Application for Elective Facial Cosmetic Surgery Permit

Code Section 1724(m) authorizes the Board to establish the fee for an application for an elective facial cosmetic surgery permit up to a maximum of \$4,000. The Board receives approximately 3 applications for elective facial cosmetic surgery permits annually.

Renewal of Elective Facial Cosmetic Surgery Permit:

Code Section 1724(m) authorizes the Board to establish the fee for the renewal of an elective facial cosmetic surgery permit up to a maximum of \$800. The Board has approximately 27 elective facial cosmetic surgery permit holders that renew on a biennial basis.

Application for Oral and Maxillofacial Surgery Permit:

Code Section 1724(n) authorizes the Board to establish the fee for the application for an oral and maxillofacial surgery permit up to a maximum of \$1,000. The Board receives approximately 5 applications for oral and maxillofacial surgery permits annually.

Renewal of Oral and Maxillofacial Surgery Permit:

Code Section 1724(n) authorizes the Board to establish the fee for the renewal of an oral and maxillofacial surgery permit up to a maximum of \$1,200. The Board estimates approximately 80 oral and maxillofacial surgery permit holders renew on a biennial basis.

Renewal of Continuing Education Registered Provider:

Code Section 1724(j) authorizes the Board to establish the fee for a provider of continuing education up to a maximum of \$500 per year. The Board estimates approximately 1,200 continuing education registered providers renew on a biennial basis.

License Certification:

Code Section 1724(s) authorizes the Board to establish the fee for a certification of licensure up to the maximum of \$125. The Board processes approximately 900 requests for DDS license certifications annually.

Dentistry Law & Ethics Examination:

Code Section 1724(t) authorizes the Board to establish the fee for an application for the DDS law and ethic examination up to the maximum of \$250. The Board receives approximately 1,000 applications for the DDS law and ethics examination annually.

Inactive Licenses:

Code Sections 700 through 704 provide that licensees from healing arts boards within the Department of Consumer Affairs (Department) who have not actively engaged in

their professional practice may maintain an inactive license in order to maintain licensure in a non-practicing status. Each healing arts board within the Department is authorized to issue an inactive license to a current holder of an active license whose license is not suspended, revoked, or otherwise punitively restricted by that board. Holders of inactive licenses are not authorized to engage in any activity for which an active license is required. Inactive licenses are required to be renewed during the same time period at which an active license is renewed and the renewal fee for a license in an inactive status is required to be the same as the renewal fee for a license in active status; however, those licensees renewing in inactive status are not required to complete the continuing education requirements for renewal. California Code of Regulations, Title 16, Section 1017.2, requires Board licensees who desire an inactive license to complete a specified application and continue to pay the Board the required biennial renewal fee. The Board has approximately 2,024 inactive DDS licensees.

*Biennial License Renewal Fee for those Qualifying Pursuant to Business and Professions Code Section 1716.1:*

*Licenses on Retirement Status:* Code Section 1716.1(a), provides that the Board may reduce the renewal fee for a licensee who has practiced dentistry for twenty (20) years or more in California, has reached the age of retirement under the federal Social Security Act (42 U.S.C. Sec. 301 et seq.), and customarily provides his or her services free of charge to any person, organization, or agency. Section 1716.1(a) also provides that in no event shall the aggregate of these charges in any single calendar year be in an amount that would render the licensee ineligible for full social security benefits. Pursuant to this Section, the Board is not authorized to reduce the renewal fee to an amount less than one-half of the regular renewal fee. The Board has approximately 1,750 DDS licensees on retirement status.

*Licenses on Disability Status:* Code Section 1716.1(b) provides that a Board licensee who demonstrates that he or she is unable to practice dentistry due to a disability, may request a waiver of 50 percent of the renewal fee. A licensee to who is granted a waiver is not authorized to engage in the practice of dentistry unless and until they pay the current renewal fee in full and establishes that the licensee's disability either no longer exists or no longer affects his or her ability to safely practice dentistry. The Board has approximately 170 DDS licensees on a disability status.

*Authority to Assess Fees to Dental Assistants:*

Code Section 1725 provides that the amount of the fees prescribed in the Dental Practice Act that relate to the licensing and permitting of dental assistants are required to be established by regulation and are subject to the limitations outline in Code Section 1725.

*Application for Registered Dental Assistant/ Registered Dental Assistant in Extended Functions Licensure:*

Code Section 1725(a) authorizes the Board to establish a fee for the application for registered dental assistant and registered dental assistant in extended functions licensure up to a maximum of \$200. The Board receives approximately 2,500

applications for registered dental assistant licensure annually; and the Board receives approximately 90 applications for registered dental assistant in extended functions licensure.

*Application for Orthodontic Assistant Permit/Dental Sedation Assistant Permit*

Code Section 1725(c) authorizes the Board to establish a fee for the application for the issuance of an orthodontic assistant permit or a dental sedation assistant permit up to a maximum of \$200. The Board receives approximately 250 applications for orthodontic assistant permits annually; and, the Board receives approximately 10 applications for dental sedation assistant permits annually.

*Registered Dental Assistant Practical Examination*

Code Section 1725(b) authorizes the Board to establish a fee for the registered dental assistant practical examination in an amount not to exceed the actual cost of the examination. The Board receives approximately 3,600 applications from candidates to take the registered dental assistant practical examination annually.

*Registered Dental Assistant in Extended Functions Examination:*

Code Section 1725(g) authorizes the Board to establish a fee for the registered dental assistant in extended functions examination in an amount not to exceed the actual cost of the examination. The Board receives approximately 125 applications from candidates to take the registered dental assistant in extended functions examination annually.

*Biennial Renewal for Registered Dental Assistant License*

Code Section 1725(l) authorizes the Board to establish a fee for the biennial renewal of a registered dental assistant license up to a maximum of \$200. The Board receives approximately 35,000 registered dental assistant license renewals biennially.

*Biennial Renewal for Registered Dental Assistant in Extended Functions License*

Code Section 1725(l) authorizes the Board to establish a fee for the biennial renewal of a registered dental assistant in extended functions license up to a maximum of \$200. The Board receives approximately 1,400 registered dental assistant in extended functions license renewals biennially.

*Biennial Renewal for Dental Sedation Assistant Permit*

Code Section 1725(l) authorizes the Board to establish a fee for the biennial renewal of a dental sedation assistant permit up to a maximum of \$200. The Board receives approximately 30 dental sedation assistant permit renewals biennially.

*Biennial Renewal for Orthodontic Assistant Permit*

Code Section 1725(l) authorizes the Board to establish a fee for the biennial renewal of the orthodontic assistant permit up to a maximum of \$200. The Board receives approximately 200 orthodontic assistant permit renewals biennially.

#### Delinquency Fee for Late Renewal

Code Section 1725(m) authorizes the Board to establish a delinquency fee for the late renewal of a dental assisting license or permit. The Board is authorized to establish a delinquency fee in the amount of 50% of the renewal fee for the license or permit in effect on the date of the renewal of the license or permit. The Board receives: approximately 2,000 delinquent registered dental assistant licensure renewals annually; approximately 80 delinquent registered dental assistant in extended functions licensure renewals annually; approximately 2 delinquent dental sedation permit renewal annually; and, approximately 5 delinquent orthodontic assistant permit renewals annually.

#### Application for Educational Programs

Code Section 1725(o) authorizes the Board to establish a fee for each curriculum review and site evaluation for educational programs for registered dental assistants that are not accredited by a Board-approved agency, or the Chancellor's Office of the California Community Colleges up to a maximum of \$7,500. The Board receives approximately 10 applications for registered dental assistant educational programs annually and approximately 3 applications for registered dental assistant in extended functions educational programs annually.

#### Application for Educational Courses:

Code Section 1725(p) authorizes the Board to establish a fee for the review of each approval application or reevaluation for a course that is not accredited by a Board-approved agency, or the Chancellor's Office of the California Community Colleges up to a maximum of \$2,000. The Board receives approximately 10 applications for radiation safety courses annually, approximately 25 applications for orthodontic assistant permit courses annually, approximately 2 applications for dental sedation assistant permit courses annually, approximately 10 applications for infection control courses annually, approximately 2 applications for coronal polish courses annually, approximately 2 for pit and fissure sealants courses annually, and approximately 2 applications for ultrasonic scaling courses annually.

#### Duplicate License/Certification

Code Section 1725(n) authorizes the Board to establish a fee for the issuance of a duplicate registration, license, permit, or certificate to replace one that is lost or destroyed, or in the event of a name change, up to a maximum of \$100. The Board receives approximately 1,000 requests for duplicate license annually.

#### State Dentistry Fund:

Existing law, Business and Professions Code Section 1721, provides that the funds received by the Treasurer under the authority of the Act, shall be placed in the State Dentistry Fund and expenditure of those funds shall be subject to appropriation by the Legislature in the annual Budget Act. The "0741 - Dental Board of California Analysis of Fund Condition – Governor's Budget 2016-17 (Dated 01/07/2016)" reveals that the State Dentistry Fund will suffer a deficit fund balance of \$2.24 million in BY 2017-18. An increase in the fees assessed to dentists will result in correcting the structural imbalance between this fund's revenues and expenditures.

State Dental Assisting Fund:

Existing law, Business and Professions Code Section 1721.5, provides that the funds received by the Treasurer pursuant to Code Section 1725, shall be placed in the State Dental Assistant Fund and expenditure of those funds shall be subject to appropriation by the Legislature in the annual Budget Act. The "3142 – Dental Assisting Program Analysis of Fund Condition – Governor's Budget 2016-17 (Dated 01/07/2016)" reveals that the Dental Assistant Fund will suffer a deficit fund balance of \$158,000 in BY 2017-18. An increase in the fees assessed to dental assistants will result in correcting the structural imbalance between this fund's revenues and expenditures.

**UNDERLYING DATA:**

- (1) Dental Board of California User Fee Audit, Final Report, March 2015
- (2) Assembly Bill 179 (Chapter 510, Statutes of 2015)
- (3) 0741 - Dental Board of California Analysis of Fund Condition – Governor's Budget 2016-17 (Dated 01/07/2016)
- (4) 0741 - Dental Board of California Analysis of Fund Condition – Governor's Budget 2016-17 with Proposed Fee Increases (Dated 01/07/2016)
- (5) 3142 – Dental Assisting Program Analysis of Fund Condition – Governor's Budget 2016-17 (Dated 01/07/2016)
- (6) 3142 – Dental Assisting Program Analysis of Fund Condition – Governor's Budget 2016-17 with Proposed Fee Increases (Dated 01/07/2016)
- (7) Minutes of the Meeting of Dental Board of California, May 10, 2016

**BUSINESS IMPACT:**

The Board has made the initial determination that the proposed regulation would not have a significant, statewide adverse economic impact directly affecting business, including the inability of California businesses to compete with businesses in other States.

The Board has determined that the following types of businesses may be affected by the proposed fee increase:

- Businesses owned by licensees of the Board that pay for the licensure and renewal fees of its owners or dentist employees.

Although businesses owned by licensees of the Board and businesses that employ licensees of the Board may be impacted, the Board estimates that the fiscal impact would be minor and absorbable. The Board does not maintain data relating to the number or percentage of licensees who own a business; therefore, the number or percentage of businesses that may be impacted cannot be predicted. Accordingly, the initial or ongoing costs for a business owned by a licensee that pays for the licensure and renewal fees of its owners or employees cannot be projected. The proposed fee increase would impact individual licensees. The Board estimates that: the average salary of a dentist in California is approximately \$150,000 per year; the average salary of an oral and maxillofacial surgeon is \$250,000 per year; the average salary of a

registered dental assistant in California is approximately \$35,000 per year; and, the average salary of a registered dental assistant in expanded functions in California is approximately \$48,000 per year.

#### **ECONOMIC IMPACT ASSESSMENT:**

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because this proposed fee increase will not be of sufficient amount to have the effect of creating or eliminating jobs.
- It will not create new business or eliminate existing businesses within the State of California because this proposed fee increase will not be of a sufficient amount to have the effect of creating or eliminating business.
- It will not affect the expansion of businesses currently doing business within the State of California because the proposed fee increase will not be of a sufficient amount to have the effect of limiting or furthering the expansion of businesses.
- This regulatory proposal does not affect worker safety because this proposal is not relative to worker safety.
- This regulatory proposal does not affect the state's environment because this proposal is not relevant to the state's environment.

#### **Benefits:**

The proposed fee increase will correct the structural imbalance between the Board's revenue and expenditures and will allow it to maintain its current operating structure to provide consumer protection. The proposed fee increases will support the Board's licensing program so that it may continue to license qualified applicants to provide dental health care services to consumers. Additionally, the proposed fee increase will support the Board's enforcement program so that it may continue to process and investigate consumer complaints efficiently and effectively in the interest of patient protection within the timelines established by the Department of Consumer Affairs.

#### **SPECIFIC TECHNOLOGIES OR EQUIPMENT:**

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

#### **CONSIDERATION OF ALTERNATIVES:**

No reasonable alternative to the regulation would be either 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 regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory requirement or other provision of law.

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

Alternative No. 1 – Rejected:

The Board considered not seeking fee increases for dentist and dental assisting licensure. This option was rejected because the Board is projecting a fund balance deficit of \$2.24 million in Budget Year (BY) 2017-18 of the State Dentistry Fund for the Governor's Budget 2016-17 as well as an ongoing fund balance deficit thereafter. Additionally, the Board is projecting a fund balance deficit of \$158,000 of the State Dental Assistant Fund for the Governor's Budget 2016-17 in BY 2017-18 as well as an ongoing fund balance deficit thereafter.

If the Board does not increase fees for dentists and dental assistants, the Board's operations will suffer and it would become necessary for the Board to reduce expenditures, including the reduction of staffing and reduction of operating resources and equipment. The Board's licensing program would suffer from reductions in staffing and would result in delayed response times to licensing inquiries and application approvals. Such delays would create a barrier to licensure for those applicants graduating dental school and seeking licensure and employment in a timely-manner. Students must gain licensure and employment as soon as possible after graduation to begin paying down debt accumulated during school. Additionally, the Board's enforcement program would suffer from reductions in staffing and resources. Such reductions would lead to delays in processing consumer complaints, conducting investigations, and referring egregious cases to the Office of the Attorney General for prosecution. Those types of delays ultimately would prevent the Board from being able to protect the public efficiently and effectively.