



# MEMORANDUM

**REVISED**

<b>DATE</b>	<del>April 29, 2021</del> May 12, 2021
<b>TO</b>	Members of the Dental Board of California
<b>FROM</b>	Sarah Wallace, Assistant Executive Officer Dental Board of California
<b>SUBJECT</b>	<b>Agenda Item 23(a):</b> Review, Discussion, and Possible Action to Initiate a Rulemaking to Implement Senate Bill 501 (Glazer, Chapter 929, Statutes of 2018) and Adopt the Following Changes Related to Anesthesia, Sedation, and the Care of Pediatric Patients in Division 10 of Title 16 of the California Code of Regulations: Amend Section 1017 of Article 4 of Chapter 1 (Continuing Education); Amend Section 1021 of Article 6 of Chapter 1 (Fees); Amend Sections 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.5, 1043.6, 1043.7, and 1043.8 of Article 5 of Chapter 2 (General Anesthesia and Moderate Sedation); Amend Sections 1044, 1044.1, 1044.2, 1044.3, 1044.5, and repeal Section 1044.4 of Article 5.5 of Chapter 2 (Oral Conscious Sedation); Amend Section 1070.8 of Article 2 of Chapter 3 (Dental Auxiliaries Education Programs); Adopt New Section 1043.8.1 of Article 5 of Chapter 2 (Application for Pediatric Endorsement – General Anesthesia or Moderate Sedation); and, Adopt New Sections 1043.9, 1043.9.1, and 1043.9.2, and New Article 5.1 of Chapter 2 (Pediatric Minimal Sedation)

Background:

On September 29, 2018, Governor Brown signed Senate Bill (SB) 501 (Glazer, Chapter 929, Statutes of 2018) which will become effective January 1, 2022, which will impact current General Anesthesia (GA), Conscious Sedation (CS), and Oral Conscious Sedation (OCS) for Minors permit holders in California.

The legislation made amendments, added, and repealed portions of Business and Professions Code §1601.8, §1646-1646.10, §1647-1647.9.5, §1682, §1724, and §1750.5. As a result, the Board needs to make significant updates to the current anesthesia and sedation permit program. These changes will include the introduction of a pediatric endorsement and patient monitoring requirements when administering anesthesia or sedation to a minor patient. The legislation also adds Business and Professions Code

§1647.30 which requires the Board to create a new pediatric minimal sedation (PMS) permit. The PMS permit will be required to administer or order the administration of pediatric minimal sedation on a patient under the age of 13.

Board staff worked with Board Regulatory Legal Counsel to develop the proposed regulatory language and forms incorporated by reference necessary to update current regulations to meet the requirements of SB 501. The following is an outline of the changes proposed in the regulatory text and forms incorporated by reference:

- Current GA permit will be updated to include the following:
  - Initial application requirements
  - Renewal requirements
  - Monitoring of patients under the age of seven
  - Updating application and renewal forms
- Current Medical General Anesthesia (MGA) permit will be updated to include the following:
  - Initial application requirements
  - Renewal requirements
  - Monitoring of patients under the age of seven
  - Updating application and renewal forms
- Current CS permit will no longer be issued. New Moderate Sedation permit will be initiated, and will include the following:
  - Initial application requirements
  - Renewal requirements
  - Monitoring of patients under 13
  - Updating application and renewal forms
- Current OCS for Minors permit will no longer be issued. New PMS permit will be initiated, and will include the following:
  - Initial application requirements
  - Renewal requirements
  - Monitoring of patients under 13
  - Create application and renewal forms
- Current OCS for Adult permit will remain with no changes.

The proposed regulatory language and forms incorporated by reference are enclosed for the Board's review and consideration for initiation of the rulemaking. Since the posting of the meeting material, Board staff have identified additional modifications to the original proposed text and forms incorporated by reference. Please disregard the prior version of these documents received in the original meeting materials. Board staff are providing the following two new documents for the Board's consideration:

1. **Attachment 1:** This attachment includes staff recommended modifications to the original proposed text and forms incorporated by reference. The modifications appear in yellow highlight to display the text differences from the prior version of the proposed language and forms incorporated by reference.
2. **Attachment 2:** This attachment represents the final draft proposed language and forms incorporated by reference. The final versions incorporate the staff recommended modifications contained in Attachment 1 for the Board's review and consideration for initiation of the rulemaking.

Action Requested:

Dependent on the Board's discussion, one of the following two motions are requested:

1. If the Board considers the proposed text acceptable as presented in the meeting materials, the Board may take the following action:

Approve the proposed regulatory text for Sections 1017, 1021, 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.5, 1043.6, 1043.7, 1043.8, 1044, 1044.1, 1044.2, 1044.3, 1044.5, 1070.8, 1043.8.1, 1043.9, 1043.9.1, 1043.9.2, New Article 5.1, and repeal Section 1044.4 of Article 5.5 of Chapter 2 of Division 10 of Title 16 of the California Code of Regulations, and all forms therein incorporated by reference as noticed in the proposed text. In addition, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.

2. If the Board make changes to the proposed text as presented in the meeting materials, the Board may take the following action:

Approve the proposed regulatory text for Sections 1017, 1021, 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.5, 1043.6, 1043.7, 1043.8, 1044, 1044.1, 1044.2, 1044.3, 1044.5, 1070.8, 1043.8.1, 1043.9, 1043.9.1, 1043.9.2, New Article 5.1, and repeal Section 1044.4 of Article 5.5 of Chapter 2 of Division 10 of Title 16 of the California Code of Regulations, and all forms therein incorporated by reference as noticed in the proposed text with the changes discussed at this meeting. In addition, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.

- Attachments:**
1. Proposed Regulatory Text and Forms Showing Staff Modifications
  2. Final Draft of Proposed Regulatory Text and Forms for Board Consideration