

**State of California
Office of Administrative Law**

In re:
Dental Board of California

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections: 1001.1, 1001.2

Amend sections:

Repeal sections:

AMENDED NOTICE OF APPROVAL OF
REGULATORY ACTION

Government Code Section 11349.3

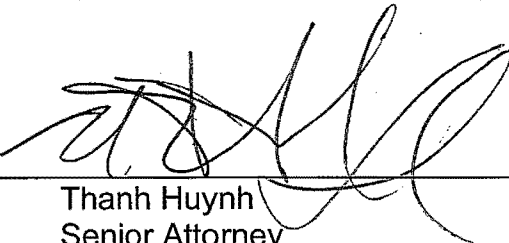
OAL Matter Number: 2017-0413-01

OAL Matter Type: Regular (S)

In this rulemaking action, the Board adopts sections 1001.1 and 1001.2 of Title 16 of the California Code of Regulations to define the terms "discovers," "complaint," "report," and "filed." These terms are found in Business and Professions Code sections 1670.2 and 2230.5. The regulations interpret and make specific these terms in order to facilitate the implementation of the statute.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2017.

Date: May 25, 2017



Thanh Huynh
Senior Attorney

For: Debra M. Cornez
Director

Original: Karen Fisher
Copy: Sarah Wallace

OFFICE OF ADMINISTRATIVE LAW

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DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Sarah Wallace
FROM: OAL Front Desk
DATE: May 25, 2017
RE: Return of Rulemaking Materials
OAL Matter Number 2017-0413-01
OAL Matter Type Regular (S)

LW

OAL hereby returns the rulemaking record your agency submitted for review regarding "Defining of "Discovery" and "Filing Date"."

If this is an approved matter, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved regulation is specified on the Form 400 (see item B.5). **Beginning January 1, 2013**, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State) as follows:

- (1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption concerning the effective date of the regulation approved in this matter applies, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the agency will include the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation's effective date. Additionally, the effective date of the regulation will be noted on OAL's web site after OAL posts the Internet Web site link to the full text of the regulation that is received from the agency. (Gov. Code, secs. 11343 and 11344.)

Please note this new requirement: Unless an exemption applies, Government Code section 11343 now requires:

1. **Section 11343(c)(1):** Within 15 days of OAL filing a state agency's regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.
2. **Section 11343(c)(2):** Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at postedregslink@oal.ca.gov.

NOTE ABOUT EXEMPTIONS. Posting and linking requirements do not apply to emergency regulations; regulations adopted by FPPC or Conflict of Interest regulations approved by FPPC; or regulations not subject to OAL/APA review. However, an exempt agency may choose to comply with these requirements, and OAL will post the information accordingly.

DO NOT DISCARD OR DESTROY THIS FILE (the following does not apply to files that have been disapproved or withdrawn)

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the State Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq. regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

STD. 400 (REV. 01-2013)

| | | | |
|-------------------------|---|---|------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER Z-2016-0802-06 | REGULATORY ACTION NUMBER 2017-0413-01 S | EMERGENCY NUMBER |
|-------------------------|---|---|------------------|

For use by Office of Administrative Law (OAL) only

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|--------|-------------|
| NOTICE | REGULATIONS |
|--------|-------------|

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAY 24 2017

1:45 PM

2017 APR 13 A 10:08
OFFICE OF
ADMINISTRATIVE LAW

| | |
|--|-----------------------------|
| AGENCY WITH RULEMAKING AUTHORITY Dental Board of California | AGENCY FILE NUMBER (if any) |
|--|-----------------------------|

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

| | | | |
|---|--|--|--------------------------------------|
| 1. SUBJECT OF NOTICE | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional) |
| OAL USE ONLY | ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn | NOTICE REGISTER NUMBER 2016-33-2 | PUBLICATION DATE 8/12/2016 |

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

| | |
|---|--|
| 1a. SUBJECT OF REGULATION(S) Defining of "Discovery" and "Filing Date" | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) |
|---|--|

| | |
|--|----------------------------|
| SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) | ADOPT 1001.1 and 1001.2 |
| | AMEND |
| | REPEAL |
| TITLE(S) 16 | |

| | | | |
|---|--|--|--|
| <input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) | <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) | <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only |
|---|--|--|--|

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

| |
|---|
| 5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) |
| <input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____ |

| |
|---|
| 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY |
| <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal |
| <input checked="" type="checkbox"/> Other (Specify) Dean R. Grafilo, Director, Department of Consumer Affairs |

| | | | |
|------------------------------------|----------------------------------|---------------------------------------|---|
| 7. CONTACT PERSON Sarah Wallace | TELEPHONE NUMBER 916-263-2187 | FAX NUMBER (Optional) 916-263-2140 | E-MAIL ADDRESS (Optional) sarah.wallace@dca.ca.gov |
|------------------------------------|----------------------------------|---------------------------------------|---|

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

| | |
|---|-----------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Karen M. Fischer</i> | DATE 4/12/17 |
| TYPED NAME AND TITLE OF SIGNATORY Karen M. Fischer, MPA, Executive Officer | |

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 24 2017

Office of Administrative Law

Title 16. DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

ORDER OF ADOPTION

Adopt Sections 1001.1 and 1001.2 of Division 10 of Title 16 of the California Code of Regulations to read:

§ 1001.1. Statute of Limitations.

(a) For purposes of Section 1670.2 of the code, the word "discovers" means, with respect to each act or omission alleged as the ground for disciplinary action:

(1) the date the board received a complaint or report describing the act or omission.

(2) the date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the ground for disciplinary action against the same individual.

(b) For purposes of this section:

(1) "Complaint" means a written complaint from the public or a written complaint generated by board staff that names a particular licensee.

(2) "Report" means any written report required under the code to be filed with the board.

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Section 1670.2, Business and Professions Code.

§ 1001.2. Filing Date.

An accusation or petition to revoke probation shall be deemed "filed" on the date it is signed by the executive officer or other person described in section 1001.

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Section 1670.2, Business and Professions Code.