

**TITLE 16, Division 10, Article 4
DENTAL BOARD OF CALIFORNIA**

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

**Section 1016, Continuing Education Courses and Providers
Section 1016.2, Basic Life Support for Licensure of Dental Auxiliaries
Section 1017, Continuing Education Units Required for Renewal of License or
Permit**

NOTICE IS HEREBY GIVEN that the Dental Board of California (Board) proposes 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 **by Monday, December 27, 2021**.

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.

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 1614, 1645, and to implement, interpret, or make specific sections BPC sections 1645, 1646.5, 1647.5, and 1752.1, the Board is considering changes to Division 10 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Dental Board of California (Board) regulates approximately 82,000 licensees, consisting of 35,000 dentists, 30,000 registered dental assistants, and 1,700 registered

dental assistants in extended functions. 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. (Bus. & Prof. Code, § 1601.2.) 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.

The Act provides for the licensure and regulation of persons engaged in the practice of dentistry by the Board. The Act authorizes the Board, as a condition of license renewal, to require licensees to successfully complete CE relevant to developments in the practice of dentistry and dental assisting consistent with regulations adopted by the Board and permits the Board to require CE hours in specific areas, including patient care, health and safety, and law and ethics. (Bus. & Prof. Code, § 1645.)

The Board's regulations contained in Article 4 of Division 10 of Title 16 of the California Code of Regulations establish such regulatory requirements for renewal. However, recent amendments to the Act necessitate revisions to Article 4 to add new requirements for continuing education related to the risks of addiction associated with the use of Schedule II drugs, revise the Board's current processes and requirements for approval of CE courses and provider requirements, and add requirements for basic life support (BLS) for licensure and renewal of dental auxiliaries.

This proposal will amend sections 1016 and 1017, and adopt section 1016.2 of the CCR:

1. Amendments to Section 1016

Existing law requires licensees to complete continuing education (CE) courses in subjects including infection control, the Dental Practice Act, and basic life support (BLS) to renew a license. The regulation specifies that licensees may satisfy their BLS CE requirement by completing courses offered by specified providers. Senate Bill (SB) 1109 (Bates, Chapter 693, Statutes of 2018) amended BPC section 1645, effective January 1, 2019, to add risks of addiction associated with the use of Schedule II drugs as an authorized CE subject matter area for dentist licensees. Mandatory CE coursework prescribed by the Board cannot exceed 15 hours per renewal period for dentists. (Bus. & Prof. Code, § 1645, subd. (b).)

This proposal would amend section 1016 to:

- Require coursework relating to the responsibilities and requirements of prescribing Schedule II opioid drugs to align the regulation with course content authorized by SB 1109;
- Add professional ethics as mandatory CE coursework;
- Provide a BLS course taught by a provider approved by the American Safety and

Health Institute (ASHI) will satisfy the mandatory requirement for certification in Basic Life Support;

- Add a requirement that, at a minimum, course content for a Board-approved course on the responsibilities and requirements of prescribing Schedule II opioid drugs shall include the practices for pain management in dentistry, regulatory requirements for prescribers and dispensers, and dental office procedures for managing vulnerable or substance use disorder patients;
- Add sexual harassment prevention as an example of the types of course of study in the actual delivery of dental services to the patient or the community that would be acceptable for mandatory CE credit;
- Add business planning services and operations as an example of the types of courses to be considered primarily for the benefit to the licensee and provide that it is limited by the Board to a maximum of 20% of a licensee's total required course unit credits for each license or permit renewal period;
- Strike an outdated and unnecessary reference to "Beginning January 1, 2016" in subdivision (e) related to enforcement and provider records retention;
- Add references to "Infection Control" and the "California Dental Practice Act" to the current requirements for board approval for significant changes to the content of a previously approved course in subdivision (e) and clarify that a provider cannot offer the "significantly changed" course until the Board approves the course;
- Strike the words "mandatory," "mandatory" and "mandatory education" in subdivision (e), and revise existing requirements to clarify that all new applicants for provider status shall submit course content outlines for courses in "Infection Control and California Dental Practice Act" to board staff for review and approval at the time of application and prior to instruction; and,
- Make grammatical, syntax and other technical, non-substantive clarifying amendments.

2. Amendments to Section 1016.2

Existing law requires an applicant for licensure and renewal as a dental auxiliary, including as a registered dental assistant, to provide proof of completion of a course in BLS offered by an instructor approved by the American Red Cross (ARC), American Heart Association (AHA), or any other course approved by the Board as equivalent.

This proposal would adopt section 1016.2 to identify additional Board-approved courses in BLS deemed equivalent by the Board to the AHA or ARC and specify the required elements of BLS courses.

3. Amendments to Section 1017

Existing law requires licensees to complete mandatory courses in infection control, the Dental Practice Act, and BLS to renew their license or permit. Existing law also specifies the coursework oral conscious sedation permitholders must complete every two years.

This proposal would amend section 1017 to: (1) provide only dentists are required to complete two units of CE on the responsibilities and requirements of prescribing Schedule II opioids; (2) eliminate obsolete provisions regarding oral conscious sedation permits for minors; (3) allow licensees who provide direct patient care as unpaid volunteers at free public health care events or clinics to obtain CE credit and prescribe how it will be calculated; (4) prescribe CE requirements for retired dentists in only uncompensated practice; and (5) make grammatical, syntax and other technical, non-substantive clarifying amendments.

ANTICIPATED BENEFITS OF THE REGULATIONS:

Section 1016

This proposal aims to reduce the incidence of opioid addiction and overdose by increasing awareness and education among prescribers and patients, including minor athletes and their parents. Education is a key component in understanding the very addictive nature of Schedule II controlled substances. It is necessary to warn healthcare professionals who prescribe opioid medications they can be addictive and cause drug overdoses if not used carefully. Requiring prescribers to complete CE regarding this issue will benefit larger public health efforts to address the opioid addiction epidemic. This proposal benefits the health and welfare of California residents because it seeks to decrease the effects of addiction to opioids on Californians through notice and education to these healthcare professionals.

This proposal adds ASHI to the list of accepted BLS providers for purposes of meeting the requirement for certification in BLS for licensure and initial application requirements. The addition of ASHI as a provider will allow dentist and dental auxiliaries broader access to instruction taught by qualified instructors who are nationally recognized to respond to emergencies while protecting dental patients in California.

Section 1016.2

This proposal adds American Dental Association's Continuing Education Recognition Program (CERP), the Academy of General Dentistry's Program Approval for Continuing Education (PACE) and American Safety and Health Institute (ASHI) to the list of accepted BLS providers for acceptance for initial and renewal application requirements of dental auxiliaries. The addition of PACE, CERP, and ASHI as providers will facilitate access to instruction taught by qualified instructors who are nationally recognized. This will enable more dental auxiliaries to respond to emergencies to protect dental patients in California.

Section 1017

This proposal adds methods for licensees to earn CE credit required for renewal. Allowing unpaid volunteers who offer clinical services for which they are licensed to earn CE credit on an hour-by-hour basis will expand access to care in dental communities with limited access to practitioners. This section will also allow a retired

dentist who only provides unpaid care to dental patients to complete a reduced number of CE per renewal cycle. This will assist retired dentists in uncompensated practice (volunteers) to continue to educate themselves for the benefit of patients in underserved or low-income communities.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, the Board conducted a search of any similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

The Board 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: None. The regulations help to provide additional guidance related to CE coursework requirements and do not result in a fiscal impact to the state in the form of federal funding or any cost or savings to any state agency. There are no additional workload or costs to the Board.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Fiscal Impact on Individuals

The proposed regulation would not have a significant effect on individuals. The proposed regulation does not add more required CE units, but only adds a requirement for dentist licensees to take two units minimum of CE credit related to opioids out of the required minimum of 50 units. If licensees decide to take more CE units to compensate, then there would be an added fiscal impact on the licensees. However, licensees will not be required to pay more to meet the new requirement.

The provisions related to BLS course providers and approved courses will not have a significant fiscal impact on dentists of dental auxiliaries seeking licensure or renewal as it does not increase the requirements for these activities. While the proposed text includes additional required course material it does not increase the overall number of hours of courses which are required.

Business Impact:

The Board has made the initial determination 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. This initial determination is based on the following facts.

The amendments proposed by the Board would only require a minimum of two units of CE credits for prescriptions of Schedule II opioids for dentist licensees. There would be costs associated for licensees to take the Board-approved courses on Schedule II opioids. However, the overall number of courses required for renewal remains 50 total hours and does not increase. Dental auxiliaries who wish to obtain their initial license or renew an existing license will not see an increase in the number of required CE courses as the minimum required number of courses for initial licensure or renewal does not change but the proposal does offer greater access to qualified approved providers in order to take courses.

The types of businesses that would be affected are businesses that offer CE courses, as there would be an additional minimum requirement for course content relating to Schedule II opioids. The cost to a provider is unknown, as the Board does not track the cost for providers to add a mandatory core course, to revise course curriculum, or for any changes to provider operations. However, because courses are already provided and acceptable course content already available generally for the profession, no additional costs are anticipated.

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.

Cost Impact on Representative Private Person or Business:

This regulatory proposal would only require a minimum of two units of CE credits for prescriptions of Schedule II opioids for dentist licensees. While there would be costs associated for licensees to take the Board-approved courses on Schedule II opioids, the overall number of courses required remains 50 total hours and does not increase. The types of businesses that would be affected are businesses that offer CE courses, as there would be an additional minimum requirement for course content relating to Schedule II opioids. However, CE providers are not required to offer the Schedule II opioid course.

The addition of approved providers accepted for the BLS course would allow for additional providers who were not previously accepted to offer the BLS course and the provider would not incur additional cost. The cost to a provider is unknown, as the Board does not track the costs for providers to add a mandatory core course, to revise course curriculum, or for any changes to provider operations. However, because courses are already provided and acceptable course content already available generally for the profession, no additional costs are anticipated.

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.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board regulates and licenses the individual dental professionals in the State of California. 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.

The proposed regulation will make changes to the BLS course required for initial licensure of dental auxiliaries and renewal of licenses and permits issued by the Board. While there would be costs associated for licensees to take the Board-approved courses on Schedule II opioids, the overall number of courses required remains 50 total hours and does not increase.

Dental auxiliaries who wish to obtain their initial license or renew an existing license will not see an increase in the number of required CE courses as the minimum required number of courses for initial licensure or renewal does not change but the proposal does offer greater access to qualified approved providers in order to take courses.

The types of businesses that would be affected are businesses that offer CE courses, as there would be an additional minimum requirement for course content relating to Schedule II opioids. The cost to a provider is unknown, as the Board does not track the costs for providers to add a mandatory core course, to revise course curriculum, or for any changes to provider operations. However, because courses are already provided and acceptable course content already available generally for the profession, no additional costs are anticipated.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has made the initial determination that this regulatory proposal will not have a significant impact on the creation of jobs or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because the proposed regulations will increase the list of approved providers the Board will accept for dentists and dental auxiliaries who wish to obtain an initial license or renew their license, as well as provide specificity regarding instruction for the BLS course and certification. These providers are already in existence however, and the Board does not anticipate that new providers will leave or enter the market solely as a result of this rulemaking.

Benefits of Regulation:

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

This proposal assists the Board in fulfilling its highest priority: protection of the public when exercising its licensing, regulatory, and disciplinary functions. These proposed regulatory changes are authorized by statute and would benefit the public. This proposed regulatory change allows for licensees of the Board to adequately address the public health issue of opioid misuse and overdoses.

This proposal will continue to ensure that licensees and applicants are competent in basic life saving techniques and can protect patients under their care.

This regulatory proposal does not affect worker safety or the state's environment because the proposal pertains to regulations regarding courses for CE.

CONSIDERATION OF ALTERNATIVES

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 present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing, if held, or prior to the hearing upon request from the Dental Board of California at 2005 Evergreen Street, Suite 1550, Sacramento, California 95815 or by accessing the Board's website at https://dbc.ca.gov/about_us/lawsregs/.

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 person named below or by accessing the website listed below.

CONTACT PERSON

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

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The backup contact person is:

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WEBSITE ACCESS

Materials regarding this proposal can be found at the Board's Website at https://dbc.ca.gov/about_us/lawsregs/