

**State of California
Office of Administrative Law**

In re:
Dental Board of California

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Regulatory Action:

Government Code Section 11349.3

Title 16, California Code of Regulations

OAL File No. 2014-0915-01 S

Adopt sections:
Amend sections: 1018
Repeal sections:

By this regulatory action, the Dental Board of California amends section 1018 of Title 16 of the California Code of Regulations to require an administrative law judge (ALJ) to order the revocation of a license if the proposed decision of the ALJ contains any finding of fact that the licensee engaged in any act of sexual contact with a patient, client, or customer or has been convicted of or committed a sex offense.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2015.

Date: 10/22/2014


Dale P. Mentink
Senior Attorney

For: DEBRA M. CORNEZ
Director

Original: Karen Fisher
Copy: Michael Palencia

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2014-0318-02	REGULATORY ACTION NUMBER 2014-0915-015	EMERGENCY NUMBER
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ENDORSED FILED IN THE OFFICE OF

2014 OCT 22 PM 2:40

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only

2014 SEP 15 PM 2:25

OFFICE OF ADMINISTRATIVE LAW

NOTICE	REGULATIONS
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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 <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2014, 132	PUBLICATION DATE 3/28/2014	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Revocation for Sexual Misconduct	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)

ACTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 1018
TITLE(S) 16	REPEAL

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<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"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

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)
N/A

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)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" 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) <u>Awet Kidane, Director, Department of Consumer Affairs</u>		

7. CONTACT PERSON Michael Placencia	TELEPHONE NUMBER (916) 263-2027	FAX NUMBER (Optional) (916) 263-2140	E-MAIL ADDRESS (Optional) Michael.Placencia@dca.ca.gov
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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 6/12/14
TYPED NAME AND TITLE OF SIGNATORY Karen M. Fischer, MPA, Executive Officer	

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ENDORSED APPROVED

OCT 22 2014

Office of Administrative Law

TITLE 16. DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

ORDER OF ADOPTION

Amend California Code of Regulations, Title 16, Section 1018, as follows:

§ 1018. Disciplinary Guidelines and Exceptions for Uniform Standards Related to Substance-Abusing Licensees.

(a) In reaching a decision on a disciplinary action under the Administrative Procedures Act (Government Code Section 11400 et seq.), the Dental Board of California shall consider the disciplinary guidelines entitled "Dental Board of California Disciplinary Guidelines With Model Language", revised 08/30/2010 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Dental Board of California, in its sole discretion, determines that the facts of the particular case warrant such deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), the Board shall use the uniform standards for substance-abusing licensees as provided in Section 1018.01, without deviation, for each individual determined to be a substance-abusing licensee.

(c) Notwithstanding the disciplinary guidelines, any proposed decision issued by an Administrative Law Judge in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any findings of fact that: (1) the licensee engaged in any act of sexual contact with a patient, client or customer; or, (2) the licensee has been convicted of or committed a sex offense, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license or placing the licensee on probation.

(d) For the purposes of this section, "sexual contact" has the same meaning as defined in subdivision (c) of Section 729 of the Business and Professions Code and "sex offense" has the same meaning as defined in Section 44010 of the Education Code.

Note: Authority cited: Sections 315, 315.2, 315.4 and 1614; Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, and 315.4, 726, 729, 1680, and 1687 Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code; Section 44010, Education Code.