

**State of California
Office of Administrative Law**

In re:
Dental Board of California

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections:

Amend sections: 1023.2, 1023.3

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

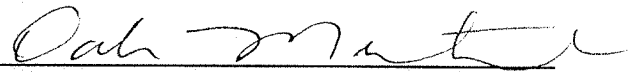
OAL Matter Number: 2020-0904-02

OAL Matter Type: Regular (S)

This action raises the maximum penalty amount to \$5,000 for Class A and Class B violations of statutes and regulations relating to the practice of dentistry and for the unlicensed practice of an activity requiring licensure by the Dental Board of California.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 2/10/2021.

Date: February 10, 2021



**Dale P. Mentink
Senior Attorney**

For: Kenneth J. Pogue
Director

Original: Karen Fisher, Executive Officer
Copy: Gabriel Nevin



TO: Gabriel Nevin
FROM: Office of Administrative Law Front Desk
DATE: February 10, 2021
RE: **Return of Rulemaking File**
OAL Matter Number 2020-0904-02S
OAL Matter Type Regular

The Office of Administrative Law (OAL) hereby returns the above-referenced rulemaking file, which was submitted to us for review. If the matter has been approved or authorized for filing and printing by OAL, attached is a copy of the Secretary of State (SOS) endorsed regulations, which are effective as indicated on the Form 400, and a Notice of Approval.

DO NOT DISCARD OR DESTROY THIS FILE ¹ Due to the legal significance of the rulemaking, you are required by law to preserve this rulemaking file.² The law requires that no item be removed, altered, destroyed or otherwise disposed of in the file and that you make it available to the public and courts for potential future review. (Gov. Code, § 11347.3(d)-(e); See also Gov. Code, §§ 14740 *et seq.*; State Admin. Manual (SAM), §§ 1600 *et seq.* (regarding other recordkeeping requirements).) You may transmit the rulemaking record to the State Archives for storage with instructions that the SOS shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. (Gov. Code, § 11347.3(f).)

If your agency submitted the rulemaking file electronically, please promptly confirm receipt of the Closed and Complete Rulemaking File. Please note that all copies of the rulemaking file will be deleted from OAL records. If there is anything missing, please contact us immediately.

Web posting requirements:

Within 15 days of the SOS's endorsement of the regulations, you must post the regulations on your website for at least six months in an easily marked and identifiable location, including the date filed with the SOS and the effective date of the regulations, which are shown on the Form 400. (Gov. Code, § 11340.85(c)(7)-(8).) Also, within five days of posting the regulations online, you must send OAL the link to OAL. (Gov. Code, § 11343(c).) Please send the link to OAL at postedregslink@oal.ca.gov.

If you have any questions, please contact us at staff@oal.ca.gov.

¹ This does not apply to withdrawn or disapproved files, but you may wish to retain a withdrawn/disapproved file for resubmission.

² Unless exempt from the APA. Exempt files are not required by law to be kept, but retention may be beneficial for other reasons.

NOTICE PUBLICATION/REGULATORY ACTION SUBMISSION (See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

REGULAR

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
Z-		2020-0904-025	

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

FEB 10 2021
1:22 p.m.

For use by Office of Administrative Law (OAL) only

2020 SEP -4 A 10: 29
OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

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 <input type="checkbox"/> 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		ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Citation & Fine	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 1023.2 & 1023.7
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)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" 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 checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	<i>per agency request</i>
<input checked="" type="checkbox"/> Other (Specify) <u>Kimberly Kirchmeyer, Director, Department of Consumer Affairs</u> <i>Kimberly Kirchmeyer</i>			

7. CONTACT PERSON			
Gabriel Nevin	TELEPHONE NUMBER 916-263-2027	FAX NUMBER (Optional) 916-263-2140	E-MAIL ADDRESS (Optional) gabriel.nevin@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 Fischer</i> Karen Fischer (Aug 27, 2020 11:18 PDT)	DATE Aug 27, 2020
TYPED NAME AND TITLE OF SIGNATORY Karen M. Fischer, Executive Officer	

For use by Office of Administrative Law (OAL) only
ENDORSED APPROVED
FEB 10 2021
Office of Administrative Law

**Dental Board of California
Citations and Fines
Order of Adoption**

Amend Sections 1023.2 and 1023.7 of Division 10 of Title 16 of the California Code of Regulations to read as follows:

§ 1023.2. Administrative Fines for Citation.

Where citations issued pursuant to Section 125.9 of the code include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:

(a) A class "A" violation is a violation which the executive officer has determined involves a person who has violated a statute/regulation, and either:

(1) the violation presents a substantial probability that death or serious physical harm to a patient could result therefrom; or

(2) the person has been issued three class B violations within a 24-month time period immediately preceding the act, serving as the basis for the citation, without regard to whether the actions to enforce the previous citations have become final. A class "A" violation is subject to an administrative fine in an amount not less than \$1,000 and not exceeding ~~\$2,500~~ \$5,000 for each violation.

(b) A class "B" violation is a violation which the executive officer has determined involves a person who has violated a statute/regulation relating to the practice of dentistry which does not present a substantial probability that either death or serious physical harm to a patient will result therefrom. A class "B" violation is subject to an administrative fine in an amount not less than \$50 and not exceeding ~~\$2,500~~ \$5,000 for each violation.

Note: Authority cited: Sections 125.9 and 1614, Business and Professions Code.
Reference: Section 125.9, Business and Professions Code.

§ 1023.7. Unlicensed Practice.

The executive officer may issue a citation, in accordance with Section 148 of the code, against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the board and who is not otherwise exempt from licensure. Each citation may contain an assessment of an administrative fine, or an order of abatement fixing a reasonable period of time for an abatement. Administrative fines shall range from \$50 to ~~\$2,500~~ \$5,000 for each violation. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 148 and 1614, Business and Professions Code.
Reference: Section 148, Business and Professions Code.