

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 10. DENTAL BOARD OF CALIFORNIA**

FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: California Dentistry Law and Ethics Examination

Section Affected: California Code of Regulations (CCR), Title 16, Section 1031

Updated Information:

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

The Board approved regulatory language in February 2019 to amend California Code of Regulations, Title 16, Section 1031 related to the passing score of the California Dentistry Law and Ethics Exam. The changes would permit the Office of Professional Examination Services, part of the Department of Consumer Affairs, to use a criterion-referenced passing score to make the California Dentistry Law and Ethics exam legally defensible.

The Board provided 45 days for public comment. No comments were received.

No hearing was requested. No hearing was held.

The Board deleted a quotation at the end of subdivision (c) after the conclusion of the 45-day comment period as a non-substantive change. The Board approved revised regulatory language at its August 2020 Board meeting, and the final rulemaking was submitted to the Office of Administrative Law (OAL) on December 7, 2021.

However, OAL advised staff on January 21, 2022 about a clarity issue in the regulatory text. The issue was that the proposed language did not specify in the proposed definition for “criterion-referenced passing score” in subsection (c) that the Board intended to use the modified Angoff standard setting method for calculating that score as referenced in the rulemaking package’s Initial Statement of Reasons. At the Board’s February 2022 meeting the Board approved modified regulatory language to revise the definition for “criterion-referenced passing score” to describe the Angoff standard-setting method in connection with the law and ethics examinations.

The modified text was noticed for a 15-day comment period that ran from February 18 through March 7, 2022. The Board received one comment, which has been summarized

below. At the Board's May 12-13, 2022 meeting the Board decided to reject the comment, make no changes to the modified text and the Board adopted the text as provided in the modified text.

Modified Text

At its February 2022 meeting the Board opted to make the following revisions to the originally proposed regulations in response to OAL's concerns.

1. In section 1031(c), remove the phrase "specified point in a distribution of scores at or above which candidates have achieved entry level competence" that follows the phrase "criterion-referenced passing score."
2. Following the phrase "criterion-referenced passing score" add the following text to the previously approved language:

"examination established by the modified Angoff standard setting method. This method includes the use of licensees representing the practice of dentistry and a test development specialist and determines through evaluation and rating of each exam question that the passing score represents entry level competence to practice in the profession as specified in subsections (a) and (b)."

3. Remove 139 from the sections listed in the Reference section for the Note to Section 1031 as Section 139 (policy for examination development) is not relevant to this proposed action.

On May 12, 2022, the Board voted to direct staff to take all steps necessary to complete the rulemaking process including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulation and the rulemaking documents, and adopt the proposed regulations as described in the modified text notice for 16 CCR section 1031.

Local Mandate Determination

The proposed mandate does not impose a mandate on local agencies or school districts.

Small Business Impact:

The Board has determined that the proposed regulations would not affect small businesses. This proposal would only impact qualified candidates applying to take the California Dentistry Law and Ethics Examination.

Anticipated Benefits

These proposed amendments will ensure the Board maintains a legally defensible and valid California Dentistry Law and Ethics Examination that allows only those who are qualified to competently and safely practice dentistry to achieve a passing score and eventually become licensed in California.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board as part of public comments received or at the Board's meetings would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective or less burdensome to affected private persons than the proposed regulation, or would be more cost-effective to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific. All recommendations provided during this rulemaking were considered by the Board and rejected as discussed herein.

Set forth below are the other alternatives which were considered and the reasons each alternative was rejected or accepted:

Alternative 1: Amend Dentistry Law and Ethics Examination Passing Score as Proposed by the Board.

Accepted: The proposed rulemaking implements a criterion-referenced passing score for the Dentistry Law and Ethics Examination. Using a criterion-referenced passing score increases the likelihood that candidates who pass the licensure examination have sufficient knowledge and experience to practice safely and competently. The proposed rulemaking allows the Board to maintain a legally defensible and valid California Dentistry Law and Ethics Examination that allows only those who are qualified to competently and safely practice dentistry to achieve a passing score and eventually become licensed in California.

Alternative No. 2: Do not seek a regulatory change.

Rejected: The Board's highest priority is the protection of the public while exercising its licensing, regulatory, and disciplinary functions. These proposed regulatory changes provide the Board with the means maintain a legally defensible and valid California Dentistry Law and Ethics Examination that allows only those who are qualified to competently and safely practice dentistry to achieve a passing score and eventually become licensed in California.

Comment and Proposed Response

45-day Public Comment period: No comments received.

Comments Received During 15-day Public Comment Period:

February 18, 2022 email from Dr. Lewis Turchi, DDS

Comment Summary:

Commenter appears to be seeking clarity on the proposed changes, but also expresses skepticism at the ability to teach ethics, given the high debt and pressure to make money facing most dentists entering practice today. Commenter would like to know how the proposed changes would encourage ethics but is not asking for a specific change.

Board Response:

The Board considered the comment and decided to make no changes to the proposed text.

The comment does not make a request for a specific change. It does appear to raise a concern about the clarity of the overall proposed changes. The intent of these changes is to change the requirement for passing the law and ethics exam from a specified passing score to a criterion-based passing score. The modified text describes this criterion-based approach as involving licensees and testing experts in evaluating the examination questions to determine that the passing score represents entry-level competence in applying California law and principles of ethics to the practice of dentistry.

Shifting the assessment of a passing score to the individual questions rather than a specific percentage of questions answered correctly is expected to better connect the concepts in each exam question to California law and ethics in the practice of dentistry. The proposed modified text provides greater specificity regarding how the score will be calculated and therefore the Board believes the modified text is sufficiently clear to place licensees on notice regarding the new examination scoring process.