

**TITLE 16. DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

California Dentistry Law & Ethics Examination, § 1031

California Code of Regulations

NOTICE IS HEREBY GIVEN that the Dental Board of California (Board) is proposing 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 on **Monday, June 7, 2021**.

The Board has not scheduled a public hearing on this proposed action. The Board will, however, 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.

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 section 1614 of the Business and Professions Code (BPC), to implement, interpret or make specific sections 139, 1630, 1632, and 1634.1 of the BPC the Board is considering changes to Division 10 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW/ ANTICIPATED BENEFITS:

The Board regulates approximately 91,600 licensees, consisting of approximately 43,800 dentists, approximately 46,000 registered dental assistants, and approximately 1,800 registered dental assistants in extended functions. The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Board achieves this goal are issuing

licenses to eligible applicants, investigating complaints against licensees, disciplining licensees for violating the Dental Practice Act (DPA), 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.

Pursuant to BPC section 1614, the Board is authorized to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable the Board to carry into effect the provisions of the DPA. The Board is authorized to establish the definition of successful results of the California Dentistry Law and Ethics Examination by regulation. This proposal is necessary to ensure the legal defensibility of the Board's California Dentistry Law and Ethics Examination.

Pursuant to BPC section 1632, applicants for dental licensure in California are required to successfully complete an examination in California law and ethics developed and administered by the Board. Pursuant to the Board's regulations, the current passing score for the Board's Dentistry California Law and Ethics Examination is set at 75%.

In 2018, the Department of Consumer Affairs' (DCA) Office of Professional Examination Services (OPES) completed an occupational analysis of the dentistry profession in California. Based on the findings of this occupational analysis, the Board worked with OPES to ensure its California Dentistry Law and Ethics Examination is up to date and in compliance with BPC section 139. OPES recommended the Board not specify a particular passing score in regulation and instead utilize a criterion-referenced passing score.

At its February 2019 meeting, the Board approved regulatory language to amend the regulation pertaining to the passing score of the California Dentistry Law and Ethics Examination to allow for OPES to use a criterion-referenced passing score to make the Board's California Dentistry Law and Ethics Examination legally defensible. At its August 2020 meeting, the Board approved amended regulatory language.

The purpose of this proposal is to amend California Code of Regulations, Title 16, section 1031 to replace the term "successfully complete" with "achieve a criterion-referenced passing score" to clarify that successful completion of the required examination means to have achieved a passing score on the examination. It would define a "criterion-referenced passing score" as "a specified point in a distribution of scores at or above which candidates have achieved entry level competence." This proposal would delete the requirement that a candidate is deemed to have passed the examination if his or her score is at least 75% in each examination. This amendment is necessary to maintain consistency with the DCA Departmental Licensure Examination Validation Policy (OPES 18-02).

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.

CONSISTENCY & COMPATIBILITY WITH EXISTING STATE REGULATIONS:

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

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Because the Board currently administers the Dentistry California Law and Ethics Examination and requires license applicants to take and pass the exam, the proposed regulations are not anticipated to result in additional workload or costs to the state.

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

Business Impact:

The Board has made the initial determination that the proposed regulation would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because this proposal would not affect businesses. This proposal would only impact qualified candidates applying to take the California Dentistry Law and Ethics Examination.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This proposal would only impact qualified candidates applying to take the California Dentistry Law and Ethics Examination.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

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.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California. This determination was made because the proposed changes are not sufficient to create or eliminate jobs or businesses.

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state's environment:

These 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.

This regulatory proposal does not affect worker safety because this proposal is not related to worker safety.

This regulatory proposal does not affect the state's environment because this proposal is not relevant to the state's environment.

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 either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

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 and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 1550, Sacramento, California 95815 or by accessing the Board's website at https://www.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:

Name: Wilbert Rumbaoa, Administration Unit Manager
Dental Board of California
Address: 2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
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E-Mail Address: Wilbert.Rumbaoa@dca.ca.gov

The backup contact person is:

Name: Tina Vallery, Chief of Administration & Licensing
Dental Board of California
Address: 2005 Evergreen Street, Suite 1550
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Website Access: Materials regarding this proposal can be found at the Board's Web site at: <http://www.dbc.ca.gov/lawsregs/index.shtml>