

DENTAL BOARD OF CALIFORNIA

SPECIALTY ADVERTISING

TITLE 16, CALIFORNIA CODE OF REGULATIONS, SECTION(S) 1054, 1054.1, AND 1054.2

SECTION 100. CHANGE WITHOUT REGULATORY EFFECT

The DENTAL BOARD OF CALIFORNIA (BOARD) is repealing Section(s) 1054, 1054.1, and 1054.2 of Article 7, Chapter 2, Division 10 of Title 16 of the California Code of Regulations (CCR) to reflect non-substantive changes to the regulations governing advertising of specialty education and accreditation requirements for specialized areas of dentistry as reflected in the changes made to Business and Professions Code Section (Code) 651(h)(5)(A)(i-iii) which was deleted on January 1, 2012 as a result of the passage of Senate Bill (SB) 540 (Price, Statutes of 2011). This section prohibited a dentist from holding himself or herself out as a specialist, or advertising in a specialty education programs approved by the American Dental Association; and representing or advertising himself or herself as accredited in a specialty area of practice unless the dentist was a member of or credentialed by, an accredited organization recognized by the Board as a bon fide organization for an area of dental practice. Section 651(h)(5)(A)(i-iii) was subjected to litigation in the case of *Potts v. Hamilton*, 334 F. Supp. 2d 1206, and was ruled by a federal court as an unconstitutional restriction on commercial speech. As a result the Board sought to prevent future litigation in this area and to mitigate costs associated with the Potts litigation through the passage of SB 540. Though the language was deleted from statute, it was not taken out from the CCR. Board is recommending that CCR Section(s) 1054, 1054.1, and 1054.2 be deleted since these proposed changes do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

The BOARD is proposing the following non-substantive changes to 16 CCR Sections(s) 1054, 1054.1, and 1054.2:

~~§ 1054. Recognized Dental Specialty Boards and Associations.~~

~~For purposes of this article and Section 651 of the Code, the board recognizes those dental specialty boards which are affiliated with specialties recognized by the American Dental Association, including: American Board of Dental Public Health; American Board of Endodontics; American Board of Oral Pathology; American Board of Oral and Maxillofacial Surgery; American Board of Orthodontics; American Board of Pediatric Dentistry; American Board of Periodontology; and American Board of Prosthodontics. The board also recognizes those boards that require two or more years of training in a formal advanced education program affiliated with a school of dentistry or medicine that follows educational guidelines developed by the Council on Dental Education of the American Dental Association, dated January 1975, which are hereby incorporated by reference.~~

Note: Authority cited: Sections 651 and 1614, Business and Professions Code.
Reference: Section 651, Business and Professions Code.

~~§ 1054.1. Advertising Credentials.~~

~~(a) A dentist may advertise that he or she has credentials from one of the dental specialty boards recognized by the Board of Dental Examiners of the State of California, pursuant to Section 1054.~~

~~(b) A dentist may not advertise credentials granted by a private or public board or parent association which is not recognized pursuant to Section 1054, unless:~~

~~(1) The private or public board or parent association which grants the credentials currently requires:~~

~~(A) Successful completion of an oral and written examination based on psychometric principles; and~~

~~(B) Training and experience subsequent to successful completion of (A) above, to assure competent practice in the dental discipline as determined by the private or public board or parent association which grants the credentials.~~

~~(2) Any advertisement which references the dentist's credentials shall include the following statement: "[Name of announced dental discipline] is a discipline not recognized as a dental specialty by the Board of Dental Examiners of the State of California".~~

~~(3) The dentist discloses that he or she is a general dentist in any advertising which references the dentist's credentials.~~

~~(c) Subdivision (b)(1)(B) shall not be construed to prohibit a dentist from advertising credentials on the basis that the credentials were granted without examination if the credentials were granted prior to 1985.~~

Note: Authority cited: Sections 651 and 1614, Business and Professions Code.
Reference: Section 651, Business and Professions Code.

~~§ 1054.2. Advertising as a Specialist.~~

~~A dentist may not advertise that he or she is a "specialist" unless he or she is certified or eligible for certification by a dental specialty board recognized pursuant to Section 1054.~~

Note: Authority cited: Sections 651 and 1614, Business and Professions Code.
Reference: Section 651, Business and Professions Code.