

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

ECONOMIC IMPACT ANALYSIS

SUBJECT MATTER OF PROPOSED REGULATIONS: Notice to Consumers of Licensure by the Dental Board

SECTION(S) AFFECTED: Title 16, Division 10, California Code of Regulations, Section 1065

SPECIFIC PURPOSE OF EACH ADOPTION OR AMENDMENT:

The primary purpose of these proposed regulations is to implement, interpret and make specific the provisions of Section 138 and 1611.3 of the Business and Professions Code relative to providing conspicuous notification to consumers that dentists are licensed and regulated by the Dental Board of California (Board), require that the notice include a statement to that effect, and contain the Board's toll-free telephone number and its Web Site address.

The Board is proposing the following changes:

Adopt Section 1065 of Division 10 of Title 16 of the California Code of Regulations (Notice to Consumers):

This proposal adopts Section 1065 to require a licensed dentist engaged in the practice of dentistry to provide notice to each patient of the fact that he or she is licensed and regulated by the Board. This proposal would require the notice include a statement that dentists are licensed and regulated by the Board and contain the Board's toll-free telephone number and Web site address.

This proposal would specify that the notice is required to be provided by one of the following methods:

- (1) Prominently posted in an area visible to patients on the premises where services are provided in at least 48-point type font;
- (2) Including the notice in a written statement, signed and dated by the patient or patient's representative and retained in the patient's dental records, stating the patient understands the dentist is licensed and regulated by the Board; or
- (3) Including the notice in a statement on letterhead, discharge instructions, or other document given to a patient or the patient's representative, where the notice is placed for the patient in at least 14-point type.

Existing law, Business and Professions Code Section 138, specifies that every board within the Department shall initiate the process of adopting regulations to require its licentiates to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

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Newly enacted law, Business and Professions Code Section 1611.3 (SB 540, Chapter 385, Statutes of 2011) requires the Board to comply with the requirements of Business and Professions Code Section 138 by January 1, 2013. Section 1611.3 also requires the Board's regulations regarding the notice to consumers include provisions that: (1) specify that the Board is the entity that regulates dentists, (2) provide the telephone number and Internet address of the Board, and (3) require the notice to be posted in a conspicuous location accessible to public view.

Existing law, Business and Professions Code Section 1614 authorizes the Board 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 Dental Practice Act.

BUSINESS IMPACT:

The Board has determined that this regulatory proposal would not have any 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.

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Board has made an initial determination that this regulatory proposal will impact dentists. As of January 2012, the Board had approximately 37,594 dentists (individuals) with current licenses issued by the Board. Although many businesses will be required to comply, the economic impact will be minor. Dentists would only be required to prominently post a sign, which will be available on the Board's Web site, or include the brief, written notice in a written statement to be signed by the patient or his/her representative and retained in his/her file; or include the notice on another document given to each patient. The proposed regulation permits the dentist to choose how he or she will comply with the notice requirements.

Specifically, this proposed regulation requires dentists to notify their patients that they are licensed and regulated by the Board of and to provide the Board's contact information. Dentists may provide the notice in one of three specifically enumerated options: posting of a sign; including it in a written notice to be signed by the patient and kept in his/her medical record, or including it on a document given to the patient that the patient signs.

The Board believes that the vast majority of dentists would implement this regulation via the easiest means: posting a sign in a visible place, such as a reception/check-in area or waiting room. The most "professional" way to achieve this would be for a practice setting to print the sign on a laser jet printer (less than \$0.05 per page) and then buy a simple black plastic "document" frame (estimated to cost \$4.50 at an office supply store). Thus, per office, the cost would be less than \$5.00 to implement. The Board does not maintain data relating to the number or percentage of licensees who own a

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business, therefore a number or percentage of businesses that may be impacted cannot be predicted. The estimated expense of less than \$5.00 per office would be minor and absorbable.

BENEFIT OF PROPOSED REGULATION:

Business and Professions Code section 1601.2 states that the “Protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.” This proposal is consistent with the Board’s priority of protecting the public. An informed consumer is in a better position to make a reasoned choice relating to dental health care. Additionally, an informed consumer would be able to assist the Board in regulating the practice of dentistry via the Board’s complaint process, should a problem arise. Oftentimes, consumers are unaware of the existence and role of the Board or the public services it offers, e.g., license verifications, statutes and regulations, or the complaint process. If consumers do not know that they can contact the Board when an issue with a licensee arises or where to seek information about a licensee, then the Board’s effectiveness is hampered and its priority of public protection is compromised. The adoption of this proposal, will promote better communication with the public regarding the Board’s contact information and purpose. The notice would also promote transparency in both government and the profession by making information regarding license status and the State’s responsibility to regulate the profession easily available to the public.

ECONOMIC IMPACT ANALYSIS CONCLUSION:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulation allows dentists to provide the notice in three different ways.. Further, the estimated expense of less than \$5.00 per office would be minor and absorbable. This minimal cost is outweighed by the benefits to the public of providing accessible information that fully informs consumers about the license status of their dental health practitioner and the regulatory agency who is responsible for regulating dentistry in the State of California.

As part of its Economic Impact Analysis, the Board has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, that it will not create or eliminate jobs or occupations in California, that it will not impact the expansion of businesses in California, and the proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services. The Board's proposal does not impact multiple industries.

The Board has determined that this regulatory proposal would not have any 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.