



Title 16, Dental Board of California
DEPARTMENT OF CONSUMER AFFAIRS

INITIAL STATEMENT OF REASONS

Hearing Date: No Hearing Has Been Scheduled

Subject Matter of the Proposed Regulations: AB 107: Temporary Licenses for Military Spouses or Partners

Sections Affected: Section 1006 of Article 1 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations.

Specific Purpose of Each Adoption:

1. Background:

The Dental Board of California (Board) is responsible for licensing and regulating dental professionals in California. The Board licenses an estimated 89,000 dental professionals, including approximately 43,500 licensed dentists; 44,500 registered dental assistants (RDAs); and 1,700 registered dental assistants in extended functions (RDAEFs). The Board is also responsible for setting the duties and functions of an estimated 50,000 unlicensed dental assistants.

Existing law at Business and Professions Code (BPC) section 115.6 requires seven other boards within the Department of Consumer Affairs to, after appropriate investigation, issue temporary licenses to an applicant, if the applicant meets specified requirements, including, among other things, that 1) the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders; 2) the applicant holds a current, active, and unrestricted license in good standing that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license; and 3) the applicant submits a signed affidavit attesting to meeting the requirements of the temporary license.

Effective July 1, 2023, under the provisions of Assembly Bill 107 (“AB-107” – Stats. 2021, Ch. 693) Section 115.6 is amended to require all boards in the Department, including this Board, to issue temporary licenses upon meeting the requirements specified in Section 115.6 (and as noted above), unless the board already has a process in place to issue

expedited, temporary authorizations to practice to out-of-state licensed applicants under similar criteria. Since this Board does not currently have such a process, this proposal would implement section 115.6 of the Business and Professions Code (BPC) as enacted by AB 107 and make specific the requirements for temporary licensure by the Board for qualified spouses or domestic partners of military service members stationed in California. The regulations proposed at Title 16, California Code of Regulations (CCR) Section 1006 address the requirements necessary for the Board's issuance of a temporary licensure to practice as a dentist or dental auxiliary or to practice with an affiliated permit, including the following:

- (1) definitions for terms used in BPC section 115.6 and this proposed regulation,
- (2) that the applicant shall meet all requirements of this proposed section and BPC section 115.6 to be eligible for a temporary license,
- (3) that submission of a completed application is required and specifies the required content of a completed application, as more fully described below,
- (4) that each applicant for a temporary license as a dentist shall successfully complete a law and ethics examination as specified and prescribes the procedure for applying for and taking the examination,
- (5) fingerprinting requirements that must be met prior to issuance of a temporary license,
- (6) the criteria the Board must use when determining when to issue a temporary license,
- (7) the criteria an applicant must meet when seeking a temporary license from the Board to practice under an affiliated permit, as defined; and,
- (8) that this regulation section shall become effective July 1, 2023 (in accordance with the operative date of the amendments to BPC section 115.6), or at the next quarterly effective date following the adoption of these regulations if adopted after July 1, 2023.

2. Problem Being Addressed:

Effective July 1, 2023, under the provisions of Assembly Bill 107 ("AB-107" – Stats. 2021, Ch. 693) BPC section 115.6 is amended to require all boards in the Department, including this Board, to issue temporary licenses upon meeting the requirements specified in Section 115.6, unless the board already has a process in place to issue expedited, temporary authorizations to practice to out-of-state licensed applicants under similar criteria. This Board does not have a similar process for expediting temporary licensure for military spouses or domestic partners who meet the criteria specified in BPC section 115.6. Also, several criteria referenced in BPC section 115.6 for issuing a temporary license are not specific to the Board and are capable of multiple interpretations and methods of implementation. As a result, regulations are necessary to implement and make specific the minimum criteria set forth in Section 115.6 by the July 1, 2023 operative date.

BPC section 115.6, as amended by AB 107 (Chapter 693, Statutes of 2021) authorizes qualified spouses or domestic partners of military service members stationed in California to apply for and obtain temporary licensure as specified if they currently hold a license within the same scope of practice for which the applicant seeks a temporary license from the Board and meet other specified criteria. Section 115.6 was designed to reduce the amount of time that these licensed professionals could not practice because they did not have a license in California after relocation of their active-duty military spouses to California under official military orders. Legislative history indicates that the purpose of AB 107 was to “improve license portability for military spouses ... Transferring professional licenses that spouses have already earned should be a seamless process that allows spouses to quickly find well paying jobs in their field.” (See, Underlying Data, Assembly Committee on Business and Professions committee analysis, p. 6.).

The Board proposes a simple application process to meet the legislative policy objectives of expedited review and reducing administrative burdens for spouses or domestic partners in the military, and to assist the Board in meeting the 30-day turnaround time for the Board to process these types of applications (BPC § 115.6 (g)).

The Board proposes to adopt CCR Section 1006 to require qualified dentists, dental auxiliaries (as defined), and individuals seeking to practice under an affiliated permit (as defined) applying for temporary licensure to submit a completed application with no associated fee that requires them to provide the following to be eligible:

- Disclose specified identifying and contact information,
- Disclose whether they are married to or in a domestic partnership or other legal union with an active-duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active-duty military orders, and provide documentation as specified confirming such status with the application,
- Disclose whether the applicant holds a current, active and unrestricted license or comparable authority to practice dentistry, practice within the scope of practice of an affiliated permit, or provide dental services as a dental auxiliary in another state, district or territory of the United States and provide written verification from the applicant’s original licensing jurisdiction that the license is in good standing as specified,
- Disclose whether the applicant has committed an act in any jurisdiction that would have constituted grounds for denial, suspension or revocation of the equivalent license under applicable Business and Professions Code sections 141, 480, or 490, or Articles 4 (commencing with BPC section 1670) or 5 (commencing with BPC section 1700) of the Dental Practice Act,
- Disclose whether the applicant has been disciplined as defined by a licensing entity in another jurisdiction or is the subject of an unresolved complaint, review procedure or disciplinary proceeding conducted by a licensing entity in another jurisdiction,

- Furnish a full set of fingerprints to the Board as specified in this section to permit the Board to conduct a criminal history record check through the California Department of Justice.
- Provide a statement attesting to the fact that the applicant meets all the requirements for the temporary license and that the information submitted in the application is accurate to the best of the applicant's knowledge.
- For applicants seeking temporary licensure as a dentist, each applicant must successfully complete the Board's law and ethics examination as specified in this section once the Board has determined the applicant is otherwise qualified for a temporary license. Applicants are responsible for contacting the examination administrator, PSI, to schedule a test date and examination site location and for paying PSI's nonrefundable fees to take the examination,
- All applicants shall meet the fingerprinting requirements specified in this section prior to issuance of a temporary license, and,
- Applicants seeking a temporary license from the Board to practice under an affiliated permit must also meet other specified criteria including submission of an application for temporary license as a dentist prior to or at the same time as the application for the affiliated permit, or have a current, active, and unrestricted license from the Medical Board of California, as applicable to the type of permit sought. No temporary license for an affiliated permit shall issue until the applicant has been issued a temporary dentist license or has obtained a license as a physician and surgeon from the Medical Board of California, as applicable.

As proposed, Section 1006 also describes:

- The conditions under which the Board shall issue to the applicant the applicable temporary license.
- That this section shall become operative on July 1, 2023 or the next quarterly effective date if adopted after July 1, 2023.

3. Anticipated Benefits of the Regulations

The proposed regulations would provide a simplified application process to help reduce the time required for qualified spouses or domestic partners of military service members newly stationed in California to begin to practice the professions for which they were licensed in their original licensing jurisdiction. By granting a temporary license through these simplified processes, these license holders could practice while they are completing their application requirements for permanent licensure more quickly, if they so choose. While the temporary licenses have fewer requirements than permanent licenses, the Board retains the ability to deny the application or terminate the temporary license should there be grounds to do so. Applicants for temporary licensure as dentists must successfully complete an examination on California law and ethics prior to receiving temporary licensure. These safeguards will support the consumer protection mission of the Board while facilitating a smoother transition for professionals licensed in other states to assume

comparable duties and responsibilities as professionals with California licenses. As a result, this proposal would expedite and temporarily increase the number of qualified dentists, dental auxiliaries, and specified physicians and surgeons available to provide dental services to California residents.

Specific Purpose of, and Factual Basis/Rationale for each adoption

The Board proposes to:

- **Adopt Section 1006, and new title “Temporary Licenses for Military Spouses or Partners” as a new title and section in Article 1 of Division 10 of Title 16 of the California Code of Regulations.** This is necessary for user comprehension and to help ensure that applicants easily find pertinent information related to this subject matter.
- **Add a new subsection (a) in Section 1006 to adopt a new introductory title “Definitions” and to specify that the definitions apply to this newly proposed section.** The adoption of this title and specification that these definitions apply to this section is necessary to ensure applicants are fully informed and notified of the requirements for obtaining a temporary license and clarify the types of information to be provided in this section.
- **Adopt Subsections (a)(1)-(9): to add new definitional terms to this section.** These definitions are necessary to explain the meaning of terms used in this section, which may otherwise be considered obscure or capable of more than one interpretation by the persons subject to this regulation.

These subdivisions define the terms ‘license’, ‘disciplined’, ‘jurisdiction’, disciplinary proceeding, ‘provide dental supportive services as a dental auxiliary’, ‘good standing’, ‘original licensing jurisdiction’, ‘affiliated permit’, and ‘successfully complete’. These definitions help make specific those provisions of BPC section 115.6 and the proposed regulations that are subject to multiple interpretations, and also help make the underlying law specific to the Dental Board and its prospective licensees. The definitions are necessary to fully inform and communicate to prospective applicants the minimum criteria for temporary licensure as dentists, dental auxiliaries or a physician and surgeon practicing under an affiliated permit as further described below.

- **Adopt Subsection (a)(1): “License”**

Subdivision (a)(1) adopts a definition for “license.” The Board issues licenses, permits and endorsements for dentists and dental auxiliaries. The intent of AB 107 is to make the transition easier for qualified spouses and partners of military servicemembers, so it is

important to clarify what credentials issued by the Board would qualify under AB 107. This definition is therefore necessary to provide this clarification.

The Board proposes to define 'license' under proposed subdivision (a)(1) as any license or permit issued by the board that allows the holder to practice dentistry, practice under an affiliated permit, or provide dental supportive services as a dental auxiliary.

- **Adopt Subsection (a)(2): "Disciplined"**

Subdivision (a)(2) adopts a definition for 'disciplined.' The Board commonly gets questions regarding what it considers 'discipline' for the purposes of disclosing background and history for other licensing applications it processes. This definition is therefore necessary to help ensure that applicants fully understand the qualifications criteria and disclosure requirements for: (1) the application disclosure requirements contained in subsection (b)(5) of this section; and, (2) the 'good standing' requirements contained in subsection (b)(3). All of these provisions refer to whether the applicant has been "disciplined" in another licensing jurisdiction and could cause confusion among applicants regarding what information must be disclosed in the application if not defined.

The Board proposes to define 'disciplined' under proposed subdivision (a)(2) as referring to an applicant's license, specifying that such a license or other authority to practice has been placed on some kind of discipline, whether it be temporary or permanent. Such discipline could have happened in the past and is no longer in effect or could have been imposed and is still in effect. This interpretation is consistent with the requirement in BPC section 115.6(c)(5) that an applicant "shall not **have been** disciplined by a licensing entity in another jurisdiction..." (emphasis added). To help ensure greater comprehension and full disclosure by the applicant, the Board has defined such discipline to include probation, or where the license has been revoked, suspended, reprovved, censured, reprimanded, restricted, limited or conditioned. This definition is consistent with the types of enforcement actions this and other boards in this state are commonly authorized to take in response to a finding of a violation (e.g., BPC §§ 495, 1670, 1671, and 5100) and is consistent with the definition in the Administrative Procedure Act for an "Accusation," the charging document used to initiate disciplinary proceedings in California (Gov. Code, § 11503).

- **Adopt Subsection (a)(3): "Jurisdiction"**

The Board proposes to define "jurisdiction" under proposed subdivision (a)(3) as it is used in this section. The use of the word "jurisdiction" may be unfamiliar to many applicants even though it is consistent with the terms provided in BPC 115.6. Consequently, the Board proposes this definition to avoid applicant confusion regarding the following sections of this proposal: (1) subdivision (a)(4) the definition of the words "disciplinary proceeding" uses the term "jurisdiction," (2) subdivision (a)(7) the definition of the words "original licensing jurisdiction" uses the term "jurisdiction," (3) subdivision (b)(3)

uses the term “jurisdiction” to describe the required written verification supplied by the applicant, (4) subdivision (b)(4) uses the word “jurisdiction” in describing required disclosures for past denials or disciplinary history; and, (5) subdivision (b)(5) uses the word “jurisdiction” in describing required disclosures for past disciplinary history, unresolved complaints, review procedures, or disciplinary proceedings.

The Board proposes to define “jurisdiction” under proposed subdivision (a)(3) as referring to a California or another state’s licensing board or agency, any agency of the federal government or of the government of another country. The use of this definition is necessary to fully inform applicants regarding the scope of the disclosures required by this section and to ensure consistency with the laws this Board uses to deny or discipline licenses for prior disciplinary actions. Under existing laws at BPC sections 141 and 480, the Board may deny a license under Section 480 for specified disciplinary actions taken by another “licensing board”, and Section 141 authorizes the Board to discipline a license for specified disciplinary action taken by “another state, by any agency of the federal government, or by another country.”

- **Adopt Subsection (a)(4): “Disciplinary Proceeding”**

The Board proposes to define “disciplinary proceeding” under proposed subdivision (a)(4) as it is used in this section. The use of the word “disciplinary proceeding” may be unfamiliar to many applicants even though it is consistent with the terms provided in BPC 115.6. Consequently, the Board proposes this definition to avoid applicant confusion regarding the following sections of this proposal: (1) subdivision (a)(6) defines the words “good standing” that uses this term to describe the license status requirements for no “disciplinary proceeding” per BPC 115.6(c)(5); and subdivision (b)(5) uses the term as part of the disclosure requirements for past actions taken by a licensing entity in another jurisdiction.

The Board proposes to define “disciplinary proceeding” under proposed subdivision (a)(3) to refer to any proceeding or investigation under the authority of the licensing jurisdiction pursuant to which the licensee discipline may be imposed on the applicant. In the Board’s experience, a disciplinary proceeding commonly refers to ongoing investigations conducted under the authority of the licensing agency, and after which the law prescribes specified actions that may be taken (see, BPC section 108, which authorizes this Board (and others) to conduct investigations of violations under its jurisdiction and issue citations or impose penalties following hearings). This proposed definition is therefore necessary to adopt a standard of interpretation consistent with the way agency proceedings or prosecutions are taken by this Board, as well as other licensing boards in this state.

- **Adopt Subsection (a)(5): “Provide dental supportive services as a dental auxiliary”**

The Board proposes to define “providing dental supportive services as a dental auxiliary” under proposed subsection (a)(5) as it is used in this section. BPC section 115.6(c)(2) includes a requirement that an applicant hold a current active and unrestricted license that confers upon the applicant the authority to practice the profession or vocation within **the same scope** for which the applicant seeks a temporary license from the board (emphasis added). The term “dental auxiliaries” refers to persons qualified by training and experience to perform dental work under the direction and supervision of a dentist.

However, “dental auxiliaries” broadly refers to all types of persons working under the supervision of a dentist and includes dental assistants and all other auxiliaries licensed by the Board or the Dental Hygiene Board in the practice acts governing both boards (see e.g., Business and Professions Code section 1684.5). This definition is therefore necessary to make it clear that this proposal is applicable only to specified categories of individuals under the jurisdiction of the Dental Board and provides the corresponding legal citations that refer to those specific types of dental auxiliaries and their corresponding scopes of practice in the Act and regulations, including: registered dental assistants, registered dental assistants in extended functions, orthodontic assistants and dental sedation assistants. This will help ensure applicants are fully informed about the types and scope of practice of licenses issued by this Board and to assist applicants in understanding the requirements that cross-reference this phrase in proposed subsections (b) and (b)(3).

- **Adopt Subsection (a)(6): “Good standing”**

The Board proposes to define “good standing” under proposed subsection (a)(6) as it is used in this section and to specify that it means that the applicant has not been disciplined, is not the subject of any unresolved complaint, review procedure, and is not the subject of any unresolved disciplinary proceeding. The Board commonly gets questions regarding what “good standing” means for qualifications for other permits or license it issues (see, e.g., BPC section 1638(c). This definition is therefore necessary to help ensure that applicants fully understand the qualifications criteria and disclosure requirements for subsection (b)(3) relating to requirement of “good standing” statement in written verification supplied to the Board and to meet the minimum requirements for eligibility prescribed by BPC section 115.6 to show proof of a license in “good standing” in accordance with the requirements set forth in subsections (c)(3) and (c)(5) of that section.

BPC section 115.6 requires the Board to issue a temporary license to practice to applicants who meet the requirements specified in subsection (c) and (d) of that section, including the requirements that the applicant (1) have a “current, active, and unrestricted license,” (2) provide written verification their license is in “good standing” in the original licensing jurisdiction, and (3) “shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.” (BPC § 115.6(c)(2), (c)(3), and (c)(5).) The Board’s currently proposed definition marries these concepts together to provide a simplified, yet complete definition of

what it means to have a license in “good standing” and the corresponding verification content needed to demonstrate that the aforementioned requirements of BPC 115.6 are truly met. Defining it in this manner also helps ensure that the written verification required by subsection (b)(3) of this section (which includes the “good standing” requirement) provides this Board with sufficient information to investigate the claim by the applicant that they have answered the disclosure requirements in proposed subsections (b)(4) and (b)(5) truthfully and that grounds do not exist for denial of the application.

- **Adopt Subsection (a)(7): “Original licensing jurisdiction”**

The Board proposes to define “original licensing jurisdiction” as the terms are used in this section and to mean the jurisdiction that issued a license to the applicant authorizing the applicant to practice within the same scope of practice for which the applicant seeks a temporary license from the Board. The use of the words “original licensing jurisdiction” may be unfamiliar to many applicants even though it is consistent with the terms provided in BPC 115.6. Consequently, the Board proposes this definition to avoid applicant confusion regarding the disclosure and verification requirements for subsection (b)(3) of this proposal.

The content of this definition is drafted to avoid the following potential conflict in implementing the legislative intent behind AB 107. BPC section 115.6(c)(2) requires the applicant to be issued a temporary license from the Board when the applicant holds a current, active, and unrestricted license “within the same scope for which the applicant seeks a temporary license from the board.” BPC section 115.6(c)(3) requires the applicant to submit a written verification from the applicant’s “original licensing jurisdiction” as proof that the license they hold is in good standing. The term “original jurisdiction” is not defined in BPC 115.6 (as amended by AB 107) and could be interpreted to limit the applicants to the very first license they obtained in another jurisdiction (with a more limited scope of practice) when, in fact, they may have other licenses in other jurisdictions that may qualify them for this temporary license because it has the same scope as a license issued by this Board. Therefore, it is necessary to adopt a broader definition that ties the jurisdictional definition to the scope of practice of the license so that any jurisdiction’s license that has the same scope as this Board’s license could be used to qualify under these provisions. The Board believes that such a definition would more accurately implement the intent and purpose behind AB 107.

- **Adopt Subsection (a)(8): “Affiliated permit”**

The Board proposes to define ‘affiliated permit’ under proposed subsection (a)(8) as any permit or endorsement associated with a dentist license or a physician and surgeon license, as applicable, that authorizes the permitholder to practice in specialty areas requiring a permit under the Dental Practice Act. These permits or endorsements would include the elective facial cosmetic surgery permit, the oral and maxillofacial surgery permit, and the permits and endorsements for the provision of general anesthesia, moderate sedation to an adult and/ or pediatric patient, oral conscious sedation for adult

patients, or pediatric minimal sedation as described in BPC sections 1638, 1638.1, 1646, 1646.1, 1646.2, 1646.9, 1647.1, 1647.2, 1647.3, 1647.18, 1647.19, 1647.30 and 1647.31.

The words “affiliated permit” appear in this proposal at subsections (b), (b)(3), (f) and (g). Since these terms are capable of more than one interpretation and the Board intends for these terms to have specified meaning, it is necessary to add this definition to ensure that applicants are fully informed of their eligibility requirements under this section. Since the goal of AB 107 is to ensure portability of licensure for the spouses and partners of active-duty personnel assigned to duty stations in California, this reference is being added to provide a short-form reference to capture the variety and number of different types of permits available to applicants who seek to practice in these specialty areas and who qualify under BPC section 115.6 and this section.

- **Adopt Subsection (a)(9): “Successfully complete”**

The Board proposes to define ‘successfully complete’ under proposed subsection (a)(9) as having achieved the criterion-referenced passing score described in Section 1031 of the Board’s regulations. Since this term is capable of more than one interpretation, this definition is required to fully inform applicants who seek to practice dentistry under a temporary license of this requirement, consistent with current Board regulation. This would ensure that applicants for temporary licensure as dentists have the same standard for passing the California Law and Ethics examination as other applicants for licensure as dentists.

- **Adopt Subsection (b): Requirements for submission of a completed application and meeting the eligibility requirements of BPC section 115.6**

The Board proposes to add this subsection requiring submission of a completed application to the Board for a temporary license that includes a list of items contained in subdivisions (1)– (8) to establish the application requirements for the temporary licenses issued under BPC section 115.6. This subsection is necessary to inform applicants what must be submitted to satisfy the requirements in section 115.6 for the required application, provide a complete list of requirements in one convenient location for applicants, and help ensure the Board only receives completed applications for processing these requests for temporary authorization to practice as a dentist, dental auxiliary, or under an affiliated permit.

BPC section 115.6(a) also states that that the Board shall, after appropriate investigation, issue a temporary license to practice a profession or vocation to an applicant who meets the requirements of subsections (c) and (d) of Section 115.6. To ensure that applicants are aware that they must meet the eligibility requirements of BPC section 115.6 and this section and to specify that those requirements must be met as a condition precedent to temporary license issuance, the Board incorporates this requirement in this regulatory proposal at subsection (b). While regular applicants for a dentist’s or dental

auxiliaries license or affiliated permit must pay a fee to the Board to process their applications (see e.g., BPC section 1634.1 and Cal. Code Regs., tit. 16, § 1021), the Board proposes to not charge a fee for these temporary license applications as no such fee authority is specified in BPC section 115.6.

- **Adopt Subsection (b)(1): Applicant’s identifying and contact information**

The applicant must provide identifying and contact information as listed in proposed subsection (b)(1), including name, address, and telephone information as well as birthdate and Social Security or Individual Taxpayer Identification Number. This information would help to identify the applicant and to link this individual to license information from the original licensing jurisdiction.

The Board proposes to add this subsection to obtain the name of the applicant, mailing address or address of record, physical address, mailing address, email address, if any, telephone number and Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN). These items of information are necessary to verify the applicant’s identity and eligibility (in accordance with BPC sections 30, 31, 494.5 and Family Code section 17520), ensure accuracy in the processing of the application, and enable the Board to communicate more efficiently with the applicant.

- **Adopt Subsection (b)(2): Evidence of marital or domestic partnership status**

The application requires the applicant to provide documentary evidence to support the temporary license request including: (1) a certificate of marriage or certified declaration/registration of domestic partnership filed with the Secretary of State or other documentary evidence of legal union with an active duty member of the Armed Forces; and (2) a copy of the military orders establishing the spouse or partner’s duty station in California. These documents are necessary to verify and ensure the applicant meets the statutory requirements for issuance of a temporary license in accordance with BPC 115.6(c)(1) by requesting official government documents, licenses and military records to substantiate the information provided to the Board. To date, the Board has not received any other type of evidence in lieu of a certificate of marriage or certified declaration/registration of domestic partnership but includes this possibility of “other documentary evidence” should it be submitted in the future to help ensure that applicants have other options for demonstrating they qualify.

- **Adopt Subsection (b)(3): Evidence of current, active and unrestricted license and “good standing” written verification requirement**

This proposed section includes a disclosure from the applicant, as noted in proposed subsection (b)(3), that they have a current, active, and unrestricted license or comparable authority (“license” for ease of reference in the rest of the proposal) in another jurisdiction to practice dentistry, practice within the scope of practice of an affiliated permit or perform dental supportive services as a dental auxiliary. If the applicant answers in the affirmative, the applicant must provide a written verification from the applicant’s original licensing jurisdiction (as defined in subsection (a)(7)), that the applicant’s license is in good standing in that jurisdiction. Such verification would include the applicants full legal name; the license type and number from the original licensing jurisdiction; the relevant laws and regulations that govern that license; the name and location of the licensing agency or entity; the issuance and expiration dates of that license; and information showing that the license is in good standing as defined in proposed subsection (a)(6).

BPC sections 115.6(c)(2) and (c)(3) require that:

The applicant shall hold a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation within the same scope for which the applicant seeks a temporary license from the board.

The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant’s knowledge. The application shall also include written verification from the applicant’s original licensing jurisdiction stating that the applicant’s license is in good standing in that jurisdiction.

This information required by this proposed subsection would therefore be necessary to permit Board staff to review the license from the other jurisdiction to determine that the license from the original jurisdiction is of the “same scope” as the comparable California license. A written verification from the original licensing jurisdiction also permits the Board to confirm and thoroughly investigate the statements made by the applicant on the application that they have meet the requirements for “good standing” as defined in this section and provides assurances to the Board of the accuracy of the information being provided and upon which the Board would rely in issuing this license.

Specifically, subsection (b)(3)(A) would help confirm the applicant’s identity and that they in fact “hold” the license required as a precondition for reciprocal licensing as required

by BPC section 115.6(c)(2). Subsection (b)(3)(B) would help confirm that the applicant has a license from another licensing jurisdiction, and whether or not that license has the same scope of practice (as provided by that agency's laws and regulations) as the temporary license sought by the applicant. Subsection (b)(3)(C) would help confirm that the license from another jurisdiction was issued by the appropriate authority in that jurisdiction. Subsection (b)(3)(D) would help confirm that the license from the other licensing jurisdiction is current and active. Subsection (b)(3)(E) would help confirm that the license from the other licensing jurisdiction is in good standing, which is a requirement for eligibility pursuant to BPC section 115.6(c)(3).

- **Adopt Subsection (b)(4): Disclosure of any acts that would be grounds for denial or discipline under the BPC**

The proposed section requires a disclosure from the applicant of any acts that would have constituted grounds for denial, suspension or revocation of the license under Sections 141 (disciplinary action by another state, federal agency, or another country; grounds for disciplinary action by state licensing board), 480 (grounds for denial of license by the Board under the BPC), or 490 (authority to discipline for conviction of crime) of the BPC, or Articles 4 (commencing with Section 1670 of the BPC, which contains the Board's statutes governing its authority to discipline) or 5 (commencing with Section 1700 of the BPC, which contains a list of crimes or offenses which would subject a licensee to criminal prosecution, which is a grounds for denial under BPC section 480 or discipline pursuant to BPC section 1670.1) of the Dental Practice Act. Any of those acts would also be grounds for denial of the temporary license application per BPC Section 115.6(c)(4).

Effective July 1, 2023, BPC section 115.6 (c)(4) will require as a condition of temporary licensure that: "The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed." A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board." To make specific the laws that authorize the Board to deny an application under the BPC, or to revoke or suspend a license in the BPC in accordance with the requirements of Section 115.6(c)(4), it is necessary for the Board to add this provision to the list of disclosure requirements on the application. This is necessary to ensure all applicable statutory qualifications are met prior to issuance of the temporary license, that grounds do not exist for denial of the application under Section 115.6(c)(4), and to assist the applicant with understanding and complying with BPC section 115.6's eligibility criteria.

In addition, instead of a laundry list of questions, which could cause the application to become lengthy and cumbersome, and would discourage applicants from applying, the Board proposes to provide the applicant with a list of statutory citations to review and disclose whether they have committed any of these acts in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of a license under these code sections at the time the act was committed in accordance with section 115.6(c)(4). This alternative allows the Board to meet the legislative policy objectives of expedited review and reducing administrative burdens for spouses or domestic partners in the military, and to assist the Board in meeting the 30-day turnaround time for the Board to process these types of applications (BPC § 115.6 (g)).

- **Adopt Subsection (b)(5): Disclosure of any past discipline or current complaints, review procedures or disciplinary proceedings**

This proposed section requires disclosure from the applicant whether they have had a license disciplined by a licensing entity in another jurisdiction, or if they are the subject of an unresolved complaint, review procedure, or disciplinary proceeding (as defined in proposed section (a)(4) of these regulations), in another jurisdiction (as defined in proposed section (a)(3)).

Effective July 1, 2023, BPC section 115.6 (c)(5) will require as a condition of temporary licensure that: “The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.” This disclosure requirement is therefore necessary to ensure all applicable statutory qualifications are met prior to issuance of the temporary license, that grounds do not exist for denial of the application under Section 115.6(c)(5) and to assist the applicant with understanding and complying with BPC section 115.6’s eligibility criteria. Such disclosure would also assist Board staff in investigating and determining whether the applicant’s license from another licensing jurisdiction is in good standing as defined by proposed section (a)(6) of these regulations as sometimes between time of application and agency decision, unresolved complaints, review procedures or disciplinary proceedings become disciplinary actions that affect whether a license is in “good standing.”

- **Adopt Subsection (b)(6): Fingerprints**

This proposed section requires the applicant to furnish a set of fingerprints to the Board in compliance with proposed subsection (d) to permit the Board to conduct a criminal

history check with the California Department of Justice. The process for applicants to obtain the fingerprints and send them to the Board is described in proposed section (d).

Effective July 1, 2023, BPC section 115.6(c)(6)(A) will provide: “The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.” However, that section does not specify how and when such fingerprints must be furnished. This proposal will establish such requirements, including in this section that the act of furnishing fingerprints in accordance with the requirements of subsection (d) are considered a part of the submission requirements for a completed application. Also, BPC section 115.6(b) permits the Board to conduct an investigation “for purposes of denying or revoking a temporary license issued pursuant to this section.” This investigation “may” include a criminal background check; obtaining fingerprints is a necessary condition of that background check. The proposed regulations would allow Board staff to include the criminal background check as part of its investigation in every case.

- **Adopt Subsection (b)(7): California law and ethics examination**

The proposed section requires the applicant seeking a temporary license to practice as a dentist to successfully complete (as defined in proposed section (a)(9)) the California law and ethics examination as described in this section and furnish “proof” as specified. This law and ethics examination would be the examination referenced in section 1031 of the Board’s regulations and would ensure that the application complies with that section of regulations. In addition, this subsection defines “proof of successful completion” to be a copy of the applicant’s report or notice issued by the examination administrator PSI Services LLC (PSI) that lists the applicants name and indicates that the applicant passed the examination.

BPC section 115.6(d) states that “the applicant shall pass a California law and ethics examination if otherwise required by the board for the profession or vocation for which the applicant seeks licensure.” Under current law at BPC section 1632(b), applicants for a dentist license must successfully complete an examination in California law and ethics. PSI is the examination administrator currently tasked under contract with the Board to provide a law and ethics examination for applicants. This requirement is necessary for the Board to help ensure that applicants have the minimum competence to practice with safety to the public. As a result, this proposal is necessary to identify the law and ethics examination required by the Board for applicants applying for a temporary license as a dentist and

provide notice to applicants of the examination that they need to take to comply with this eligibility requirement in Section 115.6.

In addition, the definition for “proof of successful completion” is needed to avoid confusion for applicants, since the terms are susceptible to more than one interpretation. In addition, such a definition helps ensure that the licensee provides the requisite documentary “proof” needed to establish passage of the examination consistent with the requirements of the Board’s selected administrator PSI. PSI provides applicants a report or notice that lists the applicants name and indicates that the applicant passed the examination on any documents it issues to candidates for the examination. As a result, this definition is needed to accurately reflect the documents that are issued by PSI and the type of “proof” to be furnished to the Board to meet this requirement. While license examinations for dentists and for registered dental assistants include testing them on aspects of California Law and Ethics, as of this date, only the law and ethics portion of the examination for dentists can be practically separated and administered by itself. So the proposed regulations require the law and ethics examination only for applicants seeking temporary licensure as dentists. There are currently no law and ethics examinations requirements in the Act or the Board’s regulations for the other license or permit types specified in this proposal.

- **Adopt Subsection (b)(8): Attestation**

The proposed section requires an attestation from the applicant that they meet all the requirements for temporary licensure and that the information in the application is accurate to the best of the applicant’s knowledge.

BPC section 115.6(c)(3) requires, effective July 1 ,2023, that each application include: “a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant’s knowledge.” Since this statement is a condition of eligibility, this proposed section is necessary to meet the requirement in subsection (c)(3) of BPC section 115.6 that an attestation be included in the application stating that the applicant meets all of the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant’s knowledge. This is necessary to ensure all applicable statutory qualifications are met prior to issuance of the temporary license, that grounds do not exist for denial of the application under Section 115.6(c)(3), and to assist the applicant with understanding and complying with BPC section 115.6’s eligibility criteria.

- **Adopt Subsection (c): Law and Ethics Examination requirements**

The Board proposes to add this subdivision that outlines the process for an applicant for temporary licensure as a dentist to take the California Law and Ethics examination as authorized, effective July 1, 2023, under BPC section 115.6(d). Subsection (c)'s introduction specifies that the applicant shall successfully complete the California law and ethics examination administered by PSI specified in section 1031 of the Board's regulations, which is consistent with the requirement for all applicants for a dental license in Section 1632 of the Act. This proposed subsection describes the necessary information for an applicant to take the examination in proposed subsection (c)(1), the responsibility of the Board to notify the applicant of approval to take the exam in proposed subsection (c)(2), and what the approved applicant must do following such notice in proposed subsection (c)(3). These requirements are necessary to ensure all applicable statutory qualifications are met prior to issuance of the temporary license, that grounds do not exist for denial of the application under Section 115.6(d), and to assist the applicant with understanding and complying with BPC section 115.6's eligibility criteria. Further, there is no current process for these types of applicants to schedule an examination through the Board's designated examination administrator; this proposal would specify that process to ensure only qualified applicants take the examination.

- **Subsection (c)(1): Completed Application for Approval to Test Requirements**

Subsection **(c)(1)(A)-(F)** specifies that to take the law and ethics examination each applicant shall submit a "completed" request for approval to test to the Board that contains specified applicant identifying information. This includes personally identifying information (full legal name, social security number ("SSN") or individual taxpayer identification number ("ITIN")), birth date, mailing address, telephone number, and email address) necessary to process the request and communicate with the applicant/candidate regarding the examination. In addition, These items of information are necessary to verify the applicant's identity and eligibility (in accordance with BPC sections 30, 31, 494.5 and Family Code section 17520) and ensure accuracy in the processing of the examination application. The requirement for a completed application for approval to test helps ensure applicants understand that only completed requests for application to test will be accepted for processing by the Board and ensures accurate and timely processing of all requests. While regular applicants for a dentist's license must pay a fee to the Board to process their authorizations to test (per Cal. Code Regs., tit. 16, § 1028.5), the Board proposes to not charge a fee for the authorization to test as no such fee authority is specified in BPC section 115.6.

Government Code section 12944(b) provides, that: "It shall be unlawful for a licensing board to fail or refuse to make reasonable accommodation to an individual's mental or physical disability or medical condition." To meet this requirement in the Government Code and protect the integrity of the examination process, the Board proposes to require in

subsection **(c)(1)(G)** that an applicant disclose whether they are requesting a reasonable accommodation pursuant to subdivision (b) of Government Code section 12944. This would allow the Board to identify those applicants requesting such an accommodation and to address such a documented need in compliance with Section 12944. Subsection (c)(1)(G) further requires an applicant requesting such an accommodation to provide medical documentation consisting of a written document with the name, license number, telephone number, date and signature of a physician confirming the existence of the applicant's disability or medical condition as defined in Government Code section 12926 and the need for the reasonable combination. This is the minimum the Board believes is necessary to document the existence of a disability as defined in Section 12926, and the reasonableness of the accommodation without undue burden to the applicant.

As part of the completed request for approval to test, the applicant is required to also provide the information required by paragraphs (2) and (3) of subsection (b) at proposed subsection **(c)(1)(H)**, which essentially includes documentation of:

- (A) Whether the applicant is married to or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders, and,
- (B) Whether the applicant holds a current, active or unrestricted license, or comparable authority to practice (in the same scope of practice as the license sought from the Board) and provide written verification from the applicant's original licensing jurisdiction that the applicant's license or other comparable authority is in good standing in that jurisdiction.

This information is sought as part of the request for approval to test process, since if the above-mentioned criteria are not met, then the applicant is ineligible to take the exam, and is similarly ineligible in general for a temporary license under BPC sections 115.6(c)(1)-(2). This helps ensure that applicants do not waste time and money taking an examination for a license that they ultimately do not qualify for in the first place.

Finally, under proposed subsection **(c)(1)(I)**, the request for approval to test to the Board requires applicants to certify under penalty of perjury that the information on the application is true and correct. The Board relies upon applicants' self-reported information in evaluating applications or other forms submitted for processing by the Board. This requirement helps ensure that the representations on the form are accurate, truthful and made in good faith. In addition, the certification under penalty of perjury helps ensure the reliability of the statements to the Board (since certifying under penalty of perjury can have a deterrent effect on those who may be considering not providing true, accurate or complete information), and provides the Board with the option of seeking sanctions and referring the matter to law enforcement in the event that such information is not true,

complete or accurate. [“The oath or declaration must be in such form that criminal sanctions of perjury might apply where material facts so declared to be true, are in fact not true or are not known to be true.” *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [holding modified by *Laborde v. Aronson* (2001) 92 Cal.App.4th 459.]

This subsection is also necessary to inform applicants regarding what must be submitted to take the California Law and Ethics examination required for dentists, to provide a complete list of requirements in one convenient location for applicants, to explain the process involved in applying for and taking the examination and help ensure the Board only receives completed applications for processing these requests for temporary authorization to practice as a dentist.

- **Adopt Subsection(c)(2) – Notice of approval to take the California Law and Ethics examination**

The proposed subsection would require the Board, once it has received the completed application to take the California Law and Ethics examination and determined that the applicant is qualified to take the exam, to provide a written and dated notice to the applicant and to PSI, of the Board’s approval for the applicant to test. The dated notice would note the Board’s approval for the applicant to take the examination and the contact information for the applicant to schedule the examination with PSI including website address, e-mail address, telephone number and mailing address.

The Board proposes to add this subsection to describe the Board’s obligations to notify applicants and the testing vendor that applicants have qualified to take the examination. The subsection provides all of the details that must be provided to eligible applicants to ensure they can schedule the examination with the testing vendor via all known methods for contacting PSI as described in this subsection.

- **Adopt Subsection (c)(3) – Applicant obligation to schedule and pay for California Law and Ethics examination**

The proposed subsection indicates that an applicant that receives a notice of approval to test from the Board is responsible for contacting PSI to schedule a test date and examination site location, and paying PSI’s non-refundable fees to take the examination..

The Board proposes to add this subsection to provide applicants notice of the process of scheduling the examination (test date and site location) for applicants deemed qualified to take the California Law and Ethics Examination according to this section. It also notifies qualified applicants that they are responsible for the nonrefundable

examination fees to take the examination by the exam’s administrator PSI. BPC section 115.6(d) requires applicants for this license “to pass a California law and ethics examination if otherwise required by the board for the profession or vocation for which the applicant seeks licensure.” Currently, the Board requires applicants to take the law and ethics examination administered by PSI, which collects the fees for the examination directly from the examination candidates (currently set at \$24.50 by PSI). As a result, the Board must specify and provide notice to applicants that a condition of taking the examination includes the responsibility to pay the examination fees set by this private examination administrator. To keep the regulation current over time, the Board proposes to only specify that the applicant is responsible for paying the application fee required by the administrator as the fee is set by a private entity and is subject to change by that entity. In addition, there is no authority in BPC section 115.6 for the Board to waive the fee or pay the fees directly to PSI on behalf of any candidate qualifying for examination under this section so this is a cost that should be specified as being borne by the applicant as part of the “examination required by the board”.

- **Adopt Subsection (d) – Process for providing fingerprints**

This proposed subsection sets the requirement that all applicants meet the fingerprinting requirements of this subsection prior to issuance of a temporary license and, further outlines the process for an applicant for temporary licensure to have fingerprints taken and submitted to the Board. It covers the requirements for using the LiveScan process administered by the California Department of Justice in subsection (d)(1), steps for in-state applicants in subsection (d)(2), and the steps for out-of-state applicants in subsection (d)(3).

BPC section 115.6(c)(6) provides the following, effective July 1, 2023:

(6) (A) The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.

(B) The board shall request a fingerprint-based criminal history information check from the Department of Justice in accordance with subdivision (u) of Section 11105 of the Penal Code and the Department of Justice shall furnish state or federal criminal history information in accordance with subdivision (p) of Section 11105 of the Penal Code.

However, Section 115.6 does not specify how such fingerprints need to be submitted or what process the applicant needs to follow to ensure that a “full set of fingerprints” is submitted to the Board according to California Department of Justice requirements. This proposal is necessary to specify those processes and procedures to allow the applicant to successfully submit their fingerprints and meet this eligibility requirement when requested by the Board in accordance with BPC section 144(b)(5) (which requires the Board to collect fingerprints from every applicant). The Board also proposes to add this subsection to

facilitate a criminal background investigation. This is permitted under BPC section 115.6 and it would help ensure that applicants for temporary licensure had not committed any crimes or acts that would be grounds for denial of the temporary license application.

- **Adopt Subsection (d)(1) – Live Scan requirement**

The proposed subsection notifies applicants that the fingerprints requested by the Board are to be taken using the Live Scan service, unless the applicant resides out of state and cannot use the Live Scan service, as noted in proposed subsection (d)(3). Applicants residing in California will have to use the Live Scan service as described in subsection (d)(2).

This change is necessary to specify the requirements by the Department of Justice for processing requests for criminal background checks as provided in Section 115.6(c)(6) as they relate to Board applicants for licensure, specifically temporary licensure for military spouses or partners as specified in BPC section 115.6. Live Scan is a system for the inkless, electronic submission of fingerprints and the subsequent automated background checks and responses conducted through the California Department of Justice’s (DOJ) database. Applicants living within the State of California and who are required to complete a criminal history background check by a state agency authorized by law to collect those fingerprints (as the Board is authorized per BPC section 144) must complete the DOJ’s “Request for Live Scan Service” to comply with this eligibility requirement (see Underlying Data from DOJ’s website guidance document entitled “Fingerprint Background Checks”). The Board does not incorporate the DOJ’s form by reference in this regulation as it is not a form that is created by this Board and for which the Board would be able to provide the rationale for each requirement on the form or make any changes to the form in response to public comment it might receive on the contents of the form (see similar approach taken by another agency at Cal. Code Regs., tit. 10, § 2034.5).

Applicants residing outside of California who cannot be fingerprinted electronically as described in subsection (d)(3) would be excepted from this requirement. This Live Scan process does not exist in regulation as it applies to the Board and the Board receives many questions from regular applicants, particularly out-of-state residents, on the process and procedures for submitting fingerprints through the Live Scan process for this Board. This proposal would add such detail to give applicants specific directions for completing this application requirement in accordance with DOJ requirements.

- **Adopt Subsection (d)(2) – Live Scan process for providing fingerprints**

The proposed subsection requires applicants to take a completed Live Scan form to a location that offers the service. The applicant will have to pay all fees charged by the location, including the fees paid to the California Department of Justice, the Federal Bureau of Investigation, and any rolling fee. The subsection also provides a weblink for applicants

to check for more information regarding the Department of Justice’s fingerprint background check requirements, Live Scan locations and current fee information.

Consistent with the requirements of the DOJ, the Board proposes to add this subsection to provide applicants the information they need to obtain fingerprints from a Live Scan location and provide them to the Board, which includes payment of the fingerprint processing fees through the Live Scan system at an approved Live Scan location (see Underlying Data “Fingerprint Background Checks”). The Board specifies that the applicant will generally be required to pay all processing fees payable to the Live Scan operator, including the “rolling fee” for fingerprint rolling and the DOJ. This requirement is necessary to require applicants to pay whatever fee is required by the Live Scan Operator (which can vary depending on whether offered by a private business or local law enforcement or school district) and the DOJ and to allow for changes in the fees set by the California Attorney General’s Office (the fee is currently \$49). To ensure that applicants check with the DOJ for the most recent information regarding fingerprint background requirements and Live Scan locations, the Board directs applicants to visit the DOJ’s website at: <https://oag.ca.gov/fingerprints>.

- **Adopt Subsection (d)(3) – Process for providing fingerprints for out-of-state applicants**

The proposed subdivision describes how applicants from outside of California who cannot be fingerprinted electronically through the Live Scan service must comply with the fingerprinting requirements. Out-of-state applicants will need to have their fingerprints taken at a law enforcement agency in their state of residence using fingerprint cards and submit two fingerprint cards to the Board, along with a payment for the fees charged by the California Department of Justice and the Federal Bureau of Investigation (FBI). The payment method would be required to be made either by personal check drawn on a U.S. bank, money order or certified check, payable to the “Dental Board of California”. The subsection provides the Board’s address where fingerprints cards need to be sent so that the Board may process the fingerprints manually through the DOJ.

The Board proposes this subsection to provide out-of-state applicants the information they need to have fingerprints taken and submitted to the Board in compliance with the current requirements for submission of fingerprints for applicants that cannot be fingerprinted electronically through Live Scan. The Board lacks the authority to waive the fingerprint requirements and fees to be paid to it directly to meet the DOJ fingerprint processing requirements for this type of applicant (See Underlying Data from the DOJ Website entitled “Applicant Agencies”). In order to provide a full criminal background check, applicants are required to pay fees for both DOJ and FBI processing through the two agencies’ databases. To ensure that applicants meet all requirements in a form of payment accepted by the Board, the Board specifies how payment needs to be addressed (by check made out to the Board).

- **Adopt Subsection (e) – Board issuance of temporary license**

This proposed subsection outlines the circumstances where the Board will issue a temporary license to an applicant. Once the applicant’s application has been determined to meet the requirements of subsection (b), and that there are no grounds for denying the application as outlined in BPC sections 115.6 and 480 (sections that authorize the Board to deny such applications), the Board shall issue the applicable (dentist, dental auxiliary, or affiliated permit) temporary license. That license would be subject to the terms of BPC section 115.6(h), which provides the following limitations on these temporary licenses:

1. Temporary licenses are nonrenewable, and,
2. Temporary licenses shall expire: (a) 12 months after issuance, (b) upon issuance or denial of a standard license, (c) upon issuance or denial of a license by endorsement, or (d) upon issuance or denial of an expedited license pursuant to BPC 115.5, whichever occurs first.

The Board proposes this subsection to clarify at what point in the process the Board will make a determination that the applicant is qualified for temporary licensure and the criteria to receive a license after Board review. This is necessary to provide adequate notice to applicants and establish what criteria are needed to demonstrate that the minimum standards for this temporary license are met. These include that the applicant has met the standards in subsection (b) of this proposal and that no grounds for denial exist under BPC section 480 (which authorizes the Board to deny based upon specified criminal convictions, formal discipline by a state licensing board, or knowingly made a false statement of fact in the application).

- **Adopt Subsection (f) – Approval of affiliated permits with underlying licenses**

This proposed subsection addresses the situation where an applicant for temporary licensure seeks an affiliated permit as defined in subsection (a)(8) (to practice as an elective facial cosmetic surgeon (EFCS), oral and maxillofacial surgeon (OMS), or to administer general anesthesia or moderate sedation to an adult and/or pediatric patient, oral conscious sedation for adult patients, or pediatric minimal sedation). It requires applicants seeking an affiliated permit to have also applied for a temporary dental license or hold a current, active and unrestricted physician and surgeon license issued by the Medical Board of California, depending on the affiliated permit they seek.

The Board proposes this subsection to address cases where an applicant for temporary licensure seeks to provide dental services that require an affiliated permit in addition to a dental license or a physician and surgeon license. In those cases, it is important to ensure that the applicant has the related license, or has applied for it, prior to or at the same time as applying for the affiliated permit. This is necessary to ensure consumer protection and compliance with the requirements in the Act that such licenses to practice and provide these specialty services are considered supplemental to the primary dentist or physician

license (see BPC sections 1638, 1638.1, 1646, 1646.1, 1646.2, 1646.9, 1647.1, 1647.2, 1647.3, 1647.18, 1647.19, 1647.30 and 1647.31). Subsection (f)(1) lists the BPC sections that authorize permits issued by the Board but that require the applicant to have the primary dentist license in the first instance, thereby necessitating applicants for that primary license prior to or at the same time as they seek a supplemental “affiliated” permit to practice dentistry in one of the areas listed in this subsection: Sections 1638.1 (EFCS permit), 1646.1 (general anesthesia permit), 1647.2 (moderate sedation), 1647.19 (adult oral conscious sedation permit), or 1647.31 (pediatric minimal sedation permit). Subsection (f)(2) lists the BPC sections that authorize permits issued by the board that would require a current, active and unrestricted physician and surgeon license issued by the Medical Board of California prior to applying for the affiliated permit to practice with a general anesthesia/deep sedation permit per BPC section 1646.9. Section 1646.9 requires an applicant to have a physician and surgeon license “in good standing.” As this term is capable of more than one interpretation, the Board specifies that the license must be “current, active and unrestricted” to qualify. This requirement is necessary because the possession of a current, active, and unrestricted license means that the applicant has met competency requirements and the license is not restricted in any way that may be the result of disciplinary action. This provides assurances to the Board that the applicant has a current knowledge and experience base, is minimally competent to perform their duties, and is not limited in their competency or restricted in any manner from discharging those duties for the protection of the public.

- **Adopt Subsection (g) – License required prior to issuance of affiliated permit**

This proposed subsection states that no affiliated permits will be issued to an applicant until that applicant has been issued a temporary dentist license or has obtained a physician and surgeon license issued by the Medical Board of California. The Board proposes this subsection to ensure that applicants for these affiliated permits not only have complied with the requirements for the affiliated permit, but that they have the necessary credential that serves as a prerequisite for the affiliated permit. To issue the affiliate permit prior to the issuance of a temporary dental license or physician and surgeon license would expose the Board to a situation where an individual has a permit to provide dental services, but not the underlying credential that helps ensure that the services provided through the permit are consistent with the Act, and are qualified for the temporary license which requires the same “scope” as a California licensee. Further, as explained in subsection (f) above, obtaining the primary license (dentist or physician) is a condition precedent to the affiliated permit be issued. However, this condition is not specified in any law or regulation for these temporary licenses. This regulation is therefore necessary to specify that requirement.

- **Adopt Subsection (h) – Effective date**

This proposed subsection indicates when the proposed regulations would become operative (either July 1, 2023, or on the next quarterly implementation date following the filing of the regulations). July 1, 2023 is the same date that the new BPC section 115.6

comes into effect, and the implementation of these regulations is intended to be contemporaneous with the implementation of the law. Having the effective date specified in this regulatory proposal also provides notice and historical guidance to staff and the regulated community regarding when these standards were implemented.

Non-substantive Changes

On March 27, 2023, the following non-substantive technical changes were made to the text approved by the Board at the November 17, 2022 meeting pursuant to the Executive Officer's delegation by the Board at the November meeting:

- (1) The Words "of the Code" were added to the end of the sentence in proposed subsections (a)(8) and (f)(1) to clarify the precise cross-reference to the sections of the Business and Professions Code cited by the Board;
- (2) Change the word "request" to "application" in subsection (c)(1) consistent with the terms used in that section for an "application for approval to test";
- (3) The last two sentences of proposed subsection (f) were broken out into new subsections (g) and (h); and,
- (4) The Note in the "authority" section was revised to strike reference to BPC section 23.7 as inapplicable to this proposal.

Underlying Data

1. AB 107 (Chapter 693 Statutes of 2021)
2. Agenda, Relevant Meeting Materials, and Minutes from the Board's August 25, 2022 Board meeting
3. Agenda, Relevant Meeting Materials and Minutes from the Board's November 17-18, 2022 Board Meeting
4. Committee analysis for the Assembly Committee on Business and Professions Committee for AB 107 (Salas), dated March 23, 2021
5. Committee analysis for the Senate Committee on Business, Professions and Economic Development for AB 107 dated June 30, 2021.
6. Committee analysis for the Senate Committee on Military and Veterans Affairs for AB 107, dated 7/14/21
7. The California Department of Justice's website guidance document entitled "Fingerprint Background Checks" (also available at <https://www.oag.ca.gov/fingerprints>)
8. The California Department of Justice's website guidance document entitled "Applicant Agencies" (also available at: <https://oag.ca.gov/fingerprints/agencies>)

Fiscal Impact Estimates¹

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The proposed regulations are anticipated to result in a fiscal impact to the Board, which will be absorbed within existing resources. Based on historical licensing data, the Board anticipates receiving six applications for temporary licensure per year.

The Board requires approximately 2.25 hours to process an application with estimated workload costs of \$150 as follows:

Dental Board of California TEMPORARY LICENSE (AB 107)			
Workload Tasks	Per	Minutes	SSA
Receive and Process Application	1	15	15
Respond to Inquiries	1	20	20
Review and Approve Application	1	60	60
Cashiering and Data Entry	1	20	20
Issuing License	1	20	20
Minutes per Classification:			135
Hours per Classification:			2.25
Costs per Classification:			\$150
Total Costs:			\$150

SSA: Staff Services Analyst (\$65 per hour)

The Board will also incur \$15 per application in materials and postage costs, which will result to total costs of \$165 per applicant, \$990 to issue six licenses in year-one of implementation and up to \$11,217 over a ten-year period as follows:

Dental Board of California AB 107 License - Fiscal Impact (costs)												
License Type	Applicants Per Year	Years Ongoing										Total
		1	2	3	4	5	6	7	8	9	10	
AB 107 Applicants	Various	6	6	6	6	6	6	6	6	6	6	60
Licensing Workload*	\$150	\$900	\$927	\$955	\$983	\$1,013	\$1,043	\$1,075	\$1,107	\$1,140	\$1,174	\$10,317
Materials and postage	\$15	\$90	\$90	\$90	\$90	\$90	\$90	\$90	\$90	\$90	\$90	\$900
Total Costs:		\$990	\$1,017	\$1,045	\$1,073	\$1,103	\$1,133	\$1,165	\$1,197	\$1,230	\$1,264	\$11,217

*Includes three percent annual growth factor

The Board will ensure compliance with the proposed regulations through its existing licensing and enforcement activities and does not anticipate increased workload costs resulting from this proposal.

¹ The Board places this information in the Initial Statement of Reasons since it cannot utilize charts in the notice for accessibility reasons.

In the event the Board determines a licensee to be out of compliance with the regulations and subject to formal discipline, the Board estimates enforcement-related costs of \$5,000 per case.

Current law does not authorize the Board to charge license fees related to this proposal. As a result, no license fee revenues will be collected.

Applicants will be required to complete a fingerprint background check with estimated costs of \$75, of which \$32 is passed onto the DOJ. As a result, the DOJ is projected to receive \$192 in fingerprint revenues per year and up to \$1,920 over a ten-year period.

The regulations do not result in costs or savings in federal funding to the state.

Business Impact:

The Board has made the initial determination that the proposed regulations would not have a significant, statewide adverse economic impact directly affecting business, specifically dentist and dental auxiliaries, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts.

The proposed regulations provide for the issuance of a temporary license status to military spouses/partners and will provide additional licensees for businesses to employ. The Board estimates up to six additional individuals will be granted licensure per year.

These individuals will be required to take and pass a fingerprint criminal history background check. As a result, businesses providing these services are projected to have a small increase in revenues.

Economic Impact Assessment:

Under current law, the Board does not have authority to charge an application fee in connection with temporary licensure. The Board will not collect any revenue in connection with these regulations from applicants seeking temporary licensure to practice professions regulated by the Dental Practice Act.

However, applicants would need to pay one-time costs of approximately \$75 to complete a fingerprint criminal records check, with \$32 passed on to the DOJ and \$17 to the Federal Bureau of Investigation. The remaining \$26 stays with the businesses providing the fingerprint services.

Applicants would also need to pay the testing vendor to take the California Law and Ethics Examination.

Applicants will also need to pay one-time costs of approximately \$25 to take and pass the California Law and Ethics Examination.

The Board estimates total annual costs of \$600 for six individuals, and up to \$6,000 over a ten-year period as follows:

Dental Board of California AB 107 License - Economic Impact (costs)												
License Type	Amount	Years Ongoing										Total
		1	2	3	4	5	6	7	8	9	10	
AB 107 Applicants	6	6	6	6	6	6	6	6	6	6	6	60
Fingerprint*	\$75	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$450	\$4,500
CA Law & Ethics Exam	\$25	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$1,500
Total Costs:		\$600	\$600	\$600	\$600	\$600	\$600	\$600	\$600	\$600	\$600	\$6,000

*DOJ Fingerprint Processing Fee \$32; FBI Fingerprint Processing Fee \$17; Processing Center Fee \$26

This Board has determined that this regulatory proposal will have the following effects:

It will create and not eliminate jobs within the State of California because the proposed regulations would assist qualified applicants to practice dentistry, provide services as a dental auxiliary, or practice under an affiliated permit, as specified.

It will positively impact businesses within the State of California because the proposed regulations are intended to ease the burden of qualified applicants seeking to practice dentistry, providing services as a dental auxiliary, or practicing under an affiliated permit. While it is possible that some applicants would be seeking to create their own business, the Board does not have data to support an estimate at this time.

It will not affect the expansion of businesses currently doing business within the State of California because the proposed regulations are focused on easing the burden of qualified applicants seeking to practice dentistry, providing services as a dental auxiliary, or practicing under an affiliated permit.

This regulatory proposal affects the health and welfare of California residents by expanding healthcare access to qualified dentists, and dental auxiliaries, while also reducing barriers to licensure for military spouses/partners.

This regulatory proposal does not affect worker safety because it does not involve worker safety.

This regulatory proposal will have no impact on the state's environment because it is not relevant to the state's environment.

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome 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.

No such alternatives have been proposed, however, the Board welcomes comments from the public.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed, however, the Board welcomes comments from the public.