

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

**NOTICE OF PROPOSED REGULATORY ACTION
CONCERNING AB 107: TEMPORARY
LICENSES FOR MILITARY SPOUSES OR
PARTNERS**

NOTICE IS HEREBY GIVEN that the Dental Board of California (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview listed below, after considering all comments, objections, and recommendations regarding the proposed action. Any person interested may present statements or arguments relevant to the action proposed in writing.

WRITTEN COMMENTS

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be **received** by the Board at its office no later than by **5:00 p.m., September 12, 2023** or must be received by the Board at the hearing, should one be scheduled.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to any of the individuals listed under "Contact Persons" in this notice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE:

Pursuant to the authority vested by Business and Professions Code (BPC) sections 1614, and to implement, interpret or make specific BPC sections 480, 115.6, 1611, 1632, 1638, 1638.1, 1646, 1646.1, 1646.2, 1646.9, 1647.1, 1647.2, 1647.3, 1647.18, 1647.19, 1647.30, 1647.31, 1749.1, 1750.2, 1750.4, 1752.1 and 1753, the Board is considering making changes to Article 2 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The 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 available quarterly effective date following the adoption of these regulations with the Secretary of State if adopted after July 1, 2023.

ANTICIPATED BENEFITS OF PROPOSED REGULATIONS:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents:

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.

This regulatory proposal does not affect worker safety or the State's environment.

DETERMINATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATION(S)

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

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES:

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 per application.

The Board will also incur \$15 per application in materials and postage costs, which will result to total costs of \$165 per applicant and \$990 to issue six licenses in year-one of implementation and up to \$11,217 over a ten-year period (this assumes a 3 percent annual increase in workload costs).

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.

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 on the Department of Justice (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.

Cost or Savings in Federal Funding to the State: None. The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Significant Effect on Housing Costs: None

Business Impact:

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

The proposed regulations provide for the issuance of a temporary license status to military spouses/partners and will provide additional, qualified licensees for businesses to employed. 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.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board are as follows:

An applicant would need to pay for the fingerprints the Board would request to conduct a criminal records check. This would be approximately \$75 per applicant, with \$49 going to the DOJ and the Federal Bureau of Investigation. The remaining \$26 goes to the businesses that take the fingerprints and send them to the agencies for the criminal records check. Applicants for temporary dental licensure would also need to pay the testing vendor to take the California Law and Ethics Examination. That fee is currently \$25 and addresses the vendor's costs.

Based on the Board estimate of six applications per year, the maximum total costs to applicants for one year would be \$600, and over 10 years the costs would be \$6,000. As not all applicants would have to take the Law and Ethics Examination, this cost estimate is a maximum estimate.

EFFECT ON SMALL BUSINESS:

While the Board does not have, nor does it maintain, data to determine if any of its licensees (dentists) are a “small business,” as defined in Government Code section 11342.610, the Board has made an initial determination that the proposed regulatory action will not affect small businesses. Although the proposed regulation will directly affect businesses statewide, which may include small businesses, the Board does not anticipate any adverse economic impact as described in the Business Impact Estimate section listed above.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Based on historical licensing data, the Board anticipates receiving on average six applications for temporary licensure (including affiliated permits) per year.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents:

This regulatory proposal affects the health and welfare of California residents because the proposed regulation will facilitate the practice of qualified dentists, dental auxiliaries and others seeking to practice under an affiliated permit who are licensed in other jurisdictions as they wait for the processing of their applications for California licensure. Providing temporary licensure would minimize the time that otherwise qualified professionals would be barred from practicing due to having to move to California due to the military posting of their spouse or domestic partner.

This regulatory proposal will have no impact on 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. This proposal relates to standards for qualified dentists, physicians and dental auxiliaries seeking temporary licensure in California.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

CONSIDERATION OF ALTERNATIVES:

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally if a hearing is requested, or in writing relevant to the above determinations as described in the “Written Comments” section of this notice.

INITIAL STATEMENT OF REASONS AND RULEMAKING FILE INFORMATION:

The Board has compiled a record for this regulatory action, which includes an initial statement of the reasons (ISOR) for the proposed action, proposed regulatory text, and has available all the information upon which the proposal is based, which may be obtained from the contact persons identified in this notice.

TEXT OF PROPOSAL:

Copies of the exact language of the proposed regulations, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 1550, Sacramento, California 95815 or by accessing the Board’s website at https://www.dbc.ca.gov/about_us/lawsregs/proposed_regulations.shtml.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: David Bruggeman, Staff Services Manager I
Dental Board of California
Address: 2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2027
Fax No.: (916) 263-2140
E-Mail Address Lawrence.Bruggeman@dca.ca.gov

The backup contact person is:

Name: Christy Bell, Assistant Executive Officer
Dental Board of California
Address: 2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2187
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WEBSITE ACCESS

Materials regarding this proposal can be found at the Board's Website at https://www.dbc.ca.gov/about_us/lawsregs/proposed_regulations.shtml