

DENTAL BOARD OF CALIFORNIA

Deletion of Application Question Requesting Applicants' Criminal History and Renumbering

Title 16, California Code of Regulations, Section 1028

Section 100 CHANGE WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(b)(3), of the California Code of Regulations (CCR), the Department of Consumer Affairs, Dental Board of California (Board) submits this written statement explaining why the proposed amendment to section 1028 of Article 2, Chapter 2, Division 10, of Title 16, CCR does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Subject to the approval of the Office of Administrative Law, the Board would add to, revise, or delete text in the CCR as follows:

Section 1028.

1. The Board proposes to delete subdivision (b)(16), which requires an applicant for licensure to disclose information as to whether the applicant has ever been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under \$1,000 not involving alcohol, dangerous drugs, or controlled substances.

Assembly Bill 2138 (Chiu, Chapter 995, Statutes of 2018) (AB 2138) enacted Business and Professions Code section 480, effective July 1, 2020. Section 480(f)(2) provides that "a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history." (Bus. & Prof., § 480, subd. (f)(2).) Section 1028(b)(16) requires an applicant for licensure as a dentist to disclose information as to whether the applicant has ever been convicted of any violation of the law in this or any other state, the United States, or other country.

Effective July 1, 2020, the Board can no longer ask for the information set forth in section 1028(b)(16). This is a change without regulatory effect because the Board is proposing to make its regulation consistent with a changed California statute. (1 Cal. Code Regs., tit. 1, § 100, subd. (a)(6).) Section 1028(b)(16) is inconsistent with section 480(f)(2), effective July 1, 2020, and the Board does not have discretion to require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6)(A) & (B).)

2. The Board proposes to renumber subdivision (b)(17) as (b)(16) and renumber subdivision (b)(18) as subdivision (b)(17) as a result of the deletion of former subdivision (b)(16).