

DENTAL BOARD OF CALIFORNIA
FINAL STATEMENT OF REASONS

HEARING DATE: August 8, 2016

SUBJECT MATTER OF PROPOSED REGULATIONS: Fee Increase

SECTION(S) AFFECTED: CCR Sections 1021 and 1022

UPDATED INFORMATION:

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

At its May 2016 meeting, the Dental Board of California (Board) approved proposed regulatory language relative to the Fee Increase as relating to licensing and permitting fees for dentists and dental assistants and directed staff to initiate the rulemaking. Board staff filed the initial rulemaking documents with the Office of Administrative Law (OAL) on Tuesday, June 14, 2016 and the proposal was published in the California Regulatory Notice Register on Friday, June 24, 2016. The 45-day public comment period began on Friday, June 24, 2016 and ended on Monday, August 8, 2016. The Board held a regulatory hearing in Sacramento on Monday, August 8, 2016.

The Board received written comments from: (1) the California Dental Association (CDA); and (2) a joint letter from the Foundation for Allied Dental Education, Inc. (FADE), the California Association of Dental Assisting Teachers, Inc.(CADAT), the California Dental Assistants Association, Inc. (CDAA), and the Extended Functions Dental Assistants Association, Inc. (EFDAA).

At its August 19, 2016 meeting, the Board considered comments received during the 45-day public comment period and voted to modify that the text in response to some of the comments. The Board directed staff to notice the modified text for 15-day public comment, which included the amendments discussed at the meeting. If after the 15-day public comment period no adverse comments were received, the Executive Officer was further authorized to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopted the proposed amendments as noticed in the modified text.

The Notice of Modified Text and Modified Text were noticed on the Board's web site and mailed to interested parties on August 25, 2016. The 15-day comment period began on August 26, 2016 and ended on September 10, 2016.

The Board proposed the following changes in the modified text:

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- Amend Section 1021(c) to reduce the initial application fee for those applicants qualifying pursuant to Business and Professions Code (Code) Section 1634.1 from \$800 to \$400. During the May 2016 Board meeting, members of the Board expressed concern relating to the \$800 cost of this examination pathway. While conducting research regarding the pathway and considering the number of applicants, the cost associated with implementation, and cost associated with implementing similar pathways, Board staff determined that the fee be modified to \$400. The Board has authority to decide the fee for this pathway and therefore it would be necessary to establish the fee for now at \$400, as to maintain consistency with other similar examination pathways.
- Amend Section 1021(n) to reduce the fictitious name permit renewal fee from \$650 to \$325 in response to a comment received from the California Dental Association (CDA). The CDA commented that its membership makes up approximately 26,000 licensed dentists in California, and that the Board's oversight of the profession is important to its organization. The CDA recognizes and supports the Board's role in the licensure and enforcement of the practice of dentistry that set the standard of professionalism in California. The CDA agreed that it is necessary for the Board to have resources available to carry out its responsibilities, and that those resources must come from the dentists who benefit from the Board's oversight. The CDA commented that though the statute requires that the initial fictitious name permit fee be equal to the initial licensure fee, it does not apply to the fictitious permit renewal fee. The CDA expresses concern that a fee increase of the fictitious name permit renewal to \$650 will result in more than 6,500 dentists experiencing a very dramatic rise in the fees they must pay, on an ongoing basis, for the privilege of providing dental care under a consumer-friendly business name. The CDA encouraged the Board to reconsider the proposal and the Board's subcommittee's recommendation of \$325. The Board accepted this comment.
- Amend Section 1021(r) to reduce the Oral Conscious Sedation Permit Renewal fee from \$500 to \$168 and amend Section 1021(ac) to establish the fee for the adult or minor oral conscious sedation permit at \$368. Board staff recommended that the fee associated with the oral conscious sedation (OCS) application fee be modified to \$368 and renewal fee be modified to \$168. During a previous meeting, Board members expressed concern regarding the fees proposed for the OCS permit and suggested that further research be conducted to determine whether the proposed fee could be modified. Staff reconsidered the complexity of all permits, the current cost, the recommendations from the Board's Subcommittee, and the recommendations from Capitol Accounting Partners and

staff determined that the oral conscious sedation permit could be modified to \$368 for initial application for the permit and \$168 for renewal of the permit.

The Board did not receive comments in response to the modified text. Since there were no comments received in response to the modified text, the Board adopted the final text as noticed in the modified text at its August 19, 2016 meeting.

Board staff submitted the final rulemaking package to the Office of Administrative Law (OAL) on April 13, 2017. An OAL attorney contacted Board staff regarding some concerns relating to the consistency of the language throughout the rulemaking process. Board staff reviewed the rulemaking again and found some technical errors that need to be corrected and noticed for 15-day public comment.

At its May 12, 2017 meeting, the Board considered staff recommendations to correct the language. The Board directed staff to modify the text as recommended and to take all steps necessary to complete the rulemaking process, including preparing the second modified text for a 15-day public comment period, which included the amendments accepted by the Board at the meeting. If after the 15-day public comment period no adverse comments were received, the Executive Officer was further authorized to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopted the proposed amendments as noticed in the second modified text.

The Notice of Second Modified Text and the Second Modified Text was noticed on the Board's web site and mailed to interested parties on May 15, 2017. The 15-day comment period began on May 16, 2017 and ended on May 30, 2017.

The Board proposed the following changes in the second modified text:

- Amend Section 1021(r) to correct the Oral Conscious Sedation Permit Renewal fee from \$136 to \$168. The Board had voted to modify the fee to \$168 as part of the initial modified text. However, staff inadvertently noticed the modified text reflecting the incorrect fee of \$136. This modification corrects this error.
- Include the proposed addition of Section 1021(ab) relating to the \$50 license certification fee. The proposed language initially included this proposed fee; however, the text was inadvertently deleted on the noticed modified text. This modification corrects this error.
- Makes technical amendments to correct the lettering of the subdivisions.

LOCAL MANDATE

A mandate is not imposed on local agencies or school districts.

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SMALL BUSINESS IMPACT

The Board has made the initial determination that the proposed regulation would not have a significant, statewide adverse economic impact directly affecting business, including the inability of California businesses to compete with businesses in other States.

The Board has determined that the following types of businesses may be affected by the proposed fee increase:

- Businesses owned by licensees of the Board that pay for the licensure and renewal fees of its owners or dentist employees.

Although businesses owned by licensees of the Board and businesses that employ licensees of the Board may be impacted, the Board estimates that the fiscal impact would be minor and absorbable. The Board does not maintain data relating to the number or percentage of licensees who own a business; therefore, the number or percentage of businesses that may be impacted cannot be predicted. Accordingly, the initial or ongoing costs for a business owned by a licensee that pays for the licensure and renewal fees of its owners or employees cannot be projected. The proposed fee increase would impact individual licensees. The Board estimates that: the average salary of a dentist in California is approximately \$150,000 per year; the average salary of an oral and maxillofacial surgeon is \$250,000 per year; the average salary of a registered dental assistant in California is approximately \$35,000 per year; and, the average salary of a registered dental assistant in expanded functions in California is approximately \$48,000 per year.

IMPACT ON THE INDIVIDUAL

Applicants Qualifying Pursuant to Code Section 1632(c)(2) (Western Regional Examining Board (WREB) Examination):

Code Section 1724(a) authorizes the Board to establish a fee for an application for licensure qualifying pursuant to Code Section 1632(c)(2) up to a maximum of \$1,000.

This proposed fee increase would impact individual dental applicants seeking initial licensure from the Board through the Western Regional Examining Board Examination pathway. The Board estimates that the fiscal impact on these individual dentists would be minor and absorbable. Currently, the Board's application for licensure is \$100. The Board's proposed application fee increase would effectuate an increase of \$300 to a total of \$400. The proposed application fee increase would reflect an increase in the cost of licensure of 0.20% of a licensee's annual income. The Board receives approximately 800 applications from candidates qualifying pursuant to Code Section 1632(c)(2) annually.

Applicants Qualifying Pursuant to Code Section 1634.1 (Licensure by Residency):

Code Section 1724(b) authorizes the Board to establish a fee for an application for licensure qualifying pursuant to Code Section 1634.1 up to a maximum of \$1,000.

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This proposed fee increase would impact individual candidates qualifying for initial licensure from the Board through the licensure by residency pathway. The Board estimates that the fiscal impact on these individual dentists would be minor and absorbable. Currently, the Board's application for licensure is \$100. The Board's proposed application fee increase would effectuate an increase of \$700 for a total of \$800. The proposed application fee increase would reflect an increase in the cost of licensure of 0.47% of a licensee's annual income. The Board receives approximately 800 applications from candidates qualifying pursuant to Code Section 1634.1 annually. The Board receives approximately 190 applications from candidates qualifying pursuant to Code Section 1634.1 annually.

Applicants Qualifying Pursuant to Code Section 1632(c)(1) (Portfolio Examination):
Code Section 1724(a) authorizes the Board to establish a fee for an application for licensure qualifying pursuant to Code Section 1632(c)(1) up to a maximum of \$1,500.

This proposal would impact individual students at Board-approved dental schools located in California who apply for initial licensure from the Board via the portfolio examination pathway. The Board estimates that the economic impact on these individuals would be minor and absorbable. The current application fee for the portfolio examination is \$350. The Board's proposed application fee increase would effectuate an increase of \$50 to a total of \$400. The proposed fee increase would equate to an additional licensing fees being paid by an applicant for licensure, which reflects an annual increase in the cost of licensure of 0.017% of a licensee's annual income. The Board anticipates receiving approximately 50 applications from candidates qualifying pursuant to Code Section 1632(c)(1) annually.

Applicants Qualifying Pursuant to Code Section 1635.5 (Licensure by Credential):
Code Section 1724(c) authorizes the Board to establish a fee for an application for licensure qualifying pursuant to Code Section 1635.5 up to a maximum of \$1,000.

This proposal would impact individual dentists who have been practicing out-of-state and who are seeking to apply for initial licensure from the Board via the license by credential pathway. The Board estimates that the economic impact on these individuals would be minor and absorbable. The current application fee for the license by credential pathway is \$283. The Board's proposed application fee increase would effectuate an increase of \$242 for a total of \$525. The proposed fee increase would equate to additional licensing fees being paid by an applicant for licensure, which reflects an annual increase in the cost of licensure of 0.16% of a licensee's annual income. The Board receives approximately 170 applications from candidates qualifying pursuant to Code Section 1635.5 annually.

Applicants for Initial Licensure/Licensees Seeking Biennial Renewal

This proposed fee increase would impact individual dentists seeking initial licensure from the Board or seeking biennial renewal of their license. The Board estimates that the fiscal impact on these individual dentists would be minor and absorbable.

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Currently, the Board's initial licensure fee and biennial renewal fee is \$525. The Board's proposed biennial renewal fee increase would effectuate an increase of \$125 for a total of \$650 for initial and biennial renewal licensure fees. The proposed renewal fee increase would equate to an annual increase of \$62.50 in additional licensing fees being paid by a dentist licensee, which reflects an annual increase in the cost of licensure of less than 0.04% of a licensee's annual income. The Board receives approximately 1,000 applicants for initial licensure annually; and approximately 17,000 active licensees renew biennially.

Delinquency Fee for Late Renewal:

Code Section 1724(f) specifies that the delinquency fee shall be fifty per cent (50%) of the renewal fee for such a license or permit in effect on the date of the renewal of the license or permit.

If a licensee chooses not to pay the required fee to maintain licensure with the Board, the license shall become delinquent. To renew a license back to active status after delinquency, a licensee will be required to pay back the renewal fees from each renewal cycle missed in addition to delinquency fees. The license may maintain a delinquency status for five years. If after five years the license is not renewed back into an active status, the license will be cancelled. A licensee who wishes to regain licensure after a license has been cancelled will have to reapply for licensure to the Board. The delinquency fees are accrued as a result of the choices of the individual licensees not to meet the respective deadlines of licensure and permitting. The fiscal impact of the delinquency fees are minor and absorbable on the licensee since the licensee has the power to avoid such a fee by complying with their respective deadlines. The Board receives approximately 500 delinquent renewals for DDS license and permit-holders annually.

Application for Additional Office Permit:

Code Section 1724(h) authorizes the Board to establish a fee for an application for an additional office permit up to a maximum of \$750.

This proposal would impact individual dentists who are seeking to establish an additional office for their place of practice. The Board estimates that the economic impact on individuals operating multiple offices would be minor and absorbable. The additional office permit fee is \$100. The Board's proposed permit fee increase would effectuate an increase of \$250 for a total of \$350. The proposed fee increase would equate to an initial permit fee of \$175 increase in additional licensing fees annually which reflects an annual increase in the cost of licensure of 0.12% of a licensee's annual income. The Board receives approximately 400 applications for additional office permits annually.

Biennial Renewal of Additional Office Permit:

Code Section 1724(h) authorizes the Board to establish a fee for the biennial renewal of an additional office permit up to a maximum of \$375.

This proposal would impact individual dentists who are seeking to renew their additional office permit. The Board estimates that the economic impact on individuals operating multiple offices would be minor and absorbable. The current renewal fee for an additional office permit is \$100. The Board's proposed permit fee increase would effectuate an increase of \$150 for a total of \$250. The proposed fee increase would equate to an annual permit fee increase of \$75 in additional licensing fees annually being paid by a dentist, which reflects an annual increase in the cost of licensure of 0.05% of a licensee's annual income. The Board receives approximately 1,060 renewals for additional office permits annually.

Application for Fictitious Name Permit:

Code Section 1724.5, specifies that the initial permit fee for a fictitious name permit is an amount equal to the renewal fee for the applicant's license to practice dentistry. Except that, if the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee. California Code of Regulations, Title 16, Section 1021(o) specifies that the Board's initial fee for the fictitious name permit is the fee prescribed by Business and Professions Code Section 1724.5.

The Board estimates that the fiscal impact on individuals applying for an initial fictitious name permit would be minor and absorbable. The current application fee for an initial fictitious name permit is \$525. The Board's proposed biennial renewal fee increase would effectuate an increase of \$125 to a total of \$650 for the application fee for an initial fictitious name permit.

For those applicants whose permit would expire less than one year after its issuance, the Board estimates that the fiscal impact on individuals applying for an initial fictitious name permit would be minor and absorbable. This current application fee for an initial fictitious name permit fee is \$262.50 ($\$525 \text{ biennial renewal fee} \times 50\% = \262.50). The Board's proposed biennial renewal fee increase would effectuate an increase of \$62.50 to a total of \$325 for those applicants whose permit would expire less than one year after its issuance.

The Board receives approximately 400 applications for fictitious name permits annually that would require paying the full renewal fee amount as the application fee and approximately 250 applications for fictitious name permits annually that require paying 50 percent of the renewal fee amount as the application fee.

Renewal/Delinquency of Fictitious Name Permit:

Code Section 1724.5 specifies that the renewal and delinquency fees for a fictitious name permit shall be fixed by the Board at not more than the then current amount of the renewal fee for a license to practice dentistry not less than five dollars. The current renewal fee for a fictitious name permit is \$150. The Board's proposed renewal fee increase would effectuate an increase of \$175 to a total of \$325. The proposed fee increase would equate to an annual permit fee increase of \$87.50 in additional permitting fees annually being paid by a dentist, which reflects an annual increase in

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the cost of licensure of 0.058% of a licensee's annual income. The Board has approximately 2,915 active fictitious name permit-holders that renew on a biennial basis.

If a licensee chooses not to pay the required fee to maintain licensure with the Board, the license shall become delinquent. To renew a license back to active status after delinquency, a licensee will be required to pay back the renewal fees from each renewal cycle missed in addition to delinquency fees. The license may maintain a delinquency status for five years. If after five years the license is not renewed back into an active status, the license will be cancelled. A licensee who wishes to regain licensure after a license has been cancelled will have to reapply for licensure to the Board. The delinquency fees are accrued as a result of the choices of the individual licensees not to meet the respective deadlines of licensure and permitting. The delinquency fees are minor and absorbable on the licensee since the licensee has the power to avoid such a fee for their own license or permit.

Application for Continuing Education Registered Provider:

Code Section 1724(j) authorizes the Board to establish a fee for a provider of continuing education up to a maximum of \$500 per year.

The Board estimates that the fiscal impact on individuals registering as providers of continuing education would be minor and absorbable. The current application fee for a continuing education registered provider permit is \$250. The Board's proposed fee increase would effectuate an increase of \$160 to a total of \$410 for the continuing education registered provider permit. The proposed fee increase would equate to an annual permit fee increase of \$80 in additional licensing fees which reflects an annual increase in the cost of licensure of 0.05% of a licensee's annual income. The Board receives approximately 100 applications to become continuing education registered providers annually.

Application for General Anesthesia/Conscious Sedation Permits:

Code Section 1724(o) authorizes the Board to establish a fee for an application for a general anesthesia permit up to a maximum of \$1,000.

Code Section 1724(q) authorizes the Board to establish a fee for an application for a conscious sedation permit up to a maximum of \$1,000.

Code Section 1724(r) authorizes the Board to establish the fee for an application for an oral conscious sedation permit up to a maximum of \$1,000.

The Board estimates that the fiscal impact on an individual applying for general anesthesia or conscious sedation would be minor and absorbable. The current application fee for such permits is \$200 each. The Board's proposed fee increase would effectuate an increase of \$300 to a total of \$500 for the general anesthesia, conscious sedation, or oral conscious sedation permit. The proposed fee increase would equate to an annual permit fee increase of \$150 in additional licensing fees which reflects an

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annual increase in the cost of licensure of 0.10% of a licensee's annual income. The Board receives approximately 60 applications for general anesthesia permits, and 45 applications for conscious sedation permits annually.

Renewal of General Anesthesia/Conscious Sedation Permit:

Code Section 1724(o) authorizes the Board to establish the fee for the renewal of a general anesthesia permit up to a maximum of \$600.

Code Section 1724(q) authorizes the Board to establish the fee for the renewal of a conscious sedation permit up to a maximum of \$600.

The Board estimates that the fiscal impact on an individual renewing a general anesthesia or conscious sedation permit would be minor and absorbable. The current application fee for such permits is \$200. The Board's proposed fee increase would effectuate an increase of \$125 to a total of \$325 for the renewal permit. The proposed fee increase would equate to an annual permit fee increase of \$62.50 in additional licensing fees which reflects an annual increase in the cost of licensure of 0.04% of a licensee's annual income. The Board has approximately 430 general anesthesia permit holders and 250 conscious sedation permit-holders that renew on a biennial basis.

Onsite Inspection and Evaluation for General Anesthesia/Conscious Sedation Permit:

Code Section 1724(p) authorizes the Board to establish the fee for an onsite inspection and evaluation related to a general anesthesia or conscious sedation permit up to a maximum of \$4,500.

The Board estimates that the fiscal impact on an individual obtaining an onsite inspection and evaluation for general anesthesia/conscious sedation permit would be minor and absorbable. The current application fee for such permits is \$250. The Board's proposed fee increase would effectuate an increase of \$1750 to a total of \$2,000 for the onsite inspection and evaluation permit. The proposed fee increase would equate to an annual permit fee increase of \$875 in additional licensing fees which reflects an annual increase in the cost of licensure of 0.58% of a licensee's annual income. The cost to the Board for conducting such an inspection and evaluation is \$3,982. The individual is not bearing the whole burden, but approximately half the cost. The Board performs approximately 200 onsite inspections and evaluations on an annual basis.

Application for Adult or Minor Oral Conscious Sedation Permit

Code Section 1724(r) authorizes the Board to establish the fee for an application for an oral conscious sedation permit up to a maximum of \$1,000.

The Board estimates that the fiscal impact on an individual applying for oral conscious sedation permit would be minor and absorbable. The current application fee for such a permit is \$200 each. The Board's proposed fee increase would effectuate an increase of \$168 to a total of \$368 for the oral conscious sedation permit. The proposed fee increase would equate to an annual permit fee increase of \$84 in additional permitting

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fees which reflects an annual increase in the cost of licensure of 0.056% of a licensee's annual income. The Board receives approximately 160 applications for oral conscious sedation permits annually.

Renewal of Oral Conscious Sedation Permit:

Code Section 1724(r) authorizes the Board to establish the fee for the renewal of an oral conscious sedation permit up to a maximum of \$600.

The Board estimates that the fiscal impact on an individual renewing an oral conscious sedation permit would be minor and absorbable. The current application fee for such permits is \$75. The Board's proposed fee increase would effectuate an increase of \$93 to a total of \$168 for the renewal permit. The proposed fee increase would equate to an annual permit fee increase of \$46.50 in additional licensing fees which reflects an annual increase in the cost of licensure of 0.020% of a licensee's annual income. The Board has approximately 1,132 oral conscious sedation permit holders that renew on a biennial basis.

Application for Special Permit:

Code Section 1724(e) authorizes the Board to establish the fee for an application for a special permit up to a maximum of \$1,000.

The Board estimates that the fiscal impact on an individual applying for a special permit would be minor and absorbable. The current fee for such a permit is \$300. The Board's proposed fee increase would effectuate an increase of \$700 to total of \$1,000 for a special permit. The proposed fee increase would equate to an annual permit fee increase of \$350 in additional licensing fees which reflects an annual increase in the cost of licensure of 0.23% of a licensee's annual income. The Board receives approximately 10 applications for special permits annually.

Renewal of Special Permit:

Code Section 1724(e) authorizes the Board to establish the fee for the renewal of a special permit up to a maximum of \$600.

The Board estimates that the fiscal impact on an individual renewing a special permit would be minor and absorbable. The current fee for such a permit is \$100. The Board's proposed fee increase would effectuate an increase of \$25 to total of \$125 for renewing a special permit. The proposed fee increase would equate to an annual permit fee increase of \$12.50 in additional licensing fees which reflects an annual increase in the cost of licensure of 0.008% of a licensee's annual income. The Board has approximately 35 special permit holders that renew annually.

Application for Elective Facial Cosmetic Surgery Permit

Code Section 1724(m) authorizes the Board to establish the fee for an application for an elective facial cosmetic surgery permit up to a maximum of \$4,000.

The Board estimates that the fiscal impact on an individual applying for an elective
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facial cosmetic surgery permit would be minor and absorbable. The current fee for such a permit is \$500. The Board's proposed fee increase would effectuate an increase of \$350 to a total of \$850 for an elective facial cosmetic surgery permit. The proposed fee increase would equate to an annual permit fee increase of \$175 in additional licensing fees which reflects an annual increase in the cost of licensure of 0.12% of a licensee's annual income. The Board receives approximately 3 applications for elective facial cosmetic surgery permits annually.

Renewal of Elective Facial Cosmetic Surgery Permit:

Code Section 1724(m) authorizes the Board to establish the fee for the renewal of an elective facial cosmetic surgery permit up to a maximum of \$800.

The Board estimates that the fiscal impact on an individual renewing an elective facial cosmetic surgery permit would be minor and absorbable. The current fee for such a permit is \$200. The Board's proposed fee increase would effectuate an increase of \$600 to a total of \$800 for an elective facial cosmetic surgery permit. The proposed fee increase would equate to an annual permit fee increase of \$300 in additional licensing fees which reflects an annual increase in the cost of licensure of 0.20 % of a licensee's annual income. The Board has approximately 10 elective facial cosmetic surgery permit holders that renew on a biennial basis.

Application/Renewal of Oral and Maxillofacial Surgery (OMS) Permit:

Code Section 1638.3(a), specifies that the fee to renew an OMS permit shall be the amount prescribed in Section 1724. Code Section 1724(m), specifies that the fee for the application for an OMS permit shall not exceed \$1,000. Code Section 1724(n), specifies that the renewal fee of an OMS permit shall not exceed \$1,200.

The Board estimates that the fiscal impact on individuals seeking an OMS permit would be minor and absorbable. The current fee for OMS permit-holders is \$525. The Board's proposed initial OMS permit fee would result in decrease of \$25 to a total of \$500 for the initial OMS permit fee. The proposed fee decrease would equate to an annual decrease of \$12.50 in additional licensing fees being paid by an initial OMS permit holder.

The fiscal impact on individuals seeking to renew their OMS permit would be minor and absorbable. The current biennial renewal fee for an OMS permit fee is \$525. The Board's proposed renewal fee increase would effectuate an increase of \$125 for a total of \$650 The proposed renewal fee increase would equate to an annual increase of \$62.50 in additional licensing fees being paid by a continuing OMS permit-holder, which reflects an annual increase of 0.025% of the OMS permit-holder's annual income. The Board has 30 active OMS permit-holders who renew on a biennial basis.

Renewal of Continuing Education Registered Provider:

Code Section 1724(j) authorizes the Board to establish the fee for a provider of continuing education up to a maximum of \$500 per year.

The Board estimates that the fiscal impact on individuals renewing their continuing education registered provider permit would be minor and absorbable. The current application fee for a continuing education registered provider permit is \$250. The Board's proposed fee increase would effectuate an increase of \$75 to a total of \$325 for the renewal of their continuing education registered provider permit. The proposed fee increase would equate to an annual permit fee increase of \$37.50 in additional licensing fees which reflects an annual increase in the cost of licensure of 0.025% of a licensee's annual income. The Board estimates approximately 500 continuing education registered providers renew on a biennial basis.

License Certification:

Code Section 1724(s) authorizes the Board to establish the fee for a certification of licensure up to the maximum of \$125.

The Board estimates that the fiscal impact on individuals seeking license certification would be minor and absorbable. The current license certification fee is \$2. The Board's proposed fee increase would effectuate an increase of \$48 to a total of \$50 for license certification. The proposed fee increase would approximately be 0.03% of a licensee's annual income. The Board processes approximately 900 requests for DDS license certifications annually.

Dentistry Law & Ethics Examination:

Code Section 1724(t) authorizes the Board to establish the fee for an application for the DDS law and ethics examination up to the maximum of \$250.

The Board estimates that the fiscal impact on individuals applying for the law and ethics examination would be minor and absorbable. The Board's proposed fee for the law and ethics exam is \$125, which is approximately 0.08% of a licensee's annual income. The Board receives approximately 1,100 applications for the DDS law and ethics examination annually.

Inactive Licensees

A California licensed dentist who does not actively engage in the practice of dentistry may maintain an inactive license in order to maintain licensure in a non-practicing status. Inactive licenses are required to be renewed during the same time period at which an active license is renewed and the renewal fee for a license in an inactive status is required to be the same as the renewal fee for a license in active status; however, those licensees renewing in inactive status are not required to complete the continuing education requirements for renewal.

The Board estimates that the fiscal impact on individuals seeking inactive status would be minor and absorbable. The current biennial renewal fee for inactive status is \$525. The Board's proposed biennial renewal fee increase would effectuate an increase of \$125 for a total of \$650 for initial and biennial renewal licensure fees. The proposed renewal fee would equate to an annual increase of \$62.50 in additional licensing fees being paid by an inactive licensee, which reflects an annual increase in the cost of

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licensure of less than 0.04% of the licensee's annual income. The Board has approximately 125 inactive dentist licensees who continue to pay the biennial renewal fee.

Biennial License Renewal Fee for those Qualifying Pursuant to Business and Professions Code Section 1716.1:

Licenses on Retirement Status: Code Section 1716.1(a), provides that the Board may reduce the renewal fee for a licensee who has practiced dentistry for twenty (20) years or more in California, has reached the age of retirement under the federal Social Security Act (42 U.S.C. Sec. 301 et seq.), and customarily provides his or her services free of charge to any person, organization, or agency. Section 1716.1(a) also provides that in no event shall the aggregate of these charges in any single calendar year be in an amount that would render the licensee ineligible for full social security benefits. Pursuant to this Section, the Board is not authorized to reduce the renewal fee to an amount less than one-half of the regular renewal fees.

The Board estimates that the fiscal impact on individuals seeking retirement status would be minor and absorbable. The current biennial renewal fee for retirement status is \$262.50 (\$525 biennial renewal fee x 50% = \$262.50). The Board's proposed retirement status biennial renewal fee increase would effectuate an increase of \$62.50 for a total of \$325. The proposed renewal fee increase would equate to an annual increase of \$31.25 in additional licensing fees being paid by a DDS retired status licensee, which reflects an annual increase in the cost of licensure of less than 0.02% of the licensee's annual income. The Board has approximately 520 dentist licensees on retirement status.

Licenses on Disability Status: Code Section 1716.1(b) provides that a Board licensee who demonstrates that he or she is unable to practice dentistry due to a disability, may request a waiver of 50 percent of the renewal fee. A licensee to who is granted a waiver is not authorized to engage in the practice of dentistry unless and until they pay the current renewal fee in full and establishes that the licensee's disability either no longer exists or no longer affects his or her ability to safely practice dentistry.

The Board estimates that the fiscal impact on individuals seeking disability status would be minor and absorbable. The current biennial renewal fee for disability status is \$262.50 (\$525 biennial renewal fee x 50% = \$262.50). The Board's proposed disability status biennial renewal fee increase would effectuate an increase of \$62.50 for a total of \$325. The proposed renewal fee increase would equate to an annual increase of \$31.25 in additional licensing fees being paid by a DDS disability status licensee, which reflects an annual increase in the cost of licensure of less than 0.01% of the licensee's annual income. The Board has approximately 64 DDS licensees on a disability status.

Application for Registered Dental Assistant (RDA)/ Registered Dental Assistant in Extended Functions (RDAEF) Licensure:

Code Section 1725(a) authorizes the Board to establish a fee for the application for registered dental assistant and registered dental assistant in extended functions

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licensure up to a maximum of \$200.

The Board estimates that the fiscal impact on individuals applying for a registered dental assistant (RDA) or registered dental assistant in extended functions (RDAEF) licensure would be minor and absorbable. The current fee for the RDA and RDAEF application are \$20. The Board's proposed application fee for such applications to licensure is \$120. The proposed fee equates to 0.29% of the RDA licensee's annual income and 0.21% of the RDAEF licensee's annual income. The Board receives approximately 3,208 applications for registered dental assistant licensure annually and approximately 65 applications for registered dental assistant in extended functions licensure.

Application for Orthodontic Assistant Permit/Dental Sedation Assistant Permit

Code Section 1725(c) authorizes the Board to establish a fee for the application for the issuance of an orthodontic assistant permit or a dental sedation assistant permit up to a maximum of \$200.

The Board estimates that the fiscal impact on individuals applying for an orthodontic assistant permit or a dental sedation assistant permit would be minor and absorbable. The current fee for such applications is \$20. The Board's proposed application fee for such permits is \$120. The proposed fee equates to 0.29% of the RDA licensee's annual income and 0.21% of the RDAEF licensee's annual income who apply to become such permit-holders.

The Board receives approximately 260 applications for orthodontic assistant permits annually; and the Board receives approximately 5 applications for dental sedation assistant permits annually.

Registered Dental Assistant Practical Examination

Code Section 1725(b) authorizes the Board to establish a fee for the registered dental assistant practical examination in an amount not to exceed the actual cost of the examination.

The Board estimates that the fiscal impact on individuals applying for the RDA practical examination would be minor and absorbable. The current RDA practical examination fee is \$60. The Board's proposed fee would effectuate an increase of \$40 to a total of \$100. The proposed fee would equate to 0.11% of the RDA licensee's annual income. The Board receives approximately 3,100 applications from candidates to take the registered dental assistant practical examination annually.

Registered Dental Assistant in Extended Functions Examination:

Code Section 1725(g) authorizes the Board to establish a fee for the registered dental assistant in extended functions examination in an amount not to exceed the actual cost of the examination.

The Board estimates that the fiscal impact on individuals applying for the RDA practical
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examination would be minor and absorbable. The current RDAEF examination fee is \$250. The Board's proposed fee would effectuate an increase of \$250 to a total of \$500. The proposed fee would equate to 0.52% of the RDAEF licensee's annual income. The Board receives approximately 100 applications from candidates to take the registered dental assistant in extended functions examination annually.

Biennial Renewal for Registered Dental Assistant License

Code Section 1725(l) authorizes the Board to establish a fee for the biennial renewal of a registered dental assistant license up to a maximum of \$200.

The Board estimates that the fiscal impact on individuals renewing their RDA license would be minor and absorbable. The current fee for renewal of a RDA license is \$70. The Board's proposed renewal fee would effectuate an increase of \$30 to a total of \$100. The proposed fee would equate to a \$15 increase annually which is approximately 0.04% of the RDA licensee's annual income. The Board receives approximately 17,340 registered dental assistant license renewals biennially.

Biennial Renewal for Registered Dental Assistant in Extended Functions License

Code Section 1725(l) authorizes the Board to establish a fee for the biennial renewal of a registered dental assistant in extended functions license up to a maximum of \$200.

The Board estimates that the fiscal impact on individuals renewing their RDAEF license would be minor and absorbable. The current fee for renewal of a RDAEF license is \$70. The Board's proposed renewal fee would effectuate an increase of \$30 to a total of \$100. The proposed fee would equate to a \$15 increase annually which is approximately 0.03% of the RDAEF licensee's annual income. The Board receives approximately 700 registered dental assistant in extended functions license renewals biennially.

Biennial Renewal for Dental Sedation Assistant Permit

Code Section 1725(l) authorizes the Board to establish a fee for the biennial renewal of a dental sedation assistant permit up to a maximum of \$200.

The Board estimates that the fiscal impact on individuals renewing their dental sedation assistant permits would be minor and absorbable. The current renewal fee for dental sedation permits is \$70. The Board's proposed renewal fee would effectuate an increase of \$30 to a total of \$100. The proposed fee would equate to a \$15 increase annually which is approximately 0.04% of a RDA licensee's annual income and approximately 0.03% of a RDAEF licensee's annual income. The Board receives approximately 14 dental sedation assistant permit renewals biennially.

Biennial Renewal for Orthodontic Assistant Permit

Code Section 1725(l) authorizes the Board to establish a fee for the biennial renewal of the orthodontic assistant permit up to a maximum of \$200.

The Board estimates that the fiscal impact on individuals renewing their orthodontic

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assistant permits would be minor and absorbable. The current renewal fee for orthodontic assistant permits is \$70. The Board's proposed renewal fee would effectuate an increase of \$30 to a total of \$100. The proposed fee would equate to a \$15 increase annually which is approximately 0.04% of a RDA licensee's annual income and approximately 0.03% of a RDAEF licensee's annual income. The Board receives approximately 90 orthodontic assistant permit renewals biennially.

Delinquency Fee for Late Renewal

Code Section 1725(m) authorizes the Board to establish a delinquency fee for the late renewal of a dental assisting license or permit. The Board is authorized to establish a delinquency fee in the amount of 50% of the renewal fee for the license or permit in effect on the date of the renewal of the license or permit.

The Board estimates that the fiscal impact on individuals would be minor and absorbable. If a licensee chooses not to pay the required fee to maintain licensure with the Board, the license shall become delinquent. To renew a license back to active status after delinquency, a licensee will be required to pay back the renewal fees from each renewal cycle missed in addition to delinquency fees. The delinquency fees are accrued as a result of the choices of the individual licensees not to meet the respective deadlines of licensure and permitting. The Board receives: approximately 2,000 delinquent registered dental assistant licensure renewals annually; approximately 80 delinquent registered dental assistant in extended functions licensure renewals annually; approximately 1 delinquent dental sedation permit renewal annually; and approximately 5 delinquent orthodontic assistant permit renewals annually.

Duplicate License/Certification

Code Section 1725(n) authorizes the Board to establish a fee for the issuance of a duplicate registration, license, permit, or certificate to replace one that is lost or destroyed, or in the event of a name change, up to a maximum of \$100.

The Board estimates that the fiscal impact on the individual obtaining a duplicate license or a license certification would be minor or absorbable. The current fee for such either request is \$25 and the Board's proposed fee would be \$50. The proposed fee increase would equate to approximately 0.07% of a RDA licensee's annual income and approximately 0.05% of a RDAEF licensee's annual income. The Board receives approximately 720 requests for duplicate licenses annually.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Alternative No. 1 - Rejected:

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The Board considered not seeking fee increases for dentist and dental assisting licensure. This option was rejected because the Board is projecting a fund balance deficit of \$2.5 million in Budget Year (BY) 2018-19 of the State Dentistry Fund. Additionally, the Board is projecting a fund balance deficit of \$369,000 of the State Dental Assistant Fund in BY 2018-19.

If the Board does not increase fees for dentists and dental assistants, the Board's operations will suffer and it would become necessary for the Board to reduce expenditures, including the reduction of staffing and reduction of operating resources and equipment. The Board's licensing program would suffer from reductions in staffing and would result in delayed response times to licensing inquiries and application approvals. Such delays would create a barrier to licensure for those applicants graduating dental school and seeking licensure and employment and a timely-manner. Students must gain licensure and employment as soon as possible after graduation to begin paying down debt accumulated during school. Additionally, the Board's enforcement program would suffer from reductions in staffing and resources. Such reductions would lead to delays in processing consumer complaints, conducting investigations, and referring egregious cases to the Office of the Attorney General for prosecution. Those types of delays ultimately would prevent the Board from being able to protect the public efficiently and effectively.

OBJECTIONS/RECOMMENDATIONS/RESPONSES

Comments Received During the 45-Day Public Comment Period:

The 45-day public comment period began on Friday, June 24, 2016 and ended on Monday, August 8, 2016. The Board held a regulatory hearing in Sacramento on Monday, August 8, 2016.

The Board received written comments from: (1) the California Dental Association (CDA); and (2) a joint letter from the Foundation for Allied Dental Education, Inc. (FADE), the California Association of Dental Assisting Teachers, Inc.(CADAT), the California Dental Assistants Association, Inc. (CDAA), and the Extended Functions Dental Assistants Association, Inc. (EFDA).

Comments Received from California Dental Association:

Summary of Comments:

The CDA submitted the attached letter in response to the Board's proposed rulemaking to amend California Code of Regulations (CCR), Title 16, Section 1021(n) relative to the fictitious name permit renewal.

The CDA commented that its membership makes up of approximately 26, 000 licensed dentists in California, and that the Board's oversight of the profession is important to its organization. The CDA recognizes and supports the Board's role in the licensure and enforcement of the practice of dentistry that set the standard of professionalism in California. The CDA agrees that it is necessary for the Board to have resources available to carry out its responsibilities, and that those resources must come from the Fee Increase

dentists who benefit from the Board's oversight.

The CDA commented that though the statute requires that the initial fictitious name permit fee be equal to the initial licensure fee, it does not apply to the fictitious permit renewal fee. The CDA expresses concern that a fee increase of the fictitious name permit renewal to \$650 will result in more than 6,500 dentists experiencing a very dramatic rise in the fees they must pay, on an ongoing basis, for the privilege of providing dental care under a consumer-friendly business name. The CDA encourages the Board to reconsider the proposal and the Board's subcommittee's recommendation of \$325.

Board's Response to Comment(s) Received from the CDA:

The Board accepted the CDA's comment to establish the fee for a fictitious name permit at \$325. The fictitious name permit renewal should be half the initial licensing fee, thus staff recommends modifying to the proposed language.

Comments Received from the (FADE), the (CADAT), (CDAA), and the (EFDA):

The FADE, CADAT, CDAA, and EFDA submitted the attached joint letter in response to the Board's proposed rulemaking to amend California Code of Regulations (CCR), Title 16, Sections 1021 and 1022 relative to the dentistry and dental assisting fee increase.

In the letter they commented collectively to the proposed language regarding the fee increase rulemaking. They commented that the increases to the program and course application fees could potentially support the registered dental assistant (RDA) and registered dental assistant in extended functions (RDAEF) examinations more effectively rather than asking the candidates for dental assisting examinations for more financial support. Also, these professional associations commented that regulatory language be consistent between CCR Sections 1021 and 1022 relating to terms such as "fees", "dental assisting" instead of "dental auxiliary", and "initial approval" for course and program applications. Additionally, they commented that recent statutory changes provide the Board the authority to revisit programs and courses, or ask such programs and courses to reapply for continued approval. They are proposing that a structure be placed into the regulations that would allow the Board to charge site visit fees for programs every (7) years.

FADE, CADAT, CDAA, and EFDA Comment #1-Section 1021

FADE, CADAT, CDAA, and EFDA recommended the addition of the word "fee" and made other various technical grammatical amendments throughout Section 1021, Subsections (a) through (ac).

Additionally, they recommended adopting Subsection (ad) which is a law and ethics re-examination fee of \$100 and Subsection (ae) which is a fee of \$125 for the issuance of a replacement pocket license, replacement wall certificate and the like.

Board's Response to Comment #1 Regarding Section 1021 Received from the FADE,
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CADAT, CDAA, and EFDAA:

The Board rejected the FADE, CADAT, CDAA, and EFDAA comments.

There is no demonstrated evidence that there is a necessity for the re-examination application fee. An applicant applying to take the law and ethics exam as a result of this proposed rulemaking will pay an application fee of \$125 for eligibility determination and once the Board deems the candidate eligible then that candidate will proceed to make an examination payment to PSI. Should a candidate fail the law and ethics exam, then that candidate would resubmit the examination fee to PSI. It would be duplicative to have the candidate reapply for eligibility through the Board, since the Board has determined that the applicant is already eligible to sit for the law and ethics exam.

There is no demonstrated evidence that there is a necessity for a fee of \$125 for the issuance of a replacement pocket license or replacement wall certificate. The proposed language includes a \$50 fee for a substitute certificate which would be charged in the event a replacement pocket license or replacement wall certificate is requested by a licensee. It would be duplicative to add the suggested fee.

The recommended amendments to the language of the text are unnecessary as the heading of Section 1021 references that the subsections refer to fees as relating to dentists.

FADE, CADAT, CDAA, and EFDAA Comment #2-Section 1022

FADE, CADAT, CDAA, and EFDAA recommended technical grammatical changes to the heading of this section, the language proposed in the body of the rulemaking, and the adoption of footnotes for consistency with Section 1021, amendments to proposed fees, and adoption of various fees.

They are recommending that the application fee for the registered dental assistant (RDA) and registered dental assistant in extended functions (RDAEF) be \$50 instead of \$120; the application fee for dental sedation assistant permit to be \$50 instead of \$120; the application fee for the orthodontic assistant permit to be \$50 instead of \$120; the RDA practical examination fee to be \$50 instead of \$100; the RDAEF examination fee to be \$300 instead of \$500; the RDA program application fee to be \$5,500 instead of the existing \$1,400; the RDAEF program application fee to be \$3,500 instead of the existing \$1,400; the orthodontic assistant permit course application fee to be \$1,500 instead of the existing \$300; the dental sedation assistant permit course application fee to be \$1,000 instead of the existing \$300; the infection control course application fee to be \$1,000 instead of the existing \$300; the coronal polish course application fee to be \$1,000 instead of the existing \$300; the pit & fissure sealant course application fee to be \$1,000 instead of the existing \$300; the radiation safety course application fee to be \$1,000 instead of the existing \$300; and the ultrasonic scaling course application to be \$1,000 instead of the existing \$300.

Furthermore, they are recommending the adoption of the following fees: application fee for RDA practical re-examination fee to be \$75; the application fee for RDAEF simulated or clinical re-examination fee to be \$250; the fee for issuance of a duplicate registration, license, permit, or certificate to replace one that is lost or destroyed, or in the event of a name change to be \$75; the RDA program re-evaluation fee to be \$2,000; and the RDAEF program re-evaluation fee to be \$2,000.

Board's Response to Comments Received from FADE, CADAT, CDAA, and EFDA

The Board has rejected all the recommendations to Section 1022, because if the Board averts or delays an immediate fee increase, the Board's State Dental Assisting Fund will become insolvent and the structural imbalance between its revenue and expenditures will continue to grow. There is no demonstrated evidence that there is a necessity for the fees to be modified as suggested and the Board's Dental Assisting Fund would incur a fiscal imbalance if the revenue declines due to a decrease in the application fees.

The Board acknowledges the concern relating to the program and course application fees; however the application fees for the RDA and RDAEF programs and courses are part of the Comprehensive Dental Assisting Regulatory workshop. The fees for programs and courses will be discussed during an upcoming workshop in order to determine the appropriate fees as well as conduct further research in the proposed fees in order to demonstrate evidence that the Board has authority to charge a fee, that there is a need for the proposal, as well as a justification for each of the fees proposed.

The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Board achieves this goal are: issuing licenses to eligible applicants; investigating complaints against licensees and disciplining licensees for violations of the Dental Practice Act (Act); monitoring licensees whose licenses have been placed on probation; and managing the Diversion Program for licensees whose practice may be impaired due to abuse of dangerous drugs or alcohol. The Board must assess fees to licensees to sustain the financial resources necessary to carry out the methods of meeting its highest priority of consumer protection. Since 1998, the Board's enforcement program has grown exponentially in (1) response to consumer protection issues that have surfaced, and (2) response to new statutory and regulatory requirements. Over time, the Board has been able increase staffing resources to meet consumer protection needs in California, but has not raised its licensing fees to offset such expenses.

If the Board does not correct the structural imbalance between its revenue and expenditures through this proposed fee increase, the Board will be forced to: (1) reduce staffing in licensing and enforcement, and (2) reduce operating resources and equipment to offset expenditures. The Board's licensing and enforcement programs would suffer from reductions in staffing and would result in delayed response times to licensing inquiries, application approvals, processing of consumer complaints, conducting investigations, and referring egregious cases to the Attorney General's Office for prosecution. Such staffing reductions would make continued demonstrable

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and sustained improvements in customer service improbable and the Board would be unable to provide efficient and effective consumer protection.

Summary of Comments Received During the 15-Day Public Comment Period

The Board did not receive any comments in response to the modified text.

Summary of Comments Received During the Second 15-Day Public Comment Period

The Board did not receive any comments in response to the second modified text.