

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 10. DENTAL BOARD OF CALIFORNIA**

FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Replacement and Inactive Licenses or Permits

Sections Affected: California Code of Regulations, Title 16, Section 1012, 1017.2, and 1021

Updated Information

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

At the May 18-19, 2023 Board meeting, the Board approved proposed language for the amendment of California Code of Regulations (CCR) Title 16, Division 10, sections 1012, 1017.2 and 1021 regarding replacement licenses or permits and inactive licenses, and directed staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing if requested, and authorizing the Executive Officer to make any non-substantive changes to the rulemaking package and, if no adverse comments were received, to adopt the proposed text as noticed.

There was no request for a public hearing, and during the 45-day comment period, the Board received no public comments. Since no adverse comments were received, the Board has adopted the proposed text as noticed on November 17, 2023.

Based on comments from the Office of Administrative Law, the Board is making the following non-substantive changes to the proposed regulatory text and forms.

Proposed Regulatory Text

Section 1012

- Clarifying changes to the spacing around words and to the strikethrough and underline marks to make the proposed text format consistent with OAL standards.

Section 1017.2

- Clarifying changes to the spacing around words and to the strikethrough and underline marks to make the proposed text format consistent with OAL standards.

Form LIC-6

- Add 16 before “California Code of Regulations” or “CCR” for instances where it is not present to ensure that all references to the Code of California Regulations (CCR) in the form specify Title 16 of the CCR.
- On page 1, in the text section that starts “For dentists:” to correct the punctuation by adding a comma after 1017.
- On page 2, strike the words “or permit” from item 1(a) because permits are not referenced in Business and Professions Code section 702.

Form LIC-9

- Revise the footer of the form to read “LIC-9 (New 5/2023)” rather than “LIC-9 (New. 05/2023)”
- In the section “Reason for Request”, for the subsection on name changes, insert “per 16 CCR section 1013” after “My Name Changed” to reflect the existing regulatory requirements that the name change must have been approved per 16 CCR section 1013 prior to requesting a replacement pocket license or certificate.

Based on feedback from the Office of Administrative Law, the Small Business Impact section of this document has been revised for consistency with the Standard Form 399 submitted with this rulemaking package.

Based on feedback from the Office of Administrative Law, the Consideration of Alternatives section of this document has been modified to clarify that no alternatives were submitted to the Board during the public comment period, and that the Board did not discuss alternatives to the regulations during the Board meeting where this proposed rulemaking was approved by the Board.

Based on feedback from the Office of Administrative Law, the Updated Informative Digest is updated to reflect that Business and Professions Code (“Code”) section 27.5 became effective on January 1, 2024. This section was enacted after passage of SB 372 (Menjivar, Stats. 2023, Ch. 225, Sec. 1) and permits any licensee or registrant of a board in the Department of Consumer Affairs who provides government-issued documentation, as specified, demonstrating that the licensee’s or registrant’s legal name or gender has been changed to update the individual’s license or registration in the board’s records by replacing references to the former name or gender on the license

or registration, as applicable, with references to the current name or gender. Section 27.5(a)(3) of the Code bars a board, including the Dental Board of California, from charging a higher fee for reissuing a document with an updated legal name or gender than the fee it regularly charges for reissuing a document with other updated information. The Board does not charge a higher fee under this proposal for reissuing a pocket license or wall certificate than it would for issuing a substitute wall certificate or pocket license for any other reason. Therefore, Section 27.5 of the Code would not require any changes to this proposal.

Local Mandate Determination

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

Small Business Impact:

The Board has determined that the proposed regulations would 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 Estimates section of the Initial Statement of Reasons. The Board regulates and licenses the individual dental professionals in the State of California. The Board does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted. However, to the extent that any dental professionals or other business entities are considered a “small business”, the Board provides the following analysis of the economic impact of this proposal.

The proposed regulations will incorporate new or updated forms for obtaining a replacement license or permit and for obtaining inactive license status (or restoring license status to active). They will also increase the fee for a “substitute certificate” from \$50 to \$111 and eliminate the fingerprint background check requirement for that replacement.

As a result of the proposal, if any applicants for replacement licenses or permits were considered a small business, such applicants will see a net decrease in the fees they pay, as the increase in the application fee (\$61) is offset by no longer having to pay the costs associated with the fingerprint background check (approximately \$75 per application.) However, businesses providing fingerprint services will have reduced revenues. As a result, these businesses are projected to incur reduced revenues of \$17,290 per year and up to \$172,900 over a ten-year period.

Anticipated Benefits

Section 1012

The proposed changes to the regulations for obtaining a replacement license or permit would provide clarity to applicants and eliminate a fingerprint background check requirement that is unnecessary. Including pocket licenses as part of this replacement process reflects a need expressed by licensees. Incorporating an application form by reference helps ensure that applicants provide all the necessary information to process their application and clarifies the conditions under which a license or permit could be replaced.

Section 1017.2

The proposed changes to the regulations would provide clarity to applicants about the obligations of inactive status, the consequences of not renewing a license, and the continuing education requirements for restoring active status. The proposal also reduces the compliance burden for applicants by replacing the requirement for evidence of completion of the continuing education requirements to certification of completion with those requirements.

Section 1021

The proposed fee increase would accurately capture the workload and associated costs with processing requests for replacement licenses or permits. Revising the description of the fee to include pocket licenses reflects the proposed changes to section 1012.

Consideration of Alternatives

No public comments were received during the public comment period and the Board did not identify any alternatives at its meeting, therefore, 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 the regulation is 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.

45 Day Public Comment Period – No Comments Received

Incorporation by Reference -- 1 CCR 20

The incorporation by reference method was used for the forms in this proposal (A. “Declaration and Request for Replacement Pocket License or Certificate,” LIC-9 (New 5/2023) form; and, B. Application to Activate/Inactivate License, Form LIC-6 (New 5/2023) because it would be impractical and cumbersome to publish these forms in the California Code of Regulations (CCR). The forms are intended to assist applicants with complying with the Board’s numerous continuing education, duplicate license or permit and inactive license regulatory requirements in the simplest way possible. The forms were developed to establish consistency in Board implementation and facilitate greater compliance with these statutory and regulatory requirements by the regulated community. If the forms were incorporated into the CCR, it would increase the size and complexity of Division 10 and may cause confusion for the affected applicants and licensees. The aforementioned forms were made available to the public and were posted on the Board’s website.