

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 10.
DENTAL BOARD OF CALIFORNIA

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
REPLACEMENT LICENSES OR PERMITS AND INACTIVE LICENSES

NOTICE IS HEREBY GIVEN that the Dental Board of California (hereafter Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will 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 the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, 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., Wednesday, January 3, 2024**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 1614, 1635.5, 1634.2(c), 1724 and 1724.5 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 700-704, 1601.2, 1614, 1629(b), 1632, 1634.1, 1646.2, 1646.6, 1647.3, 1647.8, 1647.20, 1647.23, 1647.32, 1647.33, 1715, 1716.1, 1718.3, 1724 and 1724.5, the Board is considering amending section(s) 1012, 1017.2 and 1021 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Effect of the Proposed Action

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 Board regulations at section 1012 of title 16 of the California Code of Regulations (CCR) provides that licensees seeking a replacement license shall submit an affidavit or declaration to the Board with evidence demonstrating the loss or destruction of the license certificate. Licensed dentists must also provide fingerprints. Existing regulations at CCR section 1021 sets the fee for a replacement license at \$50.

This regulatory proposal would update current Board processes for applicants to apply for and receive: (1) a replacement pocket license or permit or wall certificate under specified conditions, (2) an inactive license, or (3) an active license (for inactive license holders who want to restore their license to active status). This proposal would rename this section to “Replacement Licenses or Permits” and replaces the requirement for an affidavit or declaration with evidence with the form “Declaration and Request for Replacement Pocket License or Certificate” (Form LIC-9, New 05/23), which is incorporated by reference.

This completed form includes a certification of the loss, theft, destruction or mutilation of their pocket license or certificate, or of a name change requiring issuance of the pocket license or certificate.

Existing statutes at Business and Professions Code (BPC) sections 700-704 require healing arts boards, including this Board, to establish an inactive category of licensure. Existing regulations section 1017.2 requires licensees seeking inactive or active status to complete an Application to Inactivate/Activate License (Form LIC-6, New 12/09), which is incorporated by reference, and if they are seeking to change their license status from inactive to active, they must also submit a full set of fingerprints and evidence of having completed the required number of continuing education credits in the two years prior to application.

This regulatory proposal will adopt the form “Application to Activate/Inactivate License (Form LIC-6, New 05/2023), which would be incorporated by reference and have no fee requirement for processing the form itself. It would replace the current “Application to Inactivate/Activate License” (Form LIC-6, New 12/09) which would be repealed. Under

this proposal, applicants seeking inactive status cannot be engaged in any activity that would require an active license at the time of application.

Applicants for inactive status would also have to check a box and certify that they have read a notice informing them of: (1) what they cannot do as an inactive licensee pursuant to BPC section 702, (2) the requirements in BPC section 703 for an inactive licensee to renew their license and pay the renewal fee without the need to comply with any continuing education requirements, (3) that prior to reactivating a license the inactive licensee would be required to complete continuing education as specified, and (4) that per BPC section 1718.3 a license not renewed for 5 years from the license expiration date cannot be renewed, restored, reinstated, or reissued.

Instead of providing evidence of completing the continuing education requirements, an applicant seeking to change their license status to active would certify, under penalty of perjury, that they have completed the required continuing education as specified on the form.

The proposal would also make other non-substantive changes to existing text to make pronouns used gender neutral.

Anticipated Benefits of Proposal

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

The intent of the proposal is to reduce the administrative burden on licensees and the Board in applying for and processing replacements of pocket licenses and wall certificates, as well as applications for the inactive or active categories of licensure.

Applicants seeking replacement licenses or certificates will already have fingerprints on file, making requesting another set of fingerprints redundant. Eliminating this requirement is intended to simplify completing and processing the application.

The proposal would standardize and make specific the current requirement for “satisfactory evidence” that a license was lost or destroyed by including new regulatory text specifying the conditions under which a replacement could be requested and include a certification by the applicant to the factual basis for the need for a replacement. This would simplify the application process for the applicant and standardize the review process for Board staff.

Applicants seeking to restore their license to active status must complete the specified amount of continuing education courses in the two years prior to their application (50 credit hours for dentist licensees and 25 credit hours for registered dental assistant and registered dental assistant in extended functions licensees and for orthodontic assistant or dental sedation assistant permit holders.

Current regulations require applicants to submit evidence of course completion. The regulatory proposal would change that requirement to have the applicant certify under penalty of perjury that they have completed the required courses. That reduces the burden on applicants for completing their application and makes it more likely that the applicants will successfully complete their application and avoid processing delays. This change would also make the continuing education requirement consistent with the requirement for license renewal.

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

Evaluation of Consistency and Compatibility with Existing State Regulations

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 regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

1. Declaration and Request for Replacement Pocket License or Certificate, Form LIC-9 (New 05/23)
2. Application to Activate/Inactivate License, Form LIC-6 (New 05/2023) (replaces Application to Inactivate/Activate License, Form LIC-6 (New 12/09))

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 state.

The Board estimates one-time workload and costs of approximately \$600 to update and post the replacement application form and the inactive/active application form on the Board's website. Any workload and costs are anticipated to be absorbed within existing resources.

The Board indicates because the replacement and inactive/active applications are currently being processed no additional workload or costs are being reported.

Under this proposal, the license/certificate replacement fee will increase by \$61 from \$50 to \$111. The Board estimates approximately 665 replacement applications are processed annually, which would result in increased revenues of \$40,565 per year and up to \$405,650 over a ten-year period.

The Board notes, fees are not assessed to process the inactive/active applications and no fee revenues are collected.

The Board further notes, this proposal eliminates the fingerprint requirement for replacement applications. The Board estimates a decrease in the Department of Justice's annual revenues of \$21,280 (\$32 per fingerprint) and up to \$212,800 over a ten-year period.

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

Nondiscretionary Costs/Savings to Local Agencies: None

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

Mandate Imposed on Local Agencies or School Districts: None.

Significant Effect on Housing Costs: None

BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following facts/evidence/documents or testimony:

The proposed regulations revise the current process and fees for licensees to obtain a replacement license/certificate and do not adversely impact licensees operating in the state.

Individuals seeking a replacement pocket license or wall certificate will no longer be required to submit fingerprints with their applications. As a result, these licensees will save approximately \$75 per application.

However, the businesses providing fingerprint services will have reduced revenues. These businesses typically retain \$26 per fingerprint check. 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.

Cost Impact on Representative Private Person or Business

This proposal increases the replacement wall certificate and pocket license fees by \$61 from \$50 to \$111, which will result in increased costs for 665 individuals of \$40,565 per year and up to \$405,650 over a ten-year period.

There is no fee for the application for inactive status or to change from inactive to active status, and no fee is proposed in this rulemaking.

Individuals seeking a replacement pocket license or wall certificate will no longer be required to submit a fingerprint background check with their applications. As a result, these licensees will save approximately \$75 per application.

However, the businesses providing fingerprint services will have reduced revenues. These businesses typically retain \$26 per fingerprint check. 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.

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.

Benefits of Regulation:

This regulatory proposal does not affect worker safety, or the state's environment. The regulatory proposal would have the following benefits to the health and welfare of California residents. This proposal is intended to simplify the application process replacement licenses/certificates and applications for inactive/active license status.

The proposed changes to the regulations for changing a license to inactive status or reactivating an inactive license (Section 1017.2) would clarify the requirements for those seeking either inactive/active license status and are intended to reduce the compliance burden around continuing education requirements and providing evidence of completing

the necessary courses. Having this information on the new LIC-6 form is intended to simplify the application process.

Business Reporting Requirements

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

Effect on Small Business

The Board has determined that the proposed regulations will not affect small businesses. Although small businesses owned by licensees of the Board may be impacted, 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.

To the extent a fingerprint check business is considered a small business, the regulations will decrease revenues to these entities by \$26 per occurrence.

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 submit comments to the Board in writing relevant to the above determinations at 2005 Evergreen Street, Suite 1550, Sacramento, California 95815 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, 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.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals 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, with the modifications clearly indicated, will be available for review and written comment 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.

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 Person named below or by accessing the website listed below.

CONTACT PERSONS

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

Name: Lawrence Bruggeman, Legislative and Regulatory Specialist
Address: Dental Board of California
2005 Evergreen Street, Suite 1550
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The backup contact person is:

Name: Christy Bell, Assistant Executive Officer
Address: Dental Board of California
2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2187
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E-Mail Address: christy.bell@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board's website at https://dbc.ca.gov/about_us/lawsregs/proposed_regulations.shtml