

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

**FINAL STATEMENT OF REASONS**

**Subject Matter of Proposed Regulations: Temporary Licensure for Military Spouses or Partners**

**Sections Affected:** California Code of Regulations, Title 16, Section 1006

**Updated Information**

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

At the November 17, 2022 Board meeting, the Board approved proposed language for the implementation of California Code of Regulations (CCR) Title 16, Division 10, section 1006 regarding temporary licenses for military spouses or partners, 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.

During the 45-day comment period, there was no request for a public hearing.

During the 45-day comment period the Board received one public comment on proposed section 1006. The comment received and the Board's responses, which were approved at the November 9, 2023 Board meeting, are summarized in the "Objections or Recommendations/Board Responses" section below.

Board staff recommended changes to the proposed regulations at the November 9, 2023 Board Meeting. Those changes included the following:

(1) Modify the definition of 'license' in section 1006(a)(1) to include authorizations to practice besides licenses and permits and to include other licensing authorities besides the Board. The definition would be modified to read:

“License” shall include any license, ~~or permit, or other comparable authority~~ issued by the Board ~~or an original licensing jurisdiction to practice dentistry, practice under an affiliated permit, or provide dental supportive procedures as a dental auxiliary.~~”

(2) Modify the application and eligibility requirements in the first paragraph of section 1006(b) to remove the language “to practice dentistry, practice under an affiliated permit, or provide dental supportive procedures as a dental auxiliary” from the text, which will now read:

“Application and Eligibility Requirements. An applicant seeking a temporary license to practice dentistry, practice under an affiliated permit, or provide dental supportive procedures as a dental auxiliary pursuant to section 115.6 of the Code shall submit a completed application to the Board and meet all of the requirements of this section and section 115.6 of the Code to be eligible for a temporary license. A completed application shall include the following information:”

(3) Modify the list of information requested in sections 1006(b)(1) to replace the word “identifying” with the phrase “application type” and to include new requirement (I) asking for the type of temporary license sought (either a dentist license, a permit, or a license to perform dental supportive services as a dental auxiliary). The changes to this section including moving the word “,and” from section 1006(b)(1)(G) to 1006(b)(1)(H). The new requirement (I) would read:

“(I) Temporary License Application Type (Dentist, Affiliated Permit, or Dental Supportive Procedures as a Dental Auxiliary).”

(4) Modify section 1006(b)(3) to remove the phrase “or comparable authority (“license”)” was removed from the first sentence of the section, and the phrase “or other comparable authority (“license”)” was removed from the second sentence of that section. The modified text would read as follows:

(3) The applicant shall disclose whether the applicant holds a current, active and unrestricted license, or comparable authority (“license”), to practice dentistry, practice within the scope of practice of an affiliated permit or provide dental supportive procedures as a dental auxiliary in another state, district, or territory of the United States, and whether such license is the same type of license that the applicant is applying for with the Board. If the applicant answers in the affirmative, the applicant shall provide written verification from the applicant’s original licensing jurisdiction that the applicant’s license or other comparable authority (“license”) is in good standing in that jurisdiction.

(5) Modify section 1006(b)(4) to amend the disclosure language. The language requiring disclosure of any act that would constitute grounds for denial, discipline or revocation of a license pursuant to Business and Professions Code sections 141, 480 or

490 is replaced by language requiring disclosure of any license to practice dentistry or provide dental supportive procedures as a dental auxiliary granted in another jurisdiction. If the disclosure is in the affirmative, the section would require the applicant to provide verification from the licensing authority in the other jurisdiction that the license is in good standing. The section lists requirements for what would constitute verification. The modified text would read as follows:

“(4) The applicant shall disclose whether the applicant ~~has committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license pursuant to Sections 141, 480, or 490 of the Code, or Articles 4 (commencing with Section 1670 of the Code) or 5 (commencing with Section 1700 of the Code) of the Act~~ holds or has ever held any other license to practice dentistry or provide dental supportive procedures as a dental auxiliary in another state, district, or territory of the United States. If the applicant answers in the affirmative, the applicant shall provide written verification from the applicant’s original licensing jurisdiction that the applicant’s license is in good standing in that jurisdiction. The verification shall include all of the following:

(A) the full legal name of the applicant and any other name(s) the applicant has used or has been known by,

(B) the license type and number issued to the applicant by the original licensing jurisdiction, and

(C) the name and location of the licensing agency or entity,

(D) the issuance and expiration date of the license, and,

(E) information showing the applicant’s license status.”

(6) Remove proposed section 1006(b)(5), which required the applicant to disclose whether they had been disciplined by a licensing entity in another jurisdiction or was the subject of an unresolved complaint, review procedure or disciplinary hearing by a licensing entity in another jurisdiction. To conform with the deletion, renumber the sections 1006(b)(6), 1006(b)(7), and 1006(b)(8) to reflect the removal of section 1006(b)(5).

(7) Modify section 1006(b)(7) (which was renumbered from section 1006(b)(8)) to replace the requirement that the applicant provide a statement attesting that they are eligible for temporary licensure and that the information submitted with the application is correct, to the best of the applicant’s knowledge. The new language specifies the language of the statement and adds a note reminding the applicant that providing false or misleading information would be grounds for denying the temporary license or for

revoking the temporary license if the application was found to include substantively inaccurate information. The section would read as follows:

(87) A The following statement and notice, signed and dated by the applicant: attesting to the fact that the applicant meets all the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant's knowledge.

I hereby attest that I meet all of the requirements for temporary licensure as set forth in Business and Professions Code Section 115.6 (c)(1) through (5), including that I have not committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under the Business and Professions Code at the time the act was committed and I am aware that a violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the Board. I also attest to the fact that I have not been disciplined by a licensing entity in another jurisdiction and am not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction. I also understand that I will be required to furnish a full set of fingerprints for purposes of conducting a criminal background check. I further attest that the information submitted in this application is accurate, to the best of my knowledge.

Notice: Falsification or misrepresentation of any item or response on this application or any attachment hereto is grounds for denying the application. In addition, any temporary license issued after the application is processed will be immediately terminated upon a finding that the license holder provided substantively inaccurate information that would affect the person's eligibility for temporary licensure (Bus. & Prof. Code, § 115.6).

(8) Delete section 1006(h) which would set an effective date for the regulations of either July 1, 2023, or the next quarterly effective date following filing with the Office of Administrative Law, as the time had passed for this rulemaking to be completed to meet the implementation date of July 1, 2023 and the implementation date would be readily available once the regulation was published.

Board staff recommended these modifications be made mainly to address concerns raised by the Office of Administrative Law when that office was considering similar rulemaking language submitted by another state agency who was implementing the same law that is the subject of this rulemaking (see Dental Hygiene Board's rulemaking implementing AB 107 OAL File No. 2023-0829-01S). As a result, the Board made changes to its proposed text to address concerns raised by OAL in that rulemaking. At the November 9, 2023 Board meeting, the Board approved the modifications and directed Board staff to notice the modified text for a 15-day public comment period and, if no adverse comments were received, to delegate to the Executive Officer authority to

make any non-substantive changes and adopt the proposed regulations as described in the modified text. No adverse comments were received during the 15-day modified text public comment period.

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

#### Section 1006

- Substituting semicolons for commas in complex lists throughout the section and adding other punctuation for proper grammar.
- In proposed subsection (a)(5), placing the cited Code sections in numerical order.
- In proposed subsection (b)(1)(A) change the “and/or” before Suffix to “and optional”
- In the last sentence of proposed subsection (b)(3) delete the phrase “or other comparable authority (“license”) in strikethrough. As the proposed rulemaking text is all new text, this strikeout phrase is unnecessary.
- In the second sentence of proposed subsection (b)(4) insert the phrase “each of” between the words “from” and “the” to make the language consistent with the language in the first sentence of subsection (b)(4) requiring applicants to disclose if they have held “any other license” to practice, which indicates that it is a requirement for each licensed issued by a “state, district, or territory of the United States.”
- In that same sentence, add “(s)” following the word “jurisdiction” to make the language consistent with the language in the first sentence of subsection (b)(4) requiring applicants to disclose if they have held “any other license” to practice, which indicates that it is a requirement for each licensed issued by a “state, district, or territory of the United States.”
- In proposed subsection (d)(2), place quotation marks around “Request for Live Scan Service” to be consistent with proposed subsection (d)(1).

#### **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 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 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.

The proposed regulation will establish requirements for qualified applicants seeking temporary licensure as dentists or dental auxiliaries pursuant to Business and Professions Code (BPC) section 115.6. While there would be costs associated for applicants to obtain the fingerprints and possibly take a law and ethics exam (for dentists) required by the regulations, the law does not permit charging an application fee or license fee for such temporary licensure.

Based on historical licensing data covering applications that sought expedited processing for qualified spouses and partners of military personnel, the Board anticipates as many as six (6) applications each year under these regulations.

### **Anticipated Benefits**

#### Section 1006

This proposal aims to set in regulations the application process for the Dental Board to grant temporary licensure to qualified military spouses or partners pursuant to BPC section 115.6. As of July 1, 2023, this section of the BPC permits qualified spouses and partners of military personnel stationed in California to apply for temporary licensure, not to exceed 12 months. Permitting temporary licensure while the applicant can pursue full licensure would reduce the time where the applicant is not able to practice the profession where they were licensed in another jurisdiction.

Establishing the application procedure for temporary licensure in regulation provides clarity to potential applicants about the Board's requirements. Having the procedure in regulation also assists the Board staff in its mission to protect the public because it ensures consistency in implementation of BPC section 115.6.

### **Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board as part of public comments received or at the Board's meetings 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. All recommendations provided during this rulemaking were considered by the Board and rejected as discussed herein.

## Objections or Recommendations/Board Responses

### 45 Day Comment Period

**Comment 1:** Email dated July 28, 2023 from Dr. Charles Huang

#### **Comment Summary:**

Commenter does not want the Board to adopt the regulations. Commenter notes that LGBTQIA individuals have faced and continue to face discrimination in the military and in other states and believes that allowing dental licensees from states that permit such discrimination to obtain temporary licensure in California would be unfair. Commenter believes that the regulations would not apply to all unions and should not be supported on that basis. Commenter also argues that these “shortcuts proposed” by the Board of temporary licensure is not necessary given the “5 year reciprocity clause” that the Board already has permitted to states who agree to that term. The commenter also cites the Board’s estimate of about 6 applicants per year to apply for temporary licensure (as provided in the Board’s Notice on Fiscal Impact estimates to the Board) and asks where this number comes from. The commenter also remarks on aspects of dental insurance coverage unrelated to the proposed regulations (why certain insurance plans still have a “missing tooth clause”).

#### **Board Response:**

The Board considered the comment and decided to not make any revisions to the text based on the comment. The Board is required to issue temporary licenses to qualified spouses or domestic partners of military service members stationed in California pursuant to Business and Professions Code (BPC) section 115.6. That obligation exists whether the Board issues the proposed regulations or not. Further, refusing to adopt regulations would only serve to create confusion and compliance issues for those individuals who may be qualified to apply for temporary licensure. Regulations are the only legally prescribed method under the laws of this state (California Administrative Procedure Act – Gov. Code, §§ 11340 et seq.) for setting the minimum application requirements referenced in this proposal for all dental and dental auxiliary licensees that choose to seek temporary licensure. Additionally, BPC section 115.6 applies to all qualified individuals who are married, in a domestic partnership, or in any other legal union, with a military servicemember assigned to a duty station in California.

It is unclear what the commenter means by “5 year reciprocity clause” unless referring to the Board’s licensure by credential authority in BPC section 1635.5, which has much more extensive application requirements than in BPC section 115.6. Further, the licensure by credential process does not allow the Board to issue a temporary license to

an out-of-state licensee applicant in good standing who 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 where an applicant is able to receive expedited temporary authority to practice while meeting state specific requirements for a period of at least one year, or where the applicant is able to receive an expedited license by endorsement with no additional requirements (see exemption from this law enacted by AB 107 at BPC section 115.6(j)(1)). As a result, the Board must adopt regulations to implement this new law at BPC section 115.6.

On the source for the estimated 6 applicants per year inquiry, as the Board's notice indicates, it is based upon on "historical licensing data" for applicants who qualified under prior provisions of law requiring expedite under these same criteria. The last comment is rejected as unrelated to this proposal.

### **15 Day Modified Text Comment Period – No Comments Received**