

**DENTAL HYGIENE COMMITTEE OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS**

**INITIAL STATEMENT OF REASONS**

**Hearing Date:** March 25, 2014

**Subject Matter of Proposed Regulations:** Remedial Education

**Section Affected:** 16 CCR § 1108

Specific Purpose of each adoption, amendment, or repeal:

The purpose of the proposed language is to provide specific criteria and standards for Dental Hygiene Committee of California (Committee) approval of remedial education required by Business and Professions Code (Code) section 1917.3 for applicants for Registered Dental Hygienist licensure who have failed to pass the clinical examination required by Code section 1917 after three attempts or who have failed to pass the clinical examination as a result of a single incidence of imposing gross trauma on a patient. Section 1917.3 of the Code requires that the examinee must successfully complete remedial education at an approved dental hygiene program or a comparable organization approved by the Committee; however, currently there are no regulations that provide standards and criteria for such approval. These regulations will allow the Committee to approve an educational course of instruction that meets the same criteria and standards as those in all California dental hygiene programs.

New 16 CCR Section 1108 specifies the requirements that all courses must offer in order to obtain and maintain approval. These requirements establish the minimum standards for course approval to ensure consumer protection and safety for California dental hygiene patients. The regulations also provide staff with specific criteria and forms that course applicants will use to apply for approval, a standard certification form that courses must complete and issue to each student who successfully completes the course, and a biennial report to the Committee of courses given.

Section 1108(a) – This text informs individuals and course providers that the requirements of this section must be met and maintained in order for a remedial education course to be approved.

Proposed Change: This new text is added to clarify that this is the section of law that governs the approval of a required remedial education course for students who have either failed the clinical examination three times or failed due to gross trauma on a

patient in one instance according to the provisions of section 1917.3 of the Code, and that courses must continue to meet the requirements for continued approval. Course directors and instructors need to be informed of the requirements for course approval so that they can meet them and gain approval of their courses, and know that the course may not fall below the specified standards for continued approval.

Problem: There are currently no regulations that govern the approval process for a course of remedial education. Course provider applicants do not know how to apply for approval. Staff can provide no clear and specific direction to course applicants as to how to obtain course approval. If no courses can be approved, students who fail are unable to take required remedial education that would allow them to gain the skills to retake the clinical dental hygiene examination.

Anticipated Benefits: Course provider applicants will benefit from knowing that this section governs the approval of remedial education courses. Committee staff will benefit by the ability to direct applicants to this section of law which governs course approval. Students will benefit by knowing that approved courses meet specified requirements and provide the instruction necessary to achieve clinical competency to perform dental hygiene procedures safely on patients. The public will benefit by having specific written guidelines for approval of courses that ensure that potential dental hygienist licensees are adequately instructed in the safe performance of duties before performing them on patients during the California clinical exam.

Section 1108(a)(1): This new text begins to define the parameters of course instruction by indicating that a specific list of elements that follows must be offered within any remedial education course in order to gain approval.

Problem: There is no language that specifies the clinical elements of instruction that must be offered in the curriculum to achieve approval. Course providers need to be aware of the elements that must be offered within the course in order for the course to be approved. Students may inadvertently take a course that does not contain all of the required elements, so must take another course to fulfill the requirements for clinical re-examination.

Anticipated Benefits: This text informs students, instructors and course providers that all listed components must be offered within a remedial education course so that students know that the provider has the ability to instruct in the full range of dental hygiene procedures within a course of remedial education and course providers can meet the requirements in order to gain approval by the Committee.

Section 1108(a)(1)(A): This new text specifies that a course in remedial education must offer instruction in assessment of the patient and the development, planning and implementation of a dental hygiene care plan.

Problem: There is no language that specifies a course in remedial education must offer this essential instruction. If an examinee is not competent in assessing his or her exam patient, the patient may be rejected and the examinee will fail the initial portion of the clinical dental hygiene examination.

Anticipated Benefits: This text informs students, instructors and course providers that this instruction, essential for successful completion of the clinical examination, will be provided as part of the remedial education course.

Section 1108(a)(1)(B): This new text specifies that a course in remedial education must offer instruction in exploration and detection of calculus, and periodontal probing. These are required components of the clinical dental hygiene examination.

Problem: There is no language that specifies a remedial education must offer this instruction. If an examinee is unable to use an explorer and detect calculus, or perform periodontal probing, the examinee may fail these elements of the clinical dental hygiene examination.

Anticipated Benefits: This text informs students, instructors and course providers that this instruction, which is necessary to successfully complete the clinical examination, will be provided as part of the remedial education course.

Section 1108(a)(1)(C): This new text specifies that a course in remedial education must offer instruction in hand and sonic or ultrasonic instrumentation used to remove plaque biofilm and calculus as part of the clinical dental hygiene examination.

Problem: There is no language that specifies a remedial education must offer this essential instruction. If an examinee is not competent in the use of hand and sonic or ultrasonic instruments used to remove plaque biofilm and calculus, the examinee will be unable to remove them from the patient's teeth and as a result fail the clinical dental hygiene examination.

Anticipated Benefits: This text informs students, instructors and course providers that this instruction is required for successful completion of the clinical examination and will be provided as part of the remedial education course.

Section 1108(a)(1)(D): This new text specifies that a course in remedial education must offer instruction in the administration of local anesthesia, nitrous oxide-oxygen analgesia and performance of soft tissue curettage.

Problem: There is no language that specifies a remedial education course must offer this instruction, which is required for California dental hygiene licensure. If an examinee is not able to provide anesthesia to his or her exam patient, the patient may suffer pain and the examinee may fail the clinical examination.

Anticipated Benefits: This text informs students, instructors and course providers that this necessary instruction will be offered as part of a remedial education course.

Section 1108(a)(1)(E): This new text specifies that a course in remedial education must offer instruction in the appropriate use of materials and devices used in dental hygiene practice and are required elements of the clinical dental hygiene examination.

Problem: There is no language that specifies a remedial education course must offer this required instruction. If an examinee is not able to appropriately use materials and devices in the practice of dental hygiene, the examinee will fail the clinical examination and may cause harm to the patient.

Anticipated Benefits: This text informs students, instructors and course providers that this instruction, needed for successful completion of the clinical examination, will be provided as part of the remedial education course.

Section 1108(a)(1)(F): This new text specifies that a course in remedial education must offer instruction in the process of developing, reviewing and documenting outcomes of treatment and interventions used on patients in dental hygiene practice, and are required elements of the clinical dental hygiene examination.

Problem: There is no language that specifies a course in remedial education must offer this required instruction. If an examinee is not able to determine the outcome of treatment and intervene when necessary, the examinee will fail the clinical examination and potentially harm the patient.

Anticipated Benefits: This text informs students, instructors and course providers that this instruction, needed for successful completion of the clinical examination, will be provided as part of the remedial education course.

Section 1108(a)(1)(G): This new text specifies that a course in remedial education must offer instruction in all laws and regulations pertaining to dental hygiene practice and are necessary to successful performance of the clinical dental hygiene examination.

Problem: There is no language that specifies a course in remedial education must offer this required instruction. If an examinee does not know the laws and regulations regarding the practice of dental hygiene, the examinee may perform an unlawful action and thereby fail the clinical dental hygiene examination.

Anticipated Benefits: This text informs students, instructors and course providers that this instruction, needed for successful completion of the clinical examination, will be provided as part of the remedial education course.

Section 1108(a)(2): This new language specifies and incorporates by reference the form to apply for approval of a course, that a fee must accompany the form and that a course must be approved prior to operation.

Problem: There is no standardized form for application for a course in remedial education to be approved. Course providers submit materials that they think may be appropriate and wait to receive a response. This language ensures that only courses that meet the standards in regulation are approved, and that students do not complete a course that is not approved.

Anticipated Benefits: This section benefits applicants and staff by creating a standard tool by which remedial education course providers apply for approval, with no need to guess what the Committee may need for its review. Applicants and Committee staff benefit by remedial course approvals being based upon the requirements set out within the regulations and not perceived as subjective or arbitrary.

Section 1108(a)(3) This proposed new text specifies that a course in remedial education must be given at an approved dental hygiene educational program at the postsecondary educational level.

Problem: Students needing remediation may complete a high-school level course in the expectation that such a course will meet the statutory requirement for remediation. Approved dental hygiene educational programs are required to instruct at the postsecondary level, therefore remedial education should parallel that instruction.

Anticipated Benefits: This section benefits consumers who are students in need of remediation by ensuring that they are protected from paying for and completing courses that do not meet the instructional standards necessary to pass the dental hygiene clinical examination and safely perform procedures on exam patients.

Section 1108(a)(4): This proposed new text requires that courses contain a combination of didactic, laboratory, and clinical instruction and provide a minimum of 50 hours of remedial education.

Problem: Course provider applicants may not know the minimum number of hours that a course in remedial education must contain, and that instruction must include all three elements: didactic, laboratory and clinical.

Anticipated Benefits: This section benefits course provider applicants and students by ensuring that instruction includes lecture and textbook instruction, practice on models and simulators, and practice on human subjects, to complete the remediation. Fifty hours is the number of hours of remedial education required in Business and

Professions Code section 1633 for dental applicants who have failed their clinical examination after three unsuccessful attempts.

Section 1108(a)(5) –This new text requires that each approved course submit a biennial report on a specified form, incorporated by reference. The form must contain the name, address, provider number, phone number, contact person, email address, name and dates of course provided, and the number of attendees, course hours and certificates issued, in addition to any changes made to the course.

Problem: Once a course is approved, there is no further contact or information received from the provider unless there is a complaint regarding the course or the provider.

Anticipated Benefits: The Committee receives information about the course at least biennially. The biennial report provides a mechanism by which the Committee can gain information regarding how often the course is given, the number of units offered, the success rate of students and any changes made to the course. Other information is necessary for Committee staff to contact the course provider.

Section 1108(b): This new section specifies that the requirements for approval of a course in remedial education can be found here.

Problem: Applicants who intend to provide remedial courses need to know where to find information regarding the requirements for courses.

Anticipated Benefits: Applicants benefit from having clear direction as to where to find the requirements for course approval. Committee staff benefit by having clearly written requirements to which to direct course provider applicants.

Section 1108(b)(1): This new text specifies the requirements for administration of remedial courses, and requires the Committee be informed within 10 days of any changes to course content, physical facilities or faculty.

Problem: Applicants who intend to provide remedial courses need to know the requirements for courses, and need to be aware that any changes made to facilities, course content, or faculty need to be reported to the Committee. The Committee needs to give a sufficient amount of time, and no more, needed by a program to inform the Committee of changes that may impact instruction. Ten days is a reasonable amount of time for the provider to notify the Committee of such changes, while giving the Committee this information on a timely basis, so that students are not taking a course that fails to meet the requirements.

Anticipated Benefits: Applicants benefit from having clear direction as to the requirements for administration of a course in remedial education. The Committee needs to know if particular changes that could impact the ability of the course provider

to provide a viable remedial education course have been made.

Section 1108(b)(1)(A): This new text specifies that in order to be admitted to a remedial education course, students must provide evidence of failure to pass a clinical examination according to the provisions of Section 1917.3 of the Business and Professions Code, or provide a probationary order ordering attendance.

Problem: A course in remedial education is designed to remedy deficiencies in knowledge or skills. It is not intended to be a course for individuals to prepare for the clinical examination, or for students other than those specified.

Anticipated Benefits: Course provider applicants benefit from clear direction as to the students who may be admitted to a course in remedial education.

Section 1108(b)(1)(B): This new text specifies that in order to be admitted to a remedial education course, students must provide evidence of certification in Basic Life Support for health care providers as required of all licensees according to the provisions of regulations pertaining to continuing education, and as required within all Committee-approved dental hygiene educational programs.

Problem: Students in dental hygiene educational programs must have completed this requirement before any clinical instruction. Students taking a course in remedial education need to complete this requirement before clinical instruction also.

Anticipated Benefits: Course provider applicants and the public benefit by maintaining this established requirement for all students before performing procedures on other students or patients in the educational institution's clinic, in case the need for basic life support should arise for patients during the course.

Section 1108(b)(1)(C): This new text specifies that in order to be admitted to a remedial education course, students must provide evidence of graduation from a Commission on Dental Accreditation (CODA)-accredited dental hygiene educational program.

Problem: A course in remedial education is designed to remedy deficiencies in knowledge or skills. It is not intended to be a course for individuals to prepare for the clinical examination, or for students other than those specified. Course providers and students need to be aware that a course in remedial education does not replace the requirement for applicants to graduate from a CODA-accredited or Committee-approved dental hygiene educational program.

Anticipated Benefits: Course provider applicants and students are clearly informed that graduation from an approved dental hygiene educational program is required in order to take a course in remedial education. This assures the public that students of remedial courses have also completed the basic educational requirements for licensure.

Section 1108(b)(2): This new text sets out requirements for all faculty who instruct in a remedial education course, including the course director and supervising dentists.

Problem: Course provider applicants need to know the minimum requirements for faculty in a remedial education course so they may achieve Committee approval and so that students receive adequate instruction and have adequate supervision.

Anticipated Benefits: Course provider applicants benefit from clear direction as to the faculty who may teach, direct or supervise a course in remedial education.

Section 1108(b)(2)(A): This new text specifies that in order to instruct, direct or be a supervising dentist in a remedial education course, faculty must possess a valid, active California license with no disciplinary actions to practice dentistry or dental hygiene for at least two years immediately preceding any instruction within the course.

Problem: Faculty, the director and supervising dentists need to have a current license in order to practice on patients. Unlicensed individuals or licensees who possess a revoked, cancelled or expired license could instruct students in the course.

Anticipated Benefits: Course provider applicants benefit from clear requirements for faculty, director and supervising dentists. It is important that faculty do not have any disciplinary actions to ensure that students are trained adequately. Students and the public benefit by ensuring that clinical procedures are performed under the direction and supervision of licensed individuals who have no disciplinary actions.

Section 1108(b)(2)(B): This new text specifies that faculty may only provide pre-clinical and clinical instruction in procedures within their scope of practice.

Problem: Licensees who are not legally allowed to perform a particular duty would be able to instruct in the duty. It is important for protection of the public that faculty instruct only those procedures within their scope of practice when students are performing procedures on each other or on patients.

Anticipated Benefits: Course provider applicants benefit from clear direction as to the requirements for faculty instruction in pre-clinical and clinical procedures.

Section 1108(b)(2)(C): This new text specifies that in order to instruct, direct or be a supervising dentist in a remedial education course, faculty must complete an educational methodology course within the last two years.

Problem: Faculty, the director and supervising dentists need to have current instruction in educational methodology in order to adequately instruct students according to proven methods so that students learn the skills necessary to pass the required examination.

Anticipated Benefits: Course provider applicants benefit from clear requirements for faculty, course director and supervising dentists. Students and the public benefit by ensuring that instruction will be effective by using current methods of education.

Section 1108(b)(2)(D): This new text specifies that in order to instruct, direct or be a supervising dentist in a remedial education course, faculty must be calibrated in instruction and grading by the course provider.

Problem: Faculty, the director and supervising dentists need to be calibrated in order to instruct and grade students to a common standard, otherwise students are not taught and graded consistently.

Anticipated Benefits: Course provider applicants benefit from clear direction as to the requirements for faculty, director or supervising dentists. Students benefit by having qualified instructors who are calibrated to the same standards.

Section 1108(b)(3): This new text specifies the requirements for approval in the areas of facilities and equipment. The regulations state that pre-clinical and clinical instruction must be held at a physical facility, and that facilities and equipment must be maintained to provide students with a course that meets the educational objectives contained within the section. Specific requirements for physical facilities follow.

Problem: Course providers need to know that a course must take place in a physical facility during pre-clinical and clinical instruction. Students might not have access to all necessary facilities and equipment, and course providers would not know what equipment and facilities are necessary for approval without this regulation.

Anticipated Benefits: This text benefits course providers, students and Committee staff by specifying the requirements for course facilities and equipment that are needed to achieve and maintain approval. Students will have the necessary facilities and equipment to learn the procedures so they can pass the examination and practice safely on consumers.

Section 1108(b)(3)(A): This new text specifies that a physical facility must contain a lecture classroom, a patient clinic area, laboratory and a radiology area.

Problem: Course providers need to know the requirements for a physical facility. Students might not have access to all necessary facilities, and course providers would not know what facilities must contain for approval without this regulation. A lecture classroom is needed for didactic instruction. A laboratory provides the location for students to practice procedures to proficiency before proceeding to work on other students or patients in pre-clinical or clinical practice. A patient clinic area is needed for the performance of dental hygiene procedures on patients. A radiology area is needed

for X-rays, as part of the assessment portion of the course.

Anticipated Benefits: This text benefits course providers, students and Committee staff by specifying the requirements for course facilities that are needed to achieve and maintain approval. Students will have the necessary facilities to learn procedures so they can pass the examination and practice safely on consumers.

Section 1108(b)(3)(B): This new text specifies that students must have access to equipment necessary to develop dental hygiene skills.

Problem: Course providers need to know the requirements for equipment to achieve approval and students might not have access to all necessary equipment without this regulation.

Anticipated Benefits: This text benefits course providers, students and staff by specifying the requirements for equipment needed to achieve and maintain approval. Students will have the necessary equipment to learn the procedures to pass the examination and practice safely on consumers.

Section 1108(b)(3)(C): This new text specifies that students must have access to infection control equipment as described in section 1005 of the Dental Practice Act in the Code.

Problem: Course providers need to know that they must provide students with the necessary equipment that conforms to current standards for infection control in the dental office in order to achieve approval and students might not have access to all necessary equipment for infection control without this regulation.

Anticipated Benefits: This text benefits course providers, students and Committee staff by specifying that infection control equipment according to the standards listed in the Dental Practice Act's Section 1005 of the Code, is needed to achieve and maintain approval. Students will have the necessary infection control equipment to learn how to perform procedures in order to pass the clinical examination and practice safely on consumers.

Section 1108(b)(4): This new regulatory text specifies that course providers must comply with health and safety policies in accordance with local, state and federal laws and regulations, and review the information listed in 16 CCR Section 1108(b)(4)(A) through (C) with each student.

Problem: There is currently nothing in regulation that requires that students have access to or be provided with this information. Students must have access to and instruction in this important information to protect students, faculty and patients from infection and exposure to hazards in the provision of dental hygiene services.

Anticipated Benefits: Students need to be familiar with health and safety policies and requirements. Health and safety requirements are at least as important with students in an educational setting as with patients in an office setting.

Section 1108(b)(4)(A): This new regulatory text specifies that course providers must provide students with access to the course's hazardous waste management plan for disposal of needles, cartridges, medical waste and storage of oxygen and nitrous oxygen tanks.

Problem: There is currently nothing in regulation that requires that students have access to or be provided with this information. Students may have deficiencies in knowledge in this area, which could pose a risk to other students, patients, and faculty.

Anticipated Benefits: This section ensures that all parties know the course's hazardous waste management plan to safely store and dispose of hazardous waste.

Section 1108(b)(4)(B): This new regulatory text specifies that course providers must provide students with access to the course's clinic and radiation hazardous communication plan.

Problem: There is currently nothing in regulation that requires that students have access to or be provided with information as to what actions to take and who to notify in case of an emergency in the clinic or in the X-ray unit. Students may have deficiencies in knowledge in these areas, which could pose a risk to other students, patients, and faculty.

Anticipated Benefits: This section ensures that all parties know the course's clinic and radiation hazardous communication to notify the appropriate parties in case of an emergency in the clinic or in the X-ray unit.

Section 1108(b)(4)(C): This new regulatory text specifies that course providers must provide students with a copy of the course's bloodborne and infectious diseases exposure control plan, including emergency needlestick information.

Problem: There is currently nothing in regulation that requires that students have access to or be provided with information as to what actions to take in case of a needlestick emergency or when exposed to bloodborne or infectious diseases. Students may have deficiencies in knowledge in these areas, which could pose a risk to themselves, other students, patients, and faculty.

Anticipated Benefits: This section ensures that all parties know the course's bloodborne and infectious diseases exposure control plan, including emergency needlestick information so that appropriate action is taken in case of a needlestick or other

exposure to bloodborne or infectious diseases occurs, for public safety.

Section 1108(b)(5): This new text specifies the requirements for remedial education courses, including provisions for clinical facilities, equipment and resources needed to accomplish the student's remedial education.

Problem: Currently, there are no clear requirements for remedial instruction. Course provider applicants, students and Committee staff need to know what constitutes remedial education so that course provider applicants may know how to gain approval, students are assured adequate clinical facilities and resources, and staff is able to easily communicate the instructional requirements to course provider applicants.

Anticipated Benefits: Course provider applicants, students and staff need clear requirements for remedial education so there is no question as to where instruction may take place, and what will be provided during instruction.

Section 1108(b)(6): This new language specifies the requirements for records to be kept by course providers for five years.

Problem: There are no written requirements for records that course providers are expected to keep, nor a timeframe for records to be kept. The Committee cannot review or audit course providers. Students do not know which records will be kept, or for what period of time. Course providers do not know which records to keep and for how long.

Anticipated benefits: This section benefits course providers and students by clearly listing the records that course providers are expected to keep and specifying a five-year period that the records must be kept. Five years is a reasonable time without being burdensome to expect course records to be kept for students who need to document exactly what instruction was received and for the Committee to review in the case of a complaint against the course provider. The Committee would be able to review and audit course providers, and students would know that the records establishing their satisfactory completion of the course will be retained for at least 5 years, to allow the Committee time to audit the course. The Committee does not anticipate to audit more than five years of records.

Section 1108(b)(6)(A): This new language specifies that course providers keep individual student records, including those necessary to establish satisfactory course completion.

Problem: There are no written requirements that course providers keep individual student records. The Committee is not able to review or audit course providers, and students do not know if their individual student record will be kept, or for how long.

Anticipated benefits: This text benefits course providers and students by clearly stating

that course providers are expected to keep individual student records establishing their satisfactory completion of the course.

Section 1108(b)(6)(B): This new language specifies that course providers keep copies of individual student remediation plans.

Problem: There are no written requirements that course providers must keep copies of individual student remediation plans, so the Committee is not able to review or audit course providers. Students do not know if their individual remediation plan is on file.

Anticipated benefits: This text benefits course providers and students by clearly stating that individual student remediation plans must be retained for a five-year period, so the Committee will be able to review and audit course providers, and students will know that their individual student remediation plan will be retained for at least five years. Five years is a reasonable time without being burdensome to expect records to be kept for students who need to document exactly what instruction was received and for the Committee to review in the case of a complaint against the course provider. The Committee would be able to review and audit course providers, and students would know that the records establishing their satisfactory completion of the course will be retained for at least 5 years, to allow the Committee time to audit the course. The Committee does not anticipate to audit more than five years of records.

Section 1108(b)(6)(C): This new language specifies that course providers keep copies of lab and clinical competency documents.

Problem: There are no written requirements that course providers must keep copies of lab and clinical competency documents, so the Committee is not able to review or audit course providers. Students do not know if lab and clinical competency documents are on file or available to them.

Anticipated benefits: This text benefits course providers and students by clearly stating that individuals' lab and clinical competency documents must be retained for a five-year period, so the Committee will be able to review and audit course providers, and students will know that a copy their lab and clinical competency documents will be retained for at least five years. Five years is a reasonable time without being burdensome to expect course records to be kept for students who need to document exactly what instruction was received and for the Committee to review in the case of a complaint against the course provider. The Committee would be able to review and audit course providers, and students would know that the records establishing their satisfactory completion of the course will be retained for at least 5 years, to allow the Committee time to audit the course. The Committee does not anticipate to audit more than five years of records.

Section 1108(b)(6)(D): This new language specifies that course providers keep copies the faculty calibration plan, faculty credentials, licenses and certifications, including documented background in educational methodology within previous two years.

Problem: The Committee is not able to review or audit course providers to ensure that faculty who instruct in a remedial education course meet the same standards as instructors in a complete dental hygiene educational program. Students do not know if their instruction is being provided by qualified faculty.

Anticipated benefits: This text benefits course providers and students by clearly stating that copies of the faculty calibration plan, faculty credentials, licenses and certifications, including documented background in educational methodology within previous two years, so the Committee will be able to review and audit course providers, and students will know that their instruction is given by qualified faculty. Five years is a reasonable time without being burdensome to expect course records to be kept for students who need to document that instruction was provided by qualified faculty and for the Committee to review in the case of a complaint against the course provider. The Committee would be able to review and audit course providers, and students would know that the records establishing their satisfactory completion of the course will be retained for at least 5 years, to allow the Committee time to audit the course. The Committee does not anticipate to audit more than five years of records.

Section 1108(b)(6)(E): This new language specifies that course providers keep copies of student course evaluations, and a summation.

Problem: There are no written requirements that course providers must keep copies of student course evaluations, necessary for review and audit of the course. Students need to know their course evaluations are taken into account by the provider. Student evaluations contain information and perspective unique to students, to which the Committee would not otherwise be privy. This information bear on whether the Committee should continue approval of a course provider.

Anticipated benefits: This text benefits course providers and students by clearly stating that copies of student course evaluations and a summation of those evaluations will be kept for five years so the Committee will be able to review and audit course providers, and students will know that their input is valuable to this process. Furthermore, requiring course providers to summarize student evaluations has a two-fold purpose: (1) to ensure that the course provider reads the student evaluations, and (2) to provide the Committee with a concise version of the evaluations. Five years is a reasonable time without being burdensome to expect course records to be kept for the Committee to review in the case of a complaint against the course provider. The Committee would be able to review and audit course providers, and students would know that their records will be retained for at least 5 years, to allow the Committee time to audit the course. The Committee does not anticipate to audit more than five years of records.

Section 1108(b)(7): This new language specifies the requirements for curriculum and learning resources for remedial education courses, and the necessity for each one, as follows:

Section 1108(b)(7)(A): This subsection requires that course curriculum be flexible, so that it may be adjusted for advances in the skills listed in subdivision (a)(1) above.

Problem: Course content and curriculum need to be adjusted periodically to accommodate new technologies and the results of research in the duties performed by dental hygienists. Courses must contain instruction in methods and equipment used in current dental practice.

Anticipated benefits: Students and consumers benefit by experiencing the most current and widely used techniques in current dental practice. Course providers benefit from the ability to update courses as necessary to adapt to advances.

Section 1108(b)(7)(B): This subsection requires that course curriculum provides methods to assess and evaluate students' skills in order to create an individualized plan for remedial education.

Problem: Each student needs assessment and evaluation prior to developing a plan for his or her remedial education. Students have likely failed due to various deficiencies in knowledge or skills, or both, and may have multiple areas to be addressed.

Anticipated Benefits: This language tells course providers and students that an individualized plan is needed to provide each student with knowledge and skills needed develop competency in the performance of dental hygiene procedures.

Section 1108(b)(7)(C): This subsection requires that a remedial education plan include learning outcomes, results of assessments of student skills to be remediated, methods of remediation, measures to evaluate didactic and clinical competency and criteria for completion.

Problem: Course providers need to know the elements that a remedial educational plan must contain in order to be approved. Students need to know the criteria for successful completion of their remediation plan.

Anticipated Benefits: These elements assist course providers in providing, and students in achieving the level of knowledge and skills that will result in competency and the ability to pass the clinical dental hygiene examination.

Section 1108(b)(7)(D): This subsection requires that in order to be approved, course curriculum must prepare students to assess, plan, implement and evaluate the

procedures listed in subdivision (a)(1) above.

Problem: Each student needs to know how to assess and evaluate a patient prior to developing a plan for his or her dental hygiene treatment and before performing procedures or the patient will not receive safe and effective dental hygiene services.

Anticipated Benefits: Each remedial student will have an individualized plan that prepares him or her to perform dental hygiene patients competently on patients.

Section 1108(b)(7)(E): This subsection requires that in order to be approved, course curriculum must require students to adhere to infection control standards as provided in 16 CCR Section 1005.

Problem: Course providers and students need to know that dental hygiene procedures must be performed according to infection control standards contained in regulation at all times, including during instruction, otherwise appropriate infection control may not be maintained since students are not licensees subject to those requirements in law.

Anticipated Benefits: This language benefits patients and students by requiring adherence to current infection control standards be maintained throughout instruction, thereby preventing transmission of disease and infection.

Section 1108(b)(7)(F): This subsection lists the following items that must be included in the course's syllabus and requires that it be provided to students in order to be approved by the Committee. The necessity for each item follows:

Section 1108(b)(7)(F)(i): This subsection specifies that the course must provide students with a course syllabus that contains course learning outcomes, so that each student knows the expected outcome of the course.

Section 1108(b)(7)(F)(ii): This subsection specifies that the course provide students with a course syllabus that contains titles of references used for course materials, in order for students to be instructed according to the most up to date texts so they learn the procedures as utilized in current dental practice.

Section 1108(b)(7)(F)(iii): This subsection specifies that the course provide students with a course syllabus that contains content objectives, so that students can clearly see the areas of instruction that they will experience within the course and how it will result in their ability to perform the duties competently.

Section 1108(b)(7)(F)(iv): This subsection specifies that the course provide students with a course syllabus that contains grading criteria, which includes competency evaluations and lab and clinic rubrics, to include problem solving and critical thinking skills that reflect course learning outcomes. This ensures that students have complete information as to the course expectations regarding successful performance and the

skills needed to successfully complete the course and perform procedures competently.

Problem: Students need to know the expected course of study and outcomes, the reference materials used, the objectives of the course of study, otherwise they may think they are guaranteed to successfully complete the course and pass the clinical examination without this information that course providers specify the requirements and expectations of the student's remedial education.

Anticipated Benefits: This benefits course providers, students and Committee staff by clearly stating that students must be provided with a syllabus that contains these elements that clarify what a students can expect from a course of remedial education. Students benefit from having clearly stated learning outcomes for successful completion. Committee staff benefits by having clear written requirements that can be communicated to remedial education provider applicants. This informs course providers and students that the course syllabus must include these elements, and ensures that students are provided with the information so that they have adequate instruction and clinical experience to competency that prevents patient harm during the clinical examination.

Section 1108(b)(7)(G): This subsection requires that remedial students achieve competency at a minimum of 75% in order to achieve competency and successfully complete the remedial course of instruction.

Problem: Course providers and students need to know the minimum level of achievement that is needed to successfully complete a remedial course of instruction, otherwise course providers will not know if a student has achieved competence, and students will successfully complete the course only to fail the clinical examination again because the competency level for passing the examination is 75%.

Section 1108(c): This subsection specifies that a course provider must issue a standardized certificate of completion form upon the student's achievement of clinical competency of the three procedures, and incorporates the form by reference.

Problem: There is no requirement that a remedial education course issue each student who successfully completes the course a certificate of completion, and no standards for issuance, therefore students have no proof of completion to provide the Committee in order to re-take the clinical examination according to the provisions of Business and Professions Code section 1917.3.

Anticipated Benefits: Students are assured that they will receive a standard document upon successful completion of the course that is easily recognizable by all parties. Course providers benefit by the ability to use a form that will be accepted by the Committee without the need to create or design a certificate which may not contain complete and necessary information. Committee staff benefits by receiving clear and

consistent documentation from remedial students regarding their completion of this mandatory requirement for retaking the California dental hygiene examination.

Section 1108(d): This subsection specifies the appeals process for a course provider whose approval is denied or withdrawn.

Problem: There is no appeals process set out for remedial education course providers whose approval is denied or withdrawn to follow in order to appeal.

Anticipated Benefits: Remedial education course providers or provider applicants need to know the process by which they may receive information in order to appeal their remedial education course's denial or withdrawal of approval, and the timeframe in which it must be completed.

Section 1108(d)(1): This subsection specifies that the Committee must give the reasons for a remedial education course's denial or withdrawal of approval to the provider or provider applicant in writing within ninety (90) days. Ninety days is the outer limit of how long the Committee will need to set forth its reasons for withdrawal in writing, given the current workload.

Problem: There is no requirement or timetable for a remedial education course to receive the reasons for denial or withdrawal of approval by the Committee. Course providers or course provider applicants may not know the reasons for denial or withdrawal of approval, and, therefore have no ability to correct any problems and gain or regain approval.

Anticipated Benefits: Course providers and course provider applicants benefit from receiving the reasons for withdrawal or denial of a course's approval in writing so they may be addressed in order to achieve approved status.

Section 1108(d)(2): This subsection specifies that a course provider or applicant whose approval is withdrawn or denied shall be granted an informal conference and given at least ten days notice of the time and place of the informal conference and the grounds for the action. Ten days provides sufficient notice for the course provider to plan to attend an informal conference.

Problem: There is no requirement for an informal conference or timetable for a remedial education course to receive notice of the informal conference or the grounds for denial or withdrawal of approval by the Committee. Course providers or course provider applicants need to know that there is an informal conference process and that they will receive notification and information to gain or regain approval.

Anticipated Benefits: Course providers, course provider applicants and Committee staff benefit from clear and specific procedures for an informal conference.

Section 1108(d)(3): This subsection specifies that a course provider or applicant whose approval is withdrawn or denied may contest the denial or withdrawal of approval by doing one of two things.

Problem: There is currently no appeals process for a remedial education course to contest the denial or withdrawal of approval by the Committee. Course providers or course provider applicants need to know that there is a process by which they can contest the Committee's denial or withdrawal of approval.

Anticipated Benefits: Course providers, course provider applicants and Committee staff benefit from a specified process to contest the withdrawal or denial of approval of a remedial education course.

Section 1108(d)(3)(A): This subsection specifies that a course provider or course provider applicant whose approval is withdrawn or denied may contest the denial or withdrawal of approval by appearing at an informal conference with the Committee's Executive Officer, who will notify the course provider of the final decision within ten days of the informal conference. The text specifies that the course provider or course provider applicant must request a hearing in writing within 30 calendar days of the postmarked date of the letter of the Executive Officer's final decision after the informal conference. Thirty days is the outer limit for a course provider to make the decision to appeal while the matter is currently available and evidence is still fresh.

Problem: There is no requirement for an informal conference or timetable for a remedial education course to request a hearing based on the Executive Officer's final decision. Course providers and course provider applicants need to know that there is an appeals process with specific timetables for the informal conference and request for hearing subsequent to the informal conference.

Anticipated Benefits: Course providers, course provider applicants and Committee staff all benefit from a clear and specific appeals process. Informal conferences are a more affordable and time-saving way to address concerns if at all possible, without having to go through the expense of a hearing, and may provide a quicker resolution.

Section 1108(d)(3)(B): This subsection specifies that a course provider or course provider applicant whose approval is withdrawn or denied may contest the denial or withdrawal of approval by notifying the Committee in writing before the date of the informal conference of the course provider's election to forego the informal conference and proceed with a hearing.

Problem: There is no provision in the law or instructions for a remedial education course to request a hearing subsequent to withdrawal or denial of a remedial course's approval. Course providers and course provider applicants need to know that there is an appeals process with specific timetables for the informal conference and request for

hearing subsequent to the informal conference.

Anticipated Benefits: Course providers, course provider applicants and Committee staff all benefit from a clear and specific appeals process, with provisions for a hearing.

#### Factual Basis/Rationale

The Committee is the regulatory entity responsible for licensing and regulation of the dental hygiene profession in California.

Business and Professions Code section 1905(a)(1) gives the Committee the authority to evaluate all dental hygiene educational programs that apply for approval, and grant or deny approval of those applications in accordance with regulations adopted by the Committee.

Business and Professions Code sections 1905(a)(9) and 1906(a) authorize the Committee to adopt, amend and revoke rules and regulations to implement the requirements of Article 9.

Business and Professions Code Section 1917.3 requires dental hygiene applicants who have failed the California clinical dental hygiene examination three times, or who have failed for one instance of gross trauma on a patient to complete a course of remedial education before retaking the examination. These regulations provide needed clarity as to the requirements for such courses.

Business and Professions Code section 1944(11) relative to fees specifies the fee for review of courses required for licensure that are not accredited by a committee-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's Office of the California Community Colleges shall not exceed three hundred dollars. This is the application fee specified on the application form incorporated by reference within these regulations.

These regulations provide criteria and a mechanism for approval of courses that are required for applicants who have either failed the California clinical examination three times or who have failed for one instance of gross trauma on a patient. By specifying requirements for remedial education course approval, course provider applicants may use these regulations to ensure that their courses meet the necessary requirements for approval by the Committee. The Committee has placed standards in these regulations that ensure that patients are protected through instructional requirements for applicants taking the California clinical examination.

## Underlying Data

1. Minutes of December 6-7, 2013 DHCC Meeting

## Business Impact

This regulation will not have a significant adverse economic impact on businesses. This regulation will impact course provider applicants who wish to provide remedial education courses and applicants who have repeatedly failed the California dental hygiene clinical exam or failed due to a single instance of gross trauma who wish to retake the clinical exam. Of the approximately 800 applicants tested annually, only five fail due to gross trauma on a patient, and an additional five fail for the third time. Other potential users of remedial education are probationers who are on probation for a standard of care issue. The Committee currently has nine active probationers and five probationers who are not working in California and therefore, their probationary period is halted until they either return to California or resume work. Of these fourteen probationers, none have been ordered to complete remedial education however, in future, some probationers may be directed to remedial education.

It is not known how many businesses will apply to be remedial education course providers, due to the laboratory and clinical facilities and equipment needed to instruct and perform the duties, and the requirement that the course be given in a dental hygiene program at the postsecondary level. There are no existing course providers, therefore it is difficult to determine the cost to each student taking the course. It is likely that the cost would depend upon the extent of the remediation required by a particular student. This regulation would require that remedial education course providers pay a \$300 one-time application fee to be approved to provide the courses, and provide specified facilities, equipment and faculty to instruct in the procedures. A complete dental hygiene educational program consists of a minimum of 1600 hours at a cost of \$50,000 and up. A course in remedial education would consist of a minimum of 50 hours of instruction, therefore the cost to an individual taking such a course may be \$3,000 or higher.

## Economic Impact Assessment

This regulatory proposal will have the following effects:

- It may create jobs within the State of California if dental hygiene educational programs who would provide remedial education courses hire additional staff and faculty to provide the courses. It would not eliminate jobs within the State of California because no remedial education courses currently exist.

- It will not create new businesses because dental hygiene educational programs who would provide remedial education already exist. It will not eliminate existing businesses within the State of California because there are currently no dental hygiene programs that provide a remedial course of instruction.
- It may encourage the expansion of businesses currently doing business within the State of California because there are no existing course providers, and these regulations provide a process by which dental hygiene educational programs may expand to provide remedial education courses.
- This regulatory proposal benefits the health and welfare of California residents who will continue to be protected from individuals who have not learned or demonstrated the ability to safely perform dental hygiene procedures on patients.
- This regulatory proposal benefits California consumers by allowing dental hygiene graduates to become licensed in California, by bringing their skills to a level of competency through the availability of the required remedial course.
- This regulatory proposal enhances worker safety in places where dental hygiene is taught by ensuring that all California dental hygiene students are knowledgeable in infection control so they do not endanger other workers.
- This regulatory proposal benefits the state's environment because it requires that students be instructed in California's infection control standards and the requirements for safe storage of oxygen and nitrous oxide tanks, hazardous waste management, infection control, and disposal of needles, cartridges, and medical waste before performing duties involving the use of such equipment and materials.

#### Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

#### Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

Alternative No. 1: Do not pursue regulations. This is not reasonable because current statute requires that dental hygiene applicants who have failed the California clinical examination three times or who have failed due to an instance of gross trauma on a patient must complete a remedial education course before retaking the exam. These regulations will make it possible for dental hygiene educational programs to apply to be approved to give the required course, and thereby make the course available to applicants who cannot retake the exam to be issued a California registered dental hygiene license until they have successfully completed the required coursework.