

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

INITIAL STATEMENT OF REASONS

Hearing Date:

Subject Matter of Proposed Regulations: Feasibility Study

Sections Affected: 16 CCR § 1104, 1104.1, and 1104.2

Introduction

The Dental Hygiene Committee of California (Committee) proposes to adopt Sections 1104, 1104.1, and 1104.2 of Division 11 of Title 16 of the California Code of Regulations.

Section 1905(a)(9) gives the Committee statutory authority to “adopt, amend and revoke rules and regulations to implement the provisions of this article.” The Committee’s statutes, specifically Business and Professions Code Section 1905(a)(1) authorize the Committee to evaluate all registered dental hygienist (RDH) 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 Section 1941(b) requires a new registered dental hygienist educational program to submit a feasibility study demonstrating a need for a new educational program and to apply for the Committee’s approval before seeking approval from other accrediting bodies. This section authorizes the Committee to approve, provisionally approve, or deny approval of any new RDH educational program.

The purpose of adopting these regulations is to establish the necessary structure that will allow the Committee to carry out its responsibilities and duties under the statutes.

Specific Purpose of each adoption, subsection, or repeal:

The purpose of the proposed language is to provide the Committee with specific criteria and standards for approval of registered dental hygienist (RDH) educational programs pursuant to Business and Professions Code (Code) section 1905(a)(1), and specifies the approval process for new educational programs according to the provisions of Section 1941(b) and (c). Prior to the Committee’s creation in 2009, the former Committee on Dental Auxiliaries (COMDA) recommended approval of RDH educational programs to the Dental Board, who was responsible for program approval. COMDA and the Dental Board used criteria and standards contained in Title 16, Division 10, Chapter 3, Article 2, section 1072.1 of the California Code of Regulations (CCR), to govern the approval of RDH educational programs. Program and course definitions are contained in section 1072.1, and have not been amended since 1985, and do not reflect current

educational standards. The Committee cannot amend the regulations that fall under the Dental Board's authority. Therefore, the Committee needs these regulations to provide current standards and criteria for RDH educational program approval in order to allow the Committee to approve new dental hygiene educational programs and to audit existing programs to ensure that they meet current standards. Existing regulations do not provide a process for withdrawing an educational program's approval, or for programs to appeal the Committee's denial or withdrawal of a program's approval.

Since 1985, the number of RDH educational programs in California has more than tripled. At least one program opened, accepted students and their tuition, and subsequently shut down before graduating a class. This led to the requirement in Section 1941 that a new RDH educational program must demonstrate the need for a new program through a feasibility study. This proposed language provides instructions for a new RDH educational program to complete its feasibility study for Committee approval.

Specifically, the Committee is proposing the following;

Adopt Section 1104 of Article 3 Division 11 of Title 16 of the California Code of Regulations (Approval of New RDH Educational Programs and Continuation of Approval for Approved RDH Educational Programs)

New Section 1104 specifies requirements that all educational programs must meet in order to obtain and maintain Committee approval. The proposed language informs users of the process for approval of new RDH educational programs to ensure consumer protection and safety for California dental hygiene patients, and a quality education for students. The proposed language also provides specific actions and notifications that existing educational programs must perform in order to maintain approval status, so that the Committee is informed of any changes in the program's accreditation status, and provide a penalty for misrepresentation of the facts by an educational program.

The following subsections are proposed:

Section 1104(a) – This subsection specifies that before admitting students, a new RDH educational program must obtain the Committee's approval.

Proposed Change: This proposed subsection is necessary to specify that a program cannot admit students until it has obtained the Committee's approval.

Problem: New programs may admit students and subsequently have the Committee deny approval, placing students in jeopardy of their education and any tuition or fees paid to the non-approved program. This has already happened, and there needs to be clear language to prohibit programs from admitting students before Committee approval.

Anticipated Benefits: Educational programs, students, consumers and DHCC staff will benefit by this proposed subsection that will prevent new programs from admitting students before the program has been approved by the Committee so that students do not risk losing time and money attending a program that is not approved, programs and consumers are informed that programs may not admit students before Committee approval, and staff has specific regulatory language to reference for consumers and programs applying for approval.

Section 1104(b) – This subsection clarifies that the Committee will review all programs' approval on the same time schedule as the program's Commission on Dental Accreditation (CODA) accreditation renewal.

Proposed Change: This proposed subsection is needed to make it clear that programs will not have to undergo two approval processes at different times.

Problem: Programs do not know when their Committee approval will be reviewed.

Anticipated Benefits: Programs can collect information and prepare for both their CODA accreditation and Committee approval renewal at the same time, since much of the information is similar. CODA does not share information with the Committee.

Section 1104(b)(1) – This proposed subsection clarifies that after each accreditation site visit, programs must submit to the Committee an electronic copy of the self-study provided to CODA by the program and a copy of CODA's final report of their findings within 30 days of the issuance of the final report.

Proposed Change: This proposed subsection is needed to inform programs that they must submit to the Committee a copy of the same self-study that CODA requires before they perform an accreditation site visit and a copy of CODA's final report that is subsequently sent to the program, both to be submitted to the Committee no later than 30 days after the program receives CODA's final report of findings. Thirty days provides pertinent information regarding the program's accreditation status to the Committee within a reasonable timeframe for the Committee to timely take any action necessary if a program's accreditation status is about to change, while providing the program ample time to submit copies of the documents to the Committee via electronic means. The Committee needs the ability to review CODA's final report of findings regarding a Committee -approved RDH program, and CODA does not provide this to the Committee.

Problem: Programs do not know that the Committee does not receive information from CODA and the Committee has no knowledge that a program is in trouble until the program's accreditation status is changed on CODA's website, requiring staff to constantly monitor the CODA website to check the status of the 30 dental hygiene educational programs currently operating in California. The Committee needs to have timely information regarding California RDH educational programs' accreditation status.

Anticipated Benefits: The Committee benefits by receiving information on a timely basis regarding a program's accreditation status. Programs benefit from specific requirements for documents to be submitted to the Committee, and a timeframe for compliance, so there is no question as to what documents to submit and when they must be submitted.

Section 1104(b)(2) – This proposed subsection clarifies that if CODA gives a program the status of “Approval with Reporting Requirements” that the program must submit to the Committee copies of all correspondence with CODA until the program achieves “Approval without Reporting Requirements” status.

Proposed Change: This proposed subsection is necessary so that the Committee receives pertinent information regarding the program's placement on a CODA status that indicates program deficiencies have been found and puts the program on a “watch.”

Problem: Without this subsection, the Committee has no knowledge of the reasons a program has been designated an “Approval with Reporting Requirements” status by CODA, and what the program's deficiencies might be, since CODA does not inform the Committee of their findings.

Anticipated Benefits: The Committee is able to determine whether a program's deficiencies will impact students' learning, and to be apprised of any corrective actions taken by the program in the areas of deficiency found by CODA. The program can share its corrective actions with the Committee to demonstrate its actions to bring the program into compliance with CODA standards.

Section 1104(b)(3) – This proposed subsection clarifies that if CODA designates the program as “Approval with Reporting Requirements with Intent to Withdraw,” the program must notify the Committee within 10 days and the Committee will withdraw the program's approval until CODA changes its status to “Approval without Reporting Requirements.” The program must notify students and copy the Committee that approval is being withdrawn and that they will potentially be ineligible for licensure, as well as any correspondence sent to CODA regarding its accreditation status.

Proposed Change: This proposed subsection is necessary for the Committee to be aware of the imminent withdrawal of a program's CODA accreditation, and to inform programs that they must notify the Committee within 10 days of such change in status. Ten days is sufficient time for the program to prepare a letter of notification and mail it to the Committee, while providing a quick enough timeframe for the Committee to take action to withdraw approval due to the program's imminent loss of accreditation.

Problem: If the Committee is not notified timely of an approved RDH educational program's imminent loss of accreditation, students will continue to receive substandard instruction while believing that it meets the criteria for licensure, the Committee will not know that the program is deficient and continue the program's approval status, and consumers will be placed at risk if the program's students obtain licensure.

Anticipated Benefits: The Committee is able to timely withdraw a deficient program's approval and protect consumers from licensees who have completed a substandard educational program. Students benefit by the knowledge that the program they attend, or intend to attend, is not approved for licensure requirements for RDH. Consumers are not placed at risk by uneducated licensees.

Section 1104(b)(4) – This proposed subsection clarifies that if CODA withdraws a program's accreditation status, the program must notify the Committee within 10 days and submit copies of all correspondence with CODA, and the Committee will withdraw the program's approval. This subsection further specifies that students enrolled in the program will not be considered graduates of an accredited program and therefore are not eligible for licensure.

Proposed Change: This proposed subsection is needed so that the Committee is informed when a program's CODA accreditation is withdrawn, as CODA does not provide this information to the Committee, and to inform programs that they must notify the Committee within 10 days of such change in status. 10 days is sufficient time for the program to prepare a letter of notification and mail it to the Committee, while providing a quick enough timeframe for the Committee to take action to withdraw approval due to the program's loss of accreditation status.

Problem: If the Committee is not notified timely of an approved RDH educational program's loss of accreditation status, students will continue to receive substandard instruction while believing that it meets the criteria for licensure, the Committee will not know that the program was so deficient that it is no longer accredited and continue the program's approval status, and consumers will be placed at risk if the program's students obtain licensure.

Anticipated Benefits: The Committee is able to timely withdraw a deficient program's approval and protect consumers from licensees who have completed a substandard RDH educational program. Students benefit by knowing in advance that the program they are attending does not meet licensing requirements, and they will not be able to apply for licensure if they continue with the program, so that they have the opportunity to change to another program that is accredited.

Section 1104(b)(5) – This proposed subsection clarifies that a program's continued approval is contingent upon meeting all of the requirements contained in this Article, and that the Committee will notify programs in writing that their approval is continued.

Proposed Change: This proposed subsection is needed so that programs know that in order to maintain continued approval status, they must comply with the requirements of the Article, and that the Committee will provide written notification of approval.

Problem: Programs will not know which requirements they must meet, and will not know if their program continues to be approved by the Committee.

Anticipated Benefits: This subsection benefits RDH educational programs by clearly stating that all requirements of this Article must be met for continuation of a program's approval, and by informing programs that they can expect to receive written notification of continued approval from the Committee.

Section 1104(c) – This proposed subsection clarifies that all educational programs approved by the Committee are required to maintain a current CODA accreditation. Section 1905(a)(1) states that “Any dental hygiene program accredited by the Commission on Dental Accreditation may be approved.” The Committee feels that RDH educational programs need to be accredited by CODA in order to be approved by the Committee.

Proposed Change: This proposed subsection is needed to inform programs that they must maintain a current CODA accreditation to obtain and retain Committee approval.

Problem: RDH educational programs may believe that Committee approval is sufficient, and let their CODA accreditation lapse.

Anticipated Benefits: This proposed subsection informs programs that they must achieve and retain CODA accreditation to maintain or obtain Committee approval.

Section 1104(d) – This proposed subsection clarifies that all Committee-approved RDH educational programs' sponsoring and affiliated institutions are required to maintain institutional accreditation by an accrediting agency that is recognized by the U.S. Department of Education (USDE). The Committee feels that the program's sponsoring or affiliated institution must meet corresponding accreditation standards to that of the program. CODA only accredits dental professional educational programs. The sponsoring or affiliated institution may not be a dental program.

Proposed Change: This proposed subsection is needed to inform programs that their sponsoring and affiliated institutions must maintain USDE accreditation in order for the program to continue Committee approval. A program's sponsoring and affiliated institutions need to meet their own accreditation standards.

Problem: Educational programs may think that their own Committee approval and CODA accreditation is sufficient and not realize that their sponsoring and affiliated institutions must maintain their own accreditation as well, otherwise enrolled students' education could be compromised or determined to be invalid. Portions of an RDH educational program may take place in the sponsoring institution or at other institutions that are affiliated with the approved RDH program and that are not CODA-accredited.

Anticipated Benefits: This proposed subsection ensures that students who successfully complete a Committee-approved program receive education that meets the accreditation standards for all components of their education, including any that take place at the sponsoring institution or other affiliated institutions.

Section 1104(e) – This proposed subsection specifies that a material misrepresentation of fact on the part of a program in any Committee-required information is grounds for denial or revocation of approval.

Proposed Change: This proposed subsection is needed so that programs know that if they misrepresent any information that is required by the Committee, the fact that they misrepresented the program in the information is grounds for denial or revocation of the program’s approval, and so that programs provide accurate and truthful information to the Committee regarding the program.

Problem: Programs need to know that misrepresenting the facts in documents provided to the Committee regarding their program approval may result in the program’s approval being denied or revoked. The Committee needs the ability to deny or revoke the approval of a program who has misrepresented the facts in any information submitted to the Committee for review.

Anticipated Benefits: This subsection benefits the Committee by providing a mechanism by which to deny or revoke a program’s approval for misrepresentation of information required by the Committee. Consumers are protected by the Committee’s ability to deny or revoke a program’s approval for misrepresenting facts that could place consumers at risk. Programs benefit by knowing in advance that any material misrepresentation of fact could result in denial or revocation of the program’s approval.

Adopt Section 1104.1 of Article 3 Division 11 of Title 16 of the California Code of Regulations (Process for Approval of a New RDH Educational Program)

New Section 1104.1 specifies the process for new RDH educational programs to obtain Committee approval and incorporates instructions for institutions seeking approval of a new RDH educational program by reference. This proposed subsection informs users of the process for approval of new RDH educational programs to ensure consumer protection and safety for California dental hygiene patients, and a quality education for RDH students. The proposed section also provides specific actions and notifications that new educational programs must perform in order to achieve approval status, so that the Committee is informed that a new RDH educational program intends to operate in California and prospective programs have instructional information to assist them in the approval process.

The following subsections are proposed:

Section 1104.1(a) – This subsection specifies that a college or other institution of higher education who seeks approval of a new RDH educational program must comply with requirements specified in the Committee’s document “Instructions for Institutions Seeking Approval of a New RDH Educational Program (Instructions),” and incorporates the current version of this document by reference.

Proposed Change: This proposed subsection is needed so that new programs know that in order to achieve Committee approval, the program must comply with the requirements specified in the “Instructions.”

Problem: New programs will not know the steps necessary and the requirements the program must meet in order to become approved by the Committee.

Anticipated Benefits: This subsection benefits new RDH educational programs by clearly stating that the requirements necessary for Committee approval exist in the “Instructions.” New programs and staff benefit by having a standardized mechanism for approval so that new programs do not have to guess at what the Committee needs for its review.

The “Instructions” clearly state that the Committee is the approving agency for all new RDH educational programs, that a feasibility study demonstrating the need for a new program is required by law, and includes the governing statute. The “Instructions” inform users that there is a fee associated with the review, that it must be paid by check, and that the process must be completed within one year of submission or it will expire unless an extension is granted by the Committee and a new fee required with the resubmission.

The “Instructions” specify that a new RDH educational program’s first step is to submit a letter of intent at least one year before the anticipated date for admission of students and that the letter must include the institution’s name and address and contact information for the person responsible for the feasibility study so that the Committee can contact the appropriate person with any questions. Step 1 of the “Instructions” specifies that the letter must contain the type of degree(s) granted, the length of the proposed program, the anticipated enrollment, the proposed start date, and the address to submit the letter. One year in advance provides the Committee with notice that a new program intends to operate in California and seeks approval to do so, while providing the program with a sufficient amount of time to gather and submit the information required for the Committee’s review. The Committee needs to know the degree(s) to be granted and length of the proposed program to determine if the program will result in students receiving an Associate or a Bachelor’s degree and if the program’s length meets the required 2 years and 1,600 hours required of all RDH educational programs. If not, the program will be notified and have ample time to correct the problem. The “Instructions” specify that the letter must include the anticipated enrollment and anticipated start date, so the Committee knows how many students the program expects to enroll and when instruction is expected to begin, to ensure that timelines are met and that adequate facilities and equipment are in place to accommodate students. Step 1 specifies that the Committee will notify the program of the letter’s receipt, and that the program will then have 6 months to submit Step 2. Six months provides the new program sufficient time to prepare the information specified in Step 2 – Feasibility Study that the Committee needs in order to determine the need for a new RDH educational program of the size anticipated in the proposed location stated by the program.

The “Instructions” specify the format and contents of Step 2, the required feasibility study, to facilitate the Committee’s review. The “Instructions” specify that a new program must provide a rationale for developing the new program to address the statutory requirement for the need for a new RDH program, including regional labor and employment statistics, characteristics of the community being served and the impact on existing RDH programs in the area. This information assists the Committee in determining that there is a need for dental hygiene care in the area and that students will be able to find employment after completing their education. There are requirements that information regarding the program’s structure, governance, facilities, and resources be included, so that the Committee is able to determine that the new program has the governance, facilities and resources to adequately operate the program and instruct students in dental hygiene procedures. Requirements for cost-revenue projections and a detailed 5-year budget provide the Committee with evidence that the new program has the resources to continue operating for at least 5 years and will not close unexpectedly leaving students without the education that they have paid for. The “Instructions” require a new program provide information relative to students and student services, so that the Committee has information regarding the expected pool of students and the services that the new program anticipates having available for their students, such as counseling, health, and housing.

The “Instructions” specify that for Step 3- Review of the feasibility study, a new program must designate a knowledgeable staff person so that the Committee is able to contact an individual who can answer questions or provide clarification regarding the feasibility study so that the review is not delayed. Step 3 of the “Instructions” specifies the review process and requires that the program be notified in writing of any deficiencies if the feasibility study is incomplete, and provided with a deadline for revisions to allow a new program to address any specific problems in a timely manner so as not to delay the review. Step 3 of the “Instructions” specifies that if the revised feasibility study is incomplete, it will be returned to the program with a written notice, and if the program still wishes to seek approval, the program must restart at Step 1 and when resubmitted, the Letter of Intent must include the reasons for not accepting the previous feasibility study and the corrective action taken. This ensures that reviews are not delayed indefinitely by incomplete information.

Step 4 of the “Instructions” provides information regarding the Education Subcommittee’s review process and specifies that the program be notified in writing within 10 days if the Subcommittee’s deferral of action of the reasons for the deferral and the date for submission of any additional information or documents needed for the Subcommittee’s review. The “Instructions” specify the criteria that the Subcommittee uses to determine its recommendation to the full Committee, including: evidence of need, evidence of the program’s ability to initiate and maintain a program that will be in compliance with the Committee’s statutes and regulations, and evidence of initial and sustainable budgetary provisions for the program. Specifying the criteria is necessary to assist the program in providing appropriate information for the Committee’s review.

Step 5 of the “Instructions” clarifies that the Education Subcommittee’s recommendation

will be submitted to the full Committee for consideration at a regularly scheduled meeting and that all meetings are open to the public with opportunities for public comment. Step 5 clarifies that the Committee's staff will notify the program in writing within 10 days as to the action taken to approve or deny the feasibility study, and if denied, the notice will include the basis for the decision. Step 5 clarifies that if the Committee takes action to approve the feasibility study, the new RDH educational program may then apply for initial accreditation from the Committee on Dental Accreditation (CODA) of the American Dental Association, so the program is notified that this is the point at which CODA approval may be sought.

Step 6 of the "Instructions" clarifies that after the Committee approves the new program's feasibility study, the program must prepare the CODA self-study for the proposed program and submit the self-study to the Committee at least 12 months before the projected date of student enrollment. This is necessary for the Committee to ensure that the program will comply with accreditation standards before scheduling a site visit to the program. Step 6 of the "Instructions" specifies that the program's clinical instruction sites will be visited as part of the site visit and the Committee will provide a written report of its findings which will be submitted to the Education Subcommittee for action and recommendation to the full Committee, so that new programs know and understand the site visit process.

Step 7 of the "Instructions" describes the actions that will be taken by the Education Subcommittee and the full Committee subsequent to the self study and site visit, and specifies that the Committee may approve, provisionally approve or deny approval of the new program, and gives a timeline for actions. Step 7 specifies that within 10 days of the Committee's decision, staff will notify the program in writing of the decision. This informs new programs of the potential outcomes, that they will be notified in writing within 10 days, and specifies the timeline of a review, including the appeal process. 10 days is timely enough for the program to receive notification of the decision while allowing sufficient time for Committee staff to prepare and mail the notification to the program. Step 7 clarifies that if a new program is provisionally approved, the notice must specify what additional information and documents are needed and the due date for submission of the materials, and that the new information will be considered at the Committee's next regularly scheduled meeting. This is necessary to inform new programs of the requirements for provisionally approved programs and that a special meeting will not be called to consider additional information and documents requested. Step 7 clarifies that a new program that is denied approval must restart with Step 1 and that the letter of intent must include a statement summarizing the Committee's reasons for not accepting the prior submissions and subsequent corrective action the RDH educational program has taken, so that denied new programs will know that they must begin the process with Step 1 and include the reasons for denial in the letter of intent. Step 7 specifies that a material misrepresentation of fact on the part of a new program in any materials required to be submitted to the Committee is grounds for denial, so that new programs know the consequences of a material misrepresentation of fact within their information and documents submitted to the Committee for review.

Section 1104.1(a)(1) – This subsection specifies that a college or other institution of higher education who seeks approval of a new RDH educational program must notify the Committee in writing of its intent to offer a new RDH educational program that complies with Committee requirements.

Proposed Change: This proposed subsection is needed so that new programs know that they must notify the Committee in writing of its intent to open a new RDH educational program.

Problem: New programs will not know that they must notify the Committee in writing before proceeding to offer a new RDH educational program to students. The Committee will not know that there is a new RDH educational program operating in California that may or may not meet the Committee’s requirements or provide an adequate education to students.

Anticipated Benefits: This subsection benefits new RDH educational programs and the Committee by clearly stating that a program must notify the Committee of its intent to offer RDH instruction to students, so that programs are informed of the requirements in advance and the Committee knows that a new RDH program is planned. This assists the Committee’s consumer protection efforts and ensures that any planned RDH educational program operates safely.

Section 1104.1(a)(2) – This subsection specifies that a college or other institution of higher education who seeks approval of a new RDH educational program must submit a feasibility study in accordance with requirements specified in the “Instructions” for approval as referenced in Business and Professions Code section 1941(b).

Proposed Change: This proposed subsection is needed so that new programs know that in order to achieve Committee approval, the program must submit a feasibility study that meets the requirements specified in the “Instructions” and references the statute.

Problem: New programs will not know the steps needed and the requirements the program must meet in order for the feasibility study to be approved by the Committee.

Anticipated Benefits: This subsection benefits new RDH educational programs by clearly stating the requirements and where they may be found. Consumers benefit by new programs’ ability to achieve approval through the feasibility study.

Section 1104.1(a)(3) – This subsection specifies that the Committee will review and either approve or deny approval of the feasibility study as specified in the “Instructions.”

Proposed Change: This proposed subsection is needed so that new programs know what actions may be taken by the Committee.

Problem: New programs could expect that the feasibility study could be provisionally or automatically approved if not specified.

Anticipated Benefits: These subsections benefit new educational programs and the Committee by clearly specifying that the Committee will approve or deny approval of the feasibility study. Consumers benefit from the Committee's ability to deny approval of a new RDH educational program that does not have the resources to operate successfully in California.

Section 1104.1(b) – This subsection specifies that after the Committee approves the feasibility study and at least 12 months before the enrollment of students, a new educational must submit CODA's required documents to the Committee as specified in the "Instructions."

Proposed Change: This proposed subsection is needed so that new programs know the timeframe for the next step of the approval process and that the program must submit the same documents to the Committee that are submitted to their particular accrediting body. Twelve months gives the Committee an adequate timeframe in which to review the documents as the Committee is required to meet only twice yearly and this documentation will only be considered at a regular meeting of the Committee.

Problem: New programs could expect that the required feasibility study could be submitted less than 12 months before the anticipated enrollment of students and may believe that a special meeting could be called to facilitate approval. The Committee would not receive the documentation or would have insufficient time for its review.

Anticipated Benefits: This subsection benefits new RDH educational programs and the Committee by clearly specifying the timeframe for submission of required accreditation documents and that they must be submitted to the Committee.

Section 1104.1(c) – This subsection specifies that the Committee will review the accreditation documents and a site visit will be scheduled in accordance with the requirements specified in the "Instructions."

Proposed Change: This proposed subsection is needed so that new programs know that the Committee will review the accreditation documents and subsequently schedule a site visit as specified in the "Instructions."

Problem: If not included in the regulations, new programs may not be aware that a site visit is part of the approval process.

Anticipated Benefits: This subsection benefits new RDH educational programs and the Committee by clearly specifying that a site visit will be scheduled once the program's accreditation documents have been reviewed by the Committee.

Section 1104.1(d) – This subsection specifies that the Committee will approve, provisionally approve or deny approval of the new RDH educational program according to the requirements specified in the "Instructions."

Proposed Change: This proposed subsection is needed so that new programs know what the Committee will consider in its review and evaluation of the new program after the site visit as specified in the “Instructions.”

Problem: If not specified, new programs may not know that their RDH educational program may be approved, provisionally approved, or denied approval by the Committee, and may not know where to find the requirements.

Anticipated Benefits: This subsection benefits new RDH educational programs and the Committee by clearly specifying the actions that may be taken and the location of the requirements used by the Committee.

Section 1104.1(e) – This subsection specifies that the new RDH educational program must notify the Committee in writing of any substantive or major change in the information contained in the required approval documents within 10 days of such change, and defines such change as one that affects the original submission, where without the submission of the new information the request for approval of the new program would be false, misleading or incomplete.

Proposed Change: This proposed subsection is needed so that new programs know that the Committee needs to be advised of any substantive or major change to its submitted documentation, defines a substantive or major change, and specifies the required timeframe for the submission of the new information. Ten days allows the program sufficient time to correct the information submitted to the Committee while allowing the review process to proceed on a timely basis.

Problem: If not specified, new programs may not know when the Committee needs to be notified of a substantive or major change, or what such a change might be, resulting in the denial of approval, or withdrawal of approval once the change comes to light. This provision allows a new program to timely update the materials submitted for the Committee’s review and continue on the review process.

Anticipated Benefits: These subsections benefit new educational programs and the Committee by clarifying a substantive or major change and specifying when the Committee needs to be apprised of such change so as not to impede the review process. The Committee benefits by having the notification of an RDH educational program’s major change, to ensure that they have current and correct information for the review to determine whether or not the new RDH educational program has the ability to open and continue operation in California.

Section 1104.2(a) – This subsection specifies that a new RDH educational program whose approval is denied may request an informal conference before the Executive Officer of the Committee or his or her designee, and that the program be given at least ten days notice of the time and place of the informal conference.

Proposed Change: This proposed subsection is needed so that new programs whose approval has been denied know that they have the ability to request an informal conference with the Committee's Executive Officer or his or her designee and will be given at least ten days notice of the time and place of the informal conference. Ten days allows the program sufficient time to prepare any documents and make any necessary travel arrangements while not delaying the informal conference.

Problem: If not specified, new programs may not know that they have the ability to request an informal hearing regarding their program's denial of approval and miss the opportunity to provide additional clarifying information to the Executive Officer or his or her designee.

Anticipated Benefits: This subsection benefits new RDH educational programs by clarifying that an informal conference with the Executive Officer or his or her designee may be requested by a new program whose approval has been denied, and by specifying the timeframe for the program to be notified of the informal conference, so the new program has the time to present any additional information to the Executive Officer or his or her designee.

Section 1104.2(b) – This subsection specifies that a new RDH educational program whose approval is denied may contest the denial of approval by either one of two methods.

Proposed Change: This proposed subsection is needed so that new programs whose approval has been denied know that they have two ways to contest the denial.

Problem: If not specified, new programs may not know that there are two different ways in which a program may contest its denial of approval.

Anticipated Benefits: This subsection benefits new RDH educational programs by clarifying that they have two methods to use to contest a denial of approval.

Section 1104.2(b)(1) – This subsection specifies that a new RDH educational program whose approval is denied may contest the denial of approval by appearing at an informal conference. The subsection specifies that the Executive Officer must notify the program of the final decision within 10 days of the informal conference, and depending on the outcome, the program may then request a hearing to contest the Executive Officer's final decision. The subsection specifies that a program must submit a written request for hearing within 30 calendar days of the postmarked date of the Executive Officer's final decision after the informal conference, and that hearings must be held according to the provisions of Government Code Title 2, Division 3, Part 1, Chapter 5, beginning with Section 11500.

Proposed Change: This proposed subsection is needed so that new programs whose approval has been denied know that after an informal conference, they have 30 calendar days in which to request a hearing in writing, and the provisions of statutory

law by which the hearing will be held. Thirty days provides a program ample time to decide whether to request a hearing and to prepare a written notification to the Committee.

Problem: If not specified, new programs may not know that if the Executive Officer upholds the program's denial of approval, the program may still request a hearing by notifying the Committee in writing within 30 days that they wish to do so.

Anticipated Benefits: This subsection benefits new RDH educational programs by clarifying that the appeals process does not end with the Committee, but may be heard according to the provisions of Government Code Title 2, Division 3, Part 1, Chapter 5, beginning with Section 11500.

Section 1104.2(b)(2) – This subsection specifies that a new RDH educational program whose approval is denied may contest the denial of approval by notifying the Committee in writing prior to the date of the informal conference that the program chooses to forego the informal conference and proceed directly to hearing according to the provisions of Government Code Title 2, Division 3, Part 1, Chapter 5, beginning with Section 11500.

Proposed Change: This proposed subsection is needed so that new RDH programs whose approval has been denied know that they may forego the informal conference and proceed directly to the hearing process by notifying the Committee in writing before the date of the informal conference.

Problem: If not specified, new programs may not know that they may elect to bypass the informal conference and proceed directly to hearing, or they may think that the process is automatic and they do not need to request it in writing. This timeline provides the program at least ten days to notify the Committee before the informal conference occurs, which is ample time to prepare and mail written notification to the Committee before the date of the informal conference.

Anticipated Benefits: This subsection benefits new RDH educational programs by specifying the program's ability to proceed directly to the hearing process and how to do so.

Factual Basis/Rationale

The DHCC is the regulatory board 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 registered dental hygienist educational programs that apply for approval, and grant or deny approval of those applications in accordance with regulations adopted by the Committee. These regulations provide needed specificity and clarity as to the requirements for RDH educational programs to be approved or retain approval by the Committee, including an appeals process.

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 1941(b) requires that new RDH educational programs submit a feasibility study demonstrating a need for a new educational program and apply for approval from the Committee before seeking approval from CODA. The Committee may approve, provisionally approve, or deny approval of any such new educational program. These regulations provide needed clarity as to the criteria and process for approval of the feasibility study and the new RDH educational program, including an appeals process.

These regulations provide instructions, criteria and requirements for approval of a new program, including specific requirements for the required feasibility study. By clearly specifying the requirements for approval of a new program, RDH educational program applicants may use these regulations as a guide to the approval process to ensure that their programs meet the necessary requirements to obtain approval by the Committee. These regulations protect consumers by ensuring that new programs will not close leaving students without the education that they paid for, and that new programs meet the standards for approval and for accreditation before enrolling students. These regulations enhance consumer protection by ensuring that the Committee has a mechanism in place to deny approval of substandard educational programs and protects the public by maintaining health and safety standards currently required in dental hygiene practice in RDH educational programs.

Underlying Data

1. Minutes of May 2-3, 2014 DHCC Meeting
2. American Dental Education Association – ADEA Competencies for Entry into the Allied Dental Professions (As approved by the 2011 ADEA House of Delegates)
3. Commission on Dental Accreditation standards for accreditation of dental hygiene programs

Business Impact

These regulations will not have a significant adverse economic impact on businesses, unless those businesses are new RDH educational programs. Approved programs currently meet these standards. It is unknown how many businesses will apply to become RDH educational programs, due to the laboratory and clinical facilities and equipment needed to adequately instruct students in the safe performance of dental hygiene functions. Students currently pay tuition costs from \$10,000 to \$80,000 for a RDH educational program, depending on whether it is a two- or a four-year program, public or private institution, and if the student is located in-state or comes from out-of-state. Programs may instruct as few as ten (10) or as many as thirty (30) students annually; therefore programs receive from \$50,000 to \$2,400,000 per year in tuition

costs paid by students, not including books, uniforms and other supplies. These regulations would require that new and existing RDH educational programs meet specified requirements for Committee approval, sets out the steps in the approval process and provides specific instructions for new programs to follow when seeking Committee approval. New programs must demonstrate the viability of operating a RDH educational program through the requirements contained in these regulations, and meet the requirements specified so that the Committee has the information to conduct its review and determine whether the new program should receive approval, provisional approval, or denial of approval. Students' tuition costs for the program may potentially be reduced due to more availability of RDH educational programs.

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will create jobs within the State of California when businesses decide to open new RDH educational programs. It will not eliminate jobs because existing RDH programs currently meet the requirements contained in these regulations.
- It will create new businesses by clarifying the requirements by which new RDH educational programs may be approved, making it easier for businesses to apply for approval. It will not eliminate existing businesses within the State of California because all existing programs currently meet accreditation standards.
- It will not affect the expansion of businesses currently doing business within the State of California because existing RDH educational programs are not prohibited from expanding to serve more students, and these regulations do not place any restrictions on expansion of the business of dental hygiene education.
- 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 practice dental hygiene procedures on patients.
- This regulatory proposal benefits California consumers by allowing dental hygiene students to become licensed in California, or become licensed sooner, due to increased availability of required RDH educational program instruction.
- This regulatory proposal enhances worker safety in approved programs and other places where dental hygiene is performed by students who have received instruction so they do not endanger workers.
- This regulatory proposal benefits the state's environment because it requires that dental hygiene educational programs instruct students according to California's standards, including those for safe storage of oxygen and nitrous oxide tanks, hazardous waste management, infection control, and disposal of needles,

cartridges, and medical waste before performing dental hygiene procedures involving the use of such equipment and materials.

Specific Technologies or Equipment

This regulation would 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 and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

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 the DHCC needs regulations to clarify requirements for approval and withdrawal of approval of an educational program in dental hygiene. These regulations will make it easier for new educational programs to be approved to provide instruction in dental hygiene, and thereby make the instruction more available to students so that there are more dental hygienists available to provide care to California consumers. These regulations include requirements for notification to the Committee of changes in a program's accreditation status, and an appeals process for new programs whose approval is denied or withdrawn, so that programs that do not meet at least these minimum requirements may correct their deficiencies and appeal the Committee's denial or withdrawal of approval.