

**State of California
Office of Administrative Law**

In re:
Dental Hygiene Committee of California

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections: 1101, 1121, 1122, 1124,
1126, 1127, 1133

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

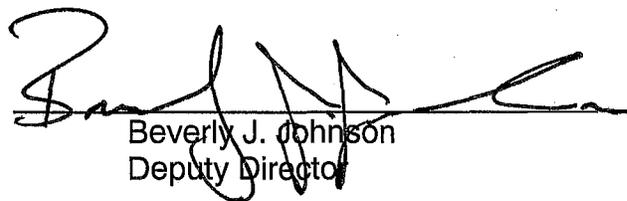
OAL Matter Number: 2016-0426-02

OAL Matter Type: Regular (S)

This rulemaking by the Dental Hygiene Committee of California adopts sections in Title 16 of the California Code of Regulations to establish the necessary structure and procedures relating to the examination and appeals process.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2016.

Date: June 7, 2016



Beverly J. Johnson
Deputy Director

For: Debra M. Cornez
Director

Original: Lori Hubble
Copy: Anthony Lum

REGULAR

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2015-0116-02	REGULATORY ACTION NUMBER 2016-0426-025	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUN 07 2016
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2016 APR 26 P 4: 01
OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
Dental Hygiene Committee of California

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2015, 05-2	PUBLICATION DATE 1/30/2015		

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Administration and Examinations		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 1101, 1121, 1122, 1124, 1126, 1127, and 1133	
TITLE(S) 16		AMEND REPEAL	

3. TYPE OF FILING

- Regular Rulemaking (Gov. Code §11346)
- Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- Emergency (Gov. Code, §11346.1(b))
- Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- Emergency Readopt (Gov. Code, §11346.1(h))
- File & Print
- Other (Specify) _____
- Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
June 5, 2015 through June 20, 2015

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)*

- Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
- Effective on filing with Secretary of State
- \$100 Changes Without Regulatory Effect
- Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- Department of Finance (Form STD. 399) (SAM §6660)
- Fair Political Practices Commission
- State Fire Marshal
- Other (Specify) Awet Kidane, Director, Department of Consumer Affairs

7. CONTACT PERSON Anthony Lum, Assistant Executive Officer	TELEPHONE NUMBER (916) 263-1978	FAX NUMBER (Optional) (916) 263-2688	E-MAIL ADDRESS (Optional) Anthony.Lum@dca.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Lori Hubble</i>	DATE 4-26-16
TYPED NAME AND TITLE OF SIGNATORY Lori Hubble, Executive Officer	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 07 2016

Office of Administrative Law

State of California
Department of Consumer Affairs
DENTAL HYGIENE COMMITTEE OF CALIFORNIA

FINAL REGULATION ORDER

**Title 16. Professional and Vocational Regulations
Division 11. Dental Hygiene Committee of California**

[**Note:** The entire text below is new language to be added to the California Code of Regulations.]

Adopt new section 1101, new article 2, division 11, title 16, California Code of Regulations to read as follows:

Article 2. Administration

§ 1101. Delegation to Committee's Executive Officer.

- (a) Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act, §§ 11500 – 11529 thru as applicable of the Government Code, the Committee delegates and confers upon the Executive Officer, or his or her designee, all functions necessary to the dispatch of business of the Committee in connection with investigative and administrative proceedings under the jurisdiction of the Committee, including issuing an order for medical or mental examination under Section 820 of the Business and Professions Code, and the ability to approve stipulated settlement agreements for the revocation, surrender or interim suspension of a license.
- (b) The power and discretion conferred by law upon the Committee to initiate review and prosecute accusations and statements of issues pursuant to Sections 11500 through 11529 of the Government Code are hereby delegated to and conferred upon the Committee's Executive Officer or in the absence thereof a designee.

Note: Authority cited: Section 1905 Business and Professions Code. Reference: Sections 1905 and 1950, Business and Professions Code; and Sections 11500, 11501, 11502, 11503, 11504, 11504.5, 11505, 11506, 11507, 11507.3, 11507.5, 11507.6, 11507.7, 11508, 11509, 11511, 11511.5, 11511.7, 11512, 11513, 11514, 11515, 11516, 11517, 11518, 11518.5, 11519, 11519.1, 11520, 11521, 11522, 11523, 11524, 11526, 11527, 11528, 11529 Government Code.

Adopt new sections 1121, 1122, 1124, 1126, and 1127, new article 6, division 11, title 16, California Code of Regulations to read as follows:

Article 6. Examinations

§ 1121. Dental Hygiene Written Examinations.

Prior to issuance of a license, an applicant for licensure as an RDH, RDHAP or RDHEF shall successfully take and complete a supplemental written examination in California Law and Ethics.

- (a) Each examination shall be specific for the RDH, RDHAP or RDHEF license, and
- (b) shall test the applicant's knowledge of California law as it relates to the specific dental hygiene practice and the applicant's ability to recognize and apply ethical principles.
- (c) An applicant shall be deemed to have passed the examination with a minimum score of seventy-five percent (75%).

NOTE: Authority cited: Section 1905 Business and Professions Code. Reference: Sections 1917, 1918 and 1922 Business and Professions Code.

§ 1122. General Procedures for the Dental Hygiene Committee of California Written Examinations.

- (a) An applicant shall be able to read and interpret instructions and examination materials.
- (b) An applicant may be dismissed from the entire examination for engaging in conduct listed in Section 123 of the Business and Professions Code.

Note: Authority cited: Sections 123, 496, 1905, and 1917 Business and Professions Code. Reference: Sections 123, 496, 1905 and 1917 Business and Professions Code.

§ 1124. General Procedures for the Dental Hygiene Committee of California Clinical Examination.

- (a) Each applicant shall furnish patients, instruments, and materials needed to take and complete the clinical examination.
- (b) A patient provided by an applicant must be at least eighteen (18) years of age and shall be in a health condition acceptable for dental hygiene treatment. If conditions indicate a need to consult the patient's physician or for the patient to be pre-medicated, the applicant must obtain the necessary written medical clearance and/or

evidence of premedication before the patient will be accepted. The examiners may, in their discretion, reject a patient who in the opinion of at least two examiners has a condition that interferes with evaluation or that may be hazardous to the patient, other patients, applicants or examiners. A hazardous condition includes, but is not limited to, acute symptomatic hepatitis, active herpetic lesions, acute periodontal or periapical abscesses, or necrotizing ulcerative gingivitis. Whenever a patient is rejected, the reason for such rejection shall be noted on the examination record and shall be signed by both rejecting examiners.

- (c) It is the applicant's responsibility to provide an interpreter, if necessary, to complete the medical history and consent form for non-English speaking patients. An interpreter will be allowed in the grading area only if requested by an examiner.
- (d) No person shall be admitted to an examination clinic unless he or she is wearing an identification badge.
- (e) An applicant may be dismissed from the entire examination for engaging in conduct listed in Section 123 of the Business and Professions Code.

Note: Authority cited: Sections 123, 1905, and 1917 Business and Professions Code. Reference: Sections 123, 1905, and 1917 Business and Professions Code.

§ 1126. Conduct of Dental Hygiene Committee of California Clinical Examinations.

Examinations shall be anonymous. An anonymous examination is one conducted in accordance with procedures, including but not limited to those set forth below, which ensure and preserve anonymity of applicants.

- (a) The Committee shall randomly assign each applicant a number for identification purposes throughout the entire examination.
- (b) Grading examiners shall not view applicants during the performance of the examination assignments. To be considered for appointment as a grading examiner, a licensee shall be a California licensed RDH, RDHAP, or RDHEF with an active license for a minimum of five years and has not been subject to discipline within the preceding five years.
- (c) There shall be no communications between grading examiners and clinic supervisors except for oral communications conducted in the presence of Committee staff. There shall be no communication between grading examiners and applicants except written communications.

NOTE: Authority cited: Sections 1905 and 1917 Business and Professions Code. Reference: Sections 1905 and 1917 Business and Professions Code.

§ 1127. Dental Hygiene Committee of California Clinical Examination Review Procedures; Appeals.

- (a) An applicant who has failed an examination shall be provided with notice, upon written request, of those areas in which he or she is deficient.
- (b) An unsuccessful applicant who has been informed of the areas of deficiency in his or her performance on the examination and who has determined that one or more of the following errors was made during the course of his or her examination and grading may appeal to the Committee within sixty (60) days following receipt of his or her examination results:
 - (1) Significant procedural error in the examination process;
 - (2) Evidence of adverse discrimination;
 - (3) Evidence of substantial disadvantage to the applicant.
- (c) An appeal shall be made by means of a written letter specifying the grounds upon which the appeal is based. The Executive Officer shall respond to the appeal in writing and may request a personal appearance by the applicant. The Committee shall thereafter take such action as it deems appropriate.

Note: Authority cited: Sections 1905 and 1917 Business and Professions Code. Reference: Sections 1905 and 1917 Business and Professions Code.

Adopt new section 1133, new article 8 of division 11, title 16, California Code of Regulations to read as follows:

Article 8. Minimum Standards for Infection Control

§ 1133. Minimum Standards for Infection Control.

Licensees shall comply with the Minimum Standards for Infection Control as set forth in section 1005, title 16, California Code of Regulations.

Note: Authority cited: Section 1905, Business and Professions Code. Reference: Section 1905 Business and Professions Code.