

**TITLE 16. DENTAL HYGIENE COMMITTEE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

NOTICE IS HEREBY GIVEN that the Dental Hygiene Committee of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the:

Department of Consumer Affairs
1st Floor Hearing Room
2005 Evergreen Street
Sacramento, California on

September 12, 2012

10:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Dental Hygiene Committee of California at its office not later than 5:00 p.m. on September 12, 2012 or must be received by the Committee at the hearing. The Committee, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 1906 of the Business and Professions Code, and to implement, interpret or make specific Sections 1916 and 1950 of the Business and Professions Code and Penal Code Sections 11105, the Committee is considering changes to Division 11 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Business and Professions Code Section 1906 authorizes the Dental Hygiene Committee of California to adopt, amend and repeal such rules and regulations as may be reasonably necessary to enable the Committee to effect the provisions of Business and Professions Code 1900-1966.6. This proposal would waive the existing requirement for submission of electronic fingerprints for inactive dental hygienist licensees until re-activation of the license. The Committee is proposing the following amendments:

- o Amend Section 1132(a)(3) of Division 11, Title 16 of the California Code of Regulations

Existing regulations require all licensees, with the exception of those actively serving in the military, to furnish a full set of electronic fingerprints as a condition of license renewal if no record of such fingerprinting exists. Fingerprints are provided to and processed by the California Department of Justice for the purpose of conducting a criminal history

record check and a state and federal level criminal offender record information search on licensees for whom no such record exists. All Registered Dental Hygienist in Extended Functions (RDHEF) applicants since 1994 and all Registered Dental Hygienist (RDH) applicants since 1999 have been subject to this requirement as a condition of issuance of a license. In 2010 the requirement was extended to include licensees who were issued licenses prior to those dates so that the Committee would receive criminal history and subsequent arrest reports on all its current licensees.

The proposed amendments would add a provision to delay this fingerprinting requirement for licensees who are on an inactive status until such time as the licensee requests activation of the license to practice dental hygiene in California. Failure to complete the required fingerprinting would prevent activation of the license and prohibit the licensee from practicing dental hygiene until the requirement is met. Inactive licensees may have health issues, may reside in other states or countries, be unemployed or have retired from practice and wish to retain their dental hygiene license. The proposed amendments would allow inactive licensees to retain their California dental hygiene license while prohibiting any practice of hygiene in California.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The Dental Hygiene Committee of California's policy is to promulgate regulations for the protection of California consumers. When there is no impact on consumers, the Committee endeavors to pursue regulations that are not burdensome to licensees. This proposal continues the consumer protection benefits of existing regulations that prevent licensees who have been convicted of crimes from practice on California consumers. This proposal will benefit inactive licensees by deferring their electronic fingerprinting requirement until the inactive licensee chooses to re-enter the California workforce by re-activating their inactive license.

Electronic fingerprinting for the purpose of conducting a criminal history record check and a state and federal level criminal offender record information search can only be obtained at specific locations within California. Many inactive licensees are retired and living in other states or countries, and it would be burdensome for them to travel to California to comply with this requirement of the law. Similarly, some licensees are inactive due to health conditions or disabilities. All licensees have completed at least a four-year educational program, a written examination, a law and ethics examination and a clinical examination prior to obtaining their license. Most do not wish to relinquish the license, even if no longer able to work, so simply place their license on inactive status as do doctors, dentists and other health professionals. Any licensee who holds an inactive license is prohibited from practice on patients, maintaining the intent of the regulations toward protection of consumers from practitioners who have been convicted of criminal activity.

Some licensees have placed their license on an inactive status because they are currently unemployed and unable to pay for required continuing education classes, which can cost hundreds or even thousands of dollars. These licensees should not be forced to spend additional funds to meet requirements until they are again employed and intend to actively practice on patients.

This proposal benefits California consumers by maintaining public protection while removing a burdensome requirement on inactive licensees who do not practice in California.

C. Consistency and Compatibility with Existing State Regulations

This Committee has evaluated this regulatory proposal and it is not inconsistent nor incompatible with existing State regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Requires Reimbursement: None

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

Cost Impact on Representative Private Person or Business:

The Committee is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Committee has determined that the proposed regulations would not have a significant economic impact on small businesses unless those small businesses were fingerprinting businesses authorized by the California Department of Justice to collect and submit electronic fingerprints for criminal history record check and state and federal level criminal offender record information search purposes. There are approximately 750 vendors statewide, including small businesses, which provide fingerprinting services. Those small businesses would be minimally impacted by loss of revenue of approximately \$165.20 per vendor in the short term. These revenue losses would be regained once a licensee re-activates his or her license.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Committee has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Committee has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety and state's environment:

This regulation will benefit the state's environment and the health of California residents by not requiring inactive licensees to travel to California to comply with the fingerprinting requirements, saving on fuel usage and the environmental pollution caused by unnecessary travel.

CONSIDERATION OF ALTERNATIVES

The Committee must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Committee has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Hygiene Committee of California at 2005 Evergreen Street, Suite 1050, Sacramento, California 95815.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

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

Name: Lori Hubble, Executive Officer
Address: 2005 Evergreen Street, Suite 1050
Sacramento, CA 95815
Telephone No.: (916) 263-1978
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E-Mail Address: Lori.Hubble@dca.ca.gov

The backup contact person is:

Name: Traci Napper, Legislation and Regulations Analyst
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Website Access: Materials regarding this proposal can be found at the Committee's website:
www.dhcc.ca.gov.