

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

INITIAL STATEMENT OF REASONS

HEARING DATE: January 15, 2014

SUBJECT MATTER OF PROPOSED REGULATIONS: Definitions, Delegation to Executive Officer, Examinations, Examination Review Procedures and Appeals, and Infection Control.

SECTION(S) AFFECTED: Title 16, Division 11, California Code of Regulation, Section, 1100, 1101, 1121-1122, 1124, 1126-1127, and 1133

INTRODUCTION

The Dental Hygiene Committee of California (DHCC) proposes to adopt Section 1100, 1101, 1121-1122, 1124, 1126-1127, and 1133 of Division 11 of Title 16 of the California Code of Regulations.

Senate Bill 853 created the Dental Hygiene Committee of California which was established July 1, 2009. Section 1905(a)(9) gives the DHCC statutory authority to “adopt, amend and revoke rules and regulations to implement the provisions of this article.” The DHCC statutes, specifically Business and Professions Code Section 1906(d) authorize the DHCC to use the Dental Board of California’s regulations as they pertain to the practice of dental hygiene until DHCC adopts its own regulations.

The DHCC has incorporated into these regulations current sections of the Dental Practice Act that are pertinent to the practice of dental hygiene. Revisions have been made to some of these existing regulations to make them current to dental hygiene practice and to add clarity.

In addition to moving existing regulations pertaining to dental hygiene, the DHCC has added new sections to further clarify terminology used in the current statutes and regulations.

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

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL:

The DHCC currently regulates over 30,000 licensees: 30,381 registered dental hygienists, 459 registered dental hygienists in alternative practice and 38 registered dental hygienists in extended functions. The DHCC’s highest priority is the protection of the public when exercising its licensing, regulatory and disciplinary functions. The DHCC issues licenses to eligible applicants; investigates complaints against licensees, disciplines licensees for violations of Business and Professions Codes Sections 1900-1966.6, and monitors licensees who are on probation.

Business and Professions Code Section 1906(a) authorizes the Committee to adopt, amend and revoke such rules and regulations as may be reasonably necessary to enable the

Committee to carry into effect the provisions of Business and Professions Code 1900-1966.6.

The proposed regulations would implement, interpret and make specific the provisions of Business and Professions Code sections 1900-1966.6 in a manner that will provide protection for the people of California and guidance for dental hygiene applicants, licensees, educational programs and staff in matters relating to dental hygiene examinations, training, and practice. The DHCC will use these regulations in delegating functions to its Executive Officer, and administering its examination and licensing functions. Since its creation in 2009, the DHCC has not had its own regulations and has used the Dental Board of California's regulations in the interim, as provided in Business and Professions Code Section 1906(d). Due to staff shortages, the hiring freeze, and budget cuts, the DHCC has only recently had staff available to work on undertaking the project of promulgating its own regulations for its dental hygienist applicants and licensees. The DHCC needs regulations specific to the population it serves, regulations that reflect recent developments in dental hygiene care, and regulations that dental hygiene applicants and licensees can easily understand, locate and reference.

Specifically, the DHCC is proposing the following:

Adopt Section 1100 of Article 1 Division 11 of Title 16 of the California Code of Regulations (Definitions)

Since its creation July 1, 2009, the DHCC has used the Dental Board's regulations pending the adoption of its own regulations to define the practice of dental hygiene. This section mirrors the Dental Board's Section 1000, last amended in 2001, with some definitions included from Section 1067, last amended in 1998, pertaining to dental auxiliaries. Other terms specific to dental hygiene that required clarification have been included as new text. Therefore, adopting this section is necessary to define dental hygiene terms, clarify and specify dental hygiene definitions and scope of practice in line with current terminology.

Section 1100 language is taken from Chapter 1 Article 1 Section 1000 and Chapter 3 Article 1 Section 1067 of the California Code of Regulations, Title 16. Changes and additions were made to make this section consistent with current terminology in the practice of dental hygiene. The following subsections within 1100 are proposed:

Subsection 1100(a) This new text defines "administration of local anesthesia", one of the duties allowed under Section 1910 of the Business and Professions Code (Code), to specify that this refers to agents that are injected.

Problem: California RDHs, RDHEFs and RDHAPs may place other local anesthetic agents that are not injected under the general supervision of a licensed dentist.

Benefit: This text clarifies for licensees, staff, and dentists that only the injection of local anesthetic agents must be directly supervised by a dentist because of greater potential for patient harm by injection.

Subsection 1100(b) This new text defines "administration of nitrous oxide and oxygen", one of the duties allowed under Section 1910 of the Code, to specify that this terminology refers to this type of analgesia only when used as an adjunct to dental treatment.

Problem: Licensees contact the Committee asking if they may administer nitrous oxide-oxygen analgesia for facial procedures.

Benefit: This text clarifies that this analgesia may not be administered for any other purpose than for dental treatment.

Subsection 1100(c) This new text defines the term “assessment” in Code section 1908 as it is currently used in required educational programs and by the Committee on Dental Accreditation, the accepted standard for dental professionals.

Problem: There is no definition in regulation for this commonly used dental hygiene term “assessment” in the Dental Practice Act, and it needs to be clearly defined in the DHCC’s regulations.

Benefit: Provides a clear and consistent definition within California regulations for licensees and dentists so that the components of the assessment process are distinguished from diagnosis, a process which may only be performed by a dentist.

Subsection 1100(d) This text provides a definition of “basic supportive dental procedures” that mirrors the definition contained in the Dental Board’s regulations, with the addition of “dental hygienist” as a supervisor since statute (Code Section 1929) allows an RDHAP to employ and supervise unlicensed dental assistants.

Problem: Dentists question whether an RDH may legally supervise and an RDHAP may legally employ dental assistants.

Benefit: This regulation clarifies for dentists and dental hygienists that an RDH may supervise, and an RDHAP may employ, unlicensed dental assistants.

Subsection 1100(e) This text defines the term “Committee office”, mirrors CCR Section 1000(d) and renumbers this section.

Problem: This section is necessary to clarify that there is only one office of the DHCC, and its location.

Benefit: This regulation informs licensees, dentists, and the public that there is a single office location of the DHCC for information and transactions.

Subsection 1100(f) This text defines the term “Executive Officer”, renumbers and mirrors CCR Section 1000(e) to provide a specific definition for the person responsible for the administration and daily operations of the DHCC.

Problem: Individuals contact the DHCC and ask for the “director” or the “head”.

Benefit: This regulation benefits licensees and the public by identifying the person who holds responsibility for the DHCC’s functions so that correspondence may be correctly addressed and correct nomenclature used.

Subsection 1100(g) This text mirrors section 1067(b) to define the term “Dental Assistant”.

Problem: Dental assistants may be hired to perform intraoral retraction and suctioning by RDHAPs according sections 1750.1(d) and 1929(b) of the Code.

Benefit: This term is defined within DHCC’s regulations for consistency and ease of use by staff and licensees.

Subsection 1100(h) This new text defines the term “dental hygiene care plan” in section 1908 of the Code using the definition adopted by the American Dental Education Association (ADEA), which is currently taught in all dental hygiene educational programs in the United States.

Problem: The Dental Practice Act contains no definition for dental hygiene care plan, which consists of services that a dental hygienist provides to patients, causing confusion on the part of dentists, insurance carriers, licensees who may have completed an educational program before this definition was generally accepted, and the public.

Benefit: This definition benefits staff, licensees, dentists and the public by providing a

clear explanation of the components of a dental hygiene care plan so that all parties are aware of the services that a dental hygienist performs in assessing the need for treatment and the distinction from a dental care plan which is developed by a dentist.

Subsection 1100(i) This new text defines the term “dental hygiene preventive services”, as used in statute, Section 1910 (a) of the Code.

Problem: There is currently no definition of what constitutes dental hygiene preventive services, causing confusion to dentists, insurance carriers, licensees, and the public.

Benefit: This definition clarifies the nature of services provided by the licensed dental hygienist, as distinguished from “therapeutic interventions,” for the information of licensees, staff and the public. This text assists dental offices in coding procedures for insurance purposes.

Subsection 1100(j) This new text defines the term “dental hygiene therapeutic interventions” as used in Section 1910(a) of the Code

Problem: There is no definition for this term used in Section 1910(a) of the Code, leading to confusion on the part of licensees, dentists, the public, and insurance carriers.

Benefit: Provides a clear and consistent definition within California regulations for the benefit of licensees, dentists, staff and the public who may not be knowledgeable of what constitutes dental hygiene therapeutic interventions, and distinguishes them from preventive services. This text assists dental offices in coding procedures for insurance purposes.

Subsection 1100(k) This new text defines the term “dental hygiene treatment plan”, a term that describes the process of identification of oral health problems that a hygienist is educated and licensed to treat.

Problem: A dental hygiene treatment plan is within the scope of practice of a dental hygienist in alternative practice (RDHAP). Dentists, insurers and the public many times do not understand the services that may be provided under this category of license. No definition of this term exists in current regulations.

Benefit: This text provides dentists, licensees, insurers and the public with a definition that is used in current dental hygiene education and has been adopted by ADEA. This section defines a term found in statute and clarifies the scope of practice of RDHAPs.

Subsection 1100(l) This new text defines the term “ethics” for the benefit of applicants, licensees, staff and the public.

Problem: There is currently no definition in regulation for ethics, which is the subject of statutorily required testing before a dental hygiene license of any category is issued by the DHCC.

Benefit: This text provides applicants, licensees, staff and the public with a clear and consistent definition of the term.

Subsection 1100(m) This new text defines the term “Gross trauma” so that applicants, staff and the public are clearly informed of what constitutes grounds for failure of the dental hygiene clinical examination according to the provisions of Business and Professions Code Section 1917.3, and requires the applicant to complete remedial education.

Problem: Applicants need to know that one instance of gross trauma on a patient during their required clinical exam will result in automatic failure and the requirement for remedial education before he or she is eligible to retake the examination.

Benefit: This text benefits applicants by clearly defining what constitutes gross trauma

that refers to a serious injury that may occur to a patient during dental hygiene services.

Subsection 1100(n) This text defines the terms “Licentiate” or “Licensee”, and rennumbers and mirrors CCR Section 1000(p), replacing the term “board” with “committee.”

Problem: Users need to know that either of these terms means an individual who is licensed by the DHCC, and therefore subject to these regulations.

Benefit: This text benefits licensees, staff and the public by providing a clear definition of who is regulated by the DHCC.

Subsection 1100(o) This new text defines the term “periodontal debridement,” a current dental hygiene term for the removal of hard and soft deposits from supra and sub gingival surfaces.

Problem: This term is not defined in regulation and needs to be clarified as a process that is distinct from periodontal scaling for purposes of a dental cleaning.

Benefit: Dentists and insurance carriers benefit by having a clear distinction between the terms “periodontal debridement” and “periodontal scaling” so that consumers are billed correctly for dental hygiene procedures.

Subsection 1100(p) This new text defines “periodontal evaluation record” using current, widely accepted terminology that is used in educational programs to define and specify the terms and processes that comprise a complete periodontal evaluation that is documented in the patient’s record by the hygienist.

Problem: This term is not defined in regulation.

Benefit: Hygienists need to know what type of information should be included in this type of record.

Subsection 1100(q) This text mirrors section 1067(h) by defining the terms “Polishing the coronal surfaces of teeth” or “Coronal polishing” as these terms are used in dental hygiene treatment.

Problem: This procedure is also allowed to be performed by a Registered Dental Assistant, and is often confused with a dental cleaning. It is only the final step in the dental cleaning, which may only be performed by a Registered Dental Hygienist. Terms relating to the practice of dental hygiene as overseen by the DHCC need to be defined within its own regulations.

Benefit: Clearly defining the process of coronal polishing benefits registered dental hygienist and registered dental assistant (RDA) licensees, staff, dentists and the public so that RDAs do not exceed their scope of practice.

Subsection 1100(r) This new text defines the term “refer”, as used in Section 1911(b), to clarify when a licensee needs to refer a patient, and the process by which it is done.

Problem: Although required in statute, in practice many screened patients refuse or have no intention to follow through on the dental hygienist’s referral to a dentist.

Benefit: This text clarifies that a referral involves acceptance by the patient and cooperation with the dentist.

Subsection 1100(s) This text redefines the term “root planing” to the current, widely used definition used in dental hygiene.

Problem: Licensees need to be provided with the most current and accurate description of the procedures that they are allowed to perform.

Benefit: This text benefits licensees, staff and the public by providing this information

clearly and in written form for reference.

Subsection 1100(t) This text defines the term “Scaling” as a replacement for the more general term “oral prophylaxis.”

Problem: Oral prophylaxis is a term used in insurance coding to describe supra gingival scaling. Periodontal scaling, an allowable dental hygiene duty, includes both supra and sub gingival scaling.

Benefit: This text clarifies the difference between an oral prophylaxis and periodontal scaling.

Subsection 1100(u) This text defines the term “soft tissue curettage” to reflect the current, widely used definition in dental hygiene, and more accurately describe the procedure.

Problem: There is currently no definition of this procedure for the statutory term used in Section 1909(a).

Benefit: This text specifies the components of the process of soft tissue curettage for licensees, staff and the public and defines the statutory term.

Subsection 1100(v) This new text defines the term “treatment facility” for the benefit of the public, staff and licensees.

Problem: There is currently no clear definition of the term “treatment facility” which causes questions to DHCC staff and confusion on the part of the public and licensees as to whether this means the dental operator, the dental office, or the building in which treatment takes place.

Benefit: This text clarifies that wherever dental hygiene treatment is given, which may be in a dental office, the home of a homebound patient, or in a public clinic.

Adopt Section 1101 of Article 2: Administration Delegation to the Committee’s Executive Officer

This proposed section is necessary to allow the DHCC to delegate its authority to perform specific functions to its Executive Officer.

Section 1101 language is taken from Chapter 1, Article 1, Section 1001 of the California Code of Regulations, Title 16.

Existing language is from the Dental Practice Act as it pertains to the delegation of authority to the executive officer of the Dental Board. The proposed language allows the executive officer of the DHCC to perform all the functions required by statute. Changes were made as appropriate to the DHCC and its delegated functions, and text from Section 1001 that exists in Business and Professions Code Section 1903(i) was eliminated as duplicative. The following subsections within Section 1101 are proposed:

Subsection 1101(a) This proposed text captures the intent of Section 1001(b) of the Dental Practice Act that is currently used by the DHCC in the interim of implementing its own regulations.

Problem: There is currently no language in regulation that specifies the duties and responsibilities of the DHCC’s Executive Officer (EO). The DHCC is required to meet only twice yearly, and if this delegation to the EO is not specified in regulation, meetings must be scheduled and planned for the Committee to consider settlement agreements and orders for medical examination in cases where a licensee may be incompetent to practice. This takes valuable staff time and resources and could prove hazardous to the

public, when it has been proven that delegation of these duties to the EO is as effective and more efficient.

Benefit: The text has been revised from Section 1001(b) toward more current language, and would specifically allow the Executive Officer to order a medical examination under Section 820 of the Code and to approve settlement agreements for disciplined licenses.

Subsection 1101(b) This proposed text mirrors Section 1001(b) of the Dental Practice Act that is currently used by the DHCC in the interim of implementing its own regulations. This subsection specifies that the DHCC may delegate and confer its power to initiate, review and prosecute accusations and statements of issues pursuant to Sections 11500 through 11528 of the Government Code relative to adjudicative proceedings against an applicant or licensee to the EO or his or her designee. The term “designee” replaces “Assistant Executive Officer” used in Section 1001(b) because the DHCC does not have an Assistant Executive Officer.

Problem: There The DHCC needs its own regulatory structure specifying that its EO or designee has the power to initiate, review and prosecute adjudicative proceedings on the Committee’s behalf.

Benefit: This text provides that in case of the Executive Officer’s absence, he or she may designate an agent. This is so that the DHCC may act timely to protect the public.

Adopt Section 1121 of Article 2: Examinations **Dental Hygiene Written Examinations**

This proposed section specifies the written examination in law and ethics that is required for all categories of dental hygiene licensure in California pursuant to Sections 1917(d) and 1922 of the Business and Professions Code, and that the examination must be successfully completed prior to the issuance of a license. Existing language is from the Dental Practice Act, Chapter 3, Article 4, Section 1082.3 and was revised to be made specific to the license types under the jurisdiction of the DHCC. Language relative to the National Dental Hygiene Board Exam was stricken as duplicative of Sections 1917(c) and 1917.1(a)(7). The following subsections within Section 1121 are proposed:

Subsection 1121(a) This proposed text specifies that the written law and ethics examination required for each license category be relevant and directed toward the particular license category.

Problem: Applicants need to know that the required examination will not be generic, but specialized to the license category.

Benefit: This text assists applicants by informing them that the subject matter of the examination will be focused on the category of license for which they are applying.

Subsection 1121(b) This proposed text specifies that the examination will test applicants’ knowledge of California law as it relates to the particular dental hygiene practice and will test applicants’ ability to apply ethical principles.

Problem: Applicants need to know what they will be tested on so they may study.

Benefit: This text assists applicants by informing them of the subject matter of the examination.

Subsection 1121(c) This proposed text specifies that the minimum passing score that must be achieved for licensure is 75%. This is the pass score as is currently in Section 1083 of the California Code of Regulations, Title 16, Division 10, Chapter 3, Article 4 and has been proven as the benchmark of minimum competency.

Problem: Applicants need to be informed of the passing score for the examination they are taking.

Benefit: This section benefits applicants, staff and the public by specifically stating the pass score, so there is no confusion.

Adopt Section 1122 of Article 2: Examinations

General Procedures for the Dental Hygiene Committee of California Written Examinations

This proposed section is similar to language in the Dental Practice Act, Chapter 3, Article 4, Section 1080 which specifies that the applicant must exhibit the ability to read and interpret instructions and examination materials and the reasons that an applicant may be dismissed from an examination. To avoid duplication of Section 123 of the Code, those reasons are referenced by the Code section.

Subsection 1122(a) This proposed subsection assists applicants by informing them that the ability to read and interpret instructions and examination materials is necessary to successfully complete the written examinations required for licensure.

Problem: This is necessary to test the applicant's knowledge.

Benefit: Informs applicants of the requirements for successful completion of the exam.

Subsection 1121(b) This proposed subsection states that the applicant may be dismissed from the entire examination for engaging in conduct listed in Section 123 of the Business and Professions Code relating to conduct constituting subversion of licensing examinations.

Problem: Section 1080(c) lists these provisions as subsections; however, the DHCC felt this to be duplicative, instead referencing Section 123 directly.

Benefit: Applicants need to be aware of actions that constitute exam subversion and the consequence that they may be dismissed from the examination for any such actions.

Adopt Section 1124 of Article 2: Examinations

Dental Hygiene Committee of California Clinical Examination

This proposed section mirrors language in the Dental Practice Act, Chapter 3, Article 4, Section 1080.1 which specifies the criteria for the patient that applicants are required to provide in order to take the California clinical dental hygiene examination, allowance of an interpreter, requirement for an identification badge, and reasons for dismissal. Minor clarifying changes were made and the reasons for dismissal from the clinical examination were referenced by Section 123 of the Code rather than listing them to avoid duplication. The following subsections within Section 1124 are proposed:

Subsection 1124(a) This proposed subsection assists applicants by informing them of the things that they are expected to furnish for the clinical examination.

Problem: Otherwise, applicants would not know what they are responsible for bringing to the exam.

Benefit: This benefits applicants by informing them what they are responsible for bringing to the exam.

Subsection 1124(b) This proposed subsection assists applicants and staff by specifying patient criteria and the patient conditions that would require medical clearance or evidence of premedication. This text informs applicants that at least two examiners will inspect a patient before rejecting the patient, the conditions which would lead to such a patient rejection, and the process by which the rejection will be documented on the

examination record. The text informs applicants that a patient must be at least 18 years of age to be approved for the examination.

Problem: Otherwise, applicants would not know that minor patients are not accepted. This policy is set into regulation because minors may lack permanent teeth, are likely to carry communicable diseases such as cold or flu, and require parental consent for treatment, necessitating a parent or guardian be at the exam site. Applicants would not know that their patient will be inspected by two examiners to ensure fairness in the examination process, and if rejected, the reasons for rejection will be documented.

Benefit: This assists applicants in selecting an appropriate adult patient which does not have conditions that could prove hazardous to the patient's health, or may be communicable to others in the examination area.

Subsection 1124(c) This proposed subsection assists applicants and staff by clarifying that if their patient does not speak English, it is the applicant's responsibility to provide an interpreter, if necessary, to complete the patient's medical history and consent form. This section further clarifies that the interpreter will not be allowed into the separate grading area unless requested by an examiner.

Problem: This text is necessary so that applicants do not expect the DHCC to provide interpreters at the examination, and informs them that an interpreter cannot accompany the patient into the grading area unless requested by an examiner. Applicants are never allowed in the grading area to preserve anonymity.

Benefit: Applicants are clearly informed regarding their responsibilities for non-English speaking patients.

Subsection 1124(d) This proposed subsection assists applicants and exam staff by specifying that the examination badge issued to them must be worn in order to be admitted into the exam clinic.

Problem: Unauthorized individuals could enter into and impact the examination. Badges are worn by staff, supervising dentists, examiners, applicants, patients, and dental assistants, so that the only individuals in the exam clinic area are those who are necessary to the examination process.

Benefit: Applicants are clearly informed that they will not be admitted into the exam clinic area unless wearing the badge issued to them. This clarity benefits exam staff as well, so there is no doubt or confusion regarding an applicant's requirement to wear the badge.

Subsection 1124(e) This proposed subsection states that the applicant may be dismissed from the entire examination for engaging in conduct listed in Section 123 of the Business and Professions Code relating to conduct constituting subversion of licensing examinations.

Problem: Section 1080.1(d) lists these provisions as subsections; however, the DHCC felt this to be duplicative, instead referencing Section 123 directly. Applicants need to be aware of actions that constitute exam subversion and the consequence that they may be dismissed from the examination for any such actions.

Benefit: Applicants and exam staff benefit through having the potential reasons for dismissal from the examination clearly referenced.

Adopt Section 1126 of Article 6: Examinations

Conduct of Dental Hygiene Committee of California Clinical Examination

This proposed section mirrors language in the Dental Practice Act, Chapter 3, Article 4, Section 1080.2 which specifies the conduct of dental auxiliary clinical examinations. This proposed text

specifies that examinations must be anonymous, and the following subsections within Section 1126 are proposed in order to preserve and ensure anonymity of applicants. If applicants are not anonymous to examiners, which are licensed dentists and registered dental hygienists themselves, an applicant may be known by one or more examiners which may cause prejudice either on behalf of or against the applicant during the exam. The following subsections within Section 1126 are proposed:

Subsection 1126(a) This proposed text specifies that the Committee shall assign each applicant an identification number to be used throughout the entire examination.
Problem: The exam process must be anonymous in order to be legally defensible.
Benefit: This text ensures that applicants' names are protected during the examination process since they are known only by their number.

Subsection 1126(b) This proposed text specifies that grading examiners cannot watch or see applicants while they are performing procedures, mirroring Section 1080.2(b). New text further specifies the criteria for a grading examiner as a minimum of five years of licensure as a California RDH, RDHEF or RDHAP.
Problem: Applicants need assurance that their exam anonymity will not be breached.
Benefit: This assists in strengthening exam security and establishes the qualifications of a grading examiner as an individual who is very familiar with the practice of dental hygiene and the procedures being performed by applicants.

Subsection 1126(c) This proposed text mirrors Section 1080.2(c) by specifying that grading examiners and floor examiners may not communicate with each other unless in the presence of board staff. The proposed text further specifies that there is to be no communication between grading examiners and applicants other than in writing.
Problem: Examiners must not break the anonymity of individual applicants, or compromise an applicant's identity.
Benefit: This text assists exam anonymity and security.

Adopt Section 1127 of Article 6: Examinations
Dental Hygiene Committee of California Clinical Examination Review Procedures;
Appeals

This proposed section mirrors language in the Dental Practice Act, Chapter 3, Article 4, Section 1080.3 which specifies the appeals process for examinations. The following subsections within Section 1127 are proposed:

Subsection 1127(a) This proposed text specifies that an applicant who has failed an examination will receive notification of the areas of deficiency upon the applicant's written request. This proposed text informs the applicant that he or she will be provided with the specific areas of deficiency upon his or her written request.
Problem: Applicants need to know their areas of deficiency in order to concentrate on those areas rather than guess at the area or procedure that resulted in failure.
Benefit: Applicants who have failed a clinical examination may successfully complete the examination in the future.

Subsection 1127(b) This proposed text specifies the criteria for an allowable appeal of the examination results due to error, and the timeframe in which such an appeal is allowed.
Problem: Individuals need to know the criteria and timeframe in which to file an appeal.
Benefit: This provides reasonable and justifiable criteria for an appeal and gives the

applicant two months to prepare the appeal, while specifying that an appeal must be made timely. Two months is enough time to prepare an appeal, and recent enough to the examination at issue so that information about the exam is still relevant and fresh.

Subsection 1127(c) This proposed text specifies the process for an appeal of a failed examination and allows the Executive Officer of the DHCC to respond to the appeal and request the applicant to appear.

Problem: Since the Committee is required to meet only twice yearly, a mechanism for timely response to appeals is needed.

Benefit: Review of the appeal by the Executive Officer is necessary, so as not to taint the Committee members if the matter later comes before them as a Statement of Issues for license denial or a license discipline case.

Adopt Section 1133 of Article 8: Minimum Standards for Infection Control

This proposed section references language in the Dental Practice Act, Chapter 1, Article 1, Section 1005, governing the minimum standards for infection control relative to dental treatment. The majority of California's Registered Dental Hygienists (RDHs) work in dental offices, therefore the same standards for infection control apply to all practitioners. This text informs licensees, staff and the public that they must maintain the same minimum standards of infection control as specified in Section 1005.

FACTUAL BASIS/RATIONALE

Since its creation July 1, 2009, the DHCC is the regulatory entity responsible for the licensing and regulation of the dental hygiene profession in California. In the absence of its own regulatory framework, the DHCC has operated on statute and by utilizing some of the existing regulations in the Dental Board of California's Dental Practice Act that pertain to dental hygienists, however many of those regulations no longer reflect current statute. The DHCC needs to have its own regulatory framework to govern its licensees according to current statutory provisions.

Existing law, Business and Professions Code section 1905(a)(4) authorizes the DHCC to determine the appropriate type of license examination consistent with the provisions of Article 9 and develop and administer examinations in accordance with regulations adopted by the Committee.

Existing law, Business and Professions Code section 1906(a) authorizes the DHCC to "adopt, amend and revoke regulations to implement the requirements" of Article 9.

Existing law, Business and Professions Code section 1906(d) allows the DHCC to use the Dental Board's regulations "until other regulations are adopted by the committee."

UNDERLYING DATA

1. Approved December 5, 2010 Dental Hygiene Legislation and Regulation Subcommittee Meeting Minutes.
2. Approved December 5-6, 2010 Dental Hygiene Committee Meeting Minutes.
3. Approved December 12, 2011 Dental Hygiene Legislation and Regulation Subcommittee Meeting Minutes.
4. Approved December 13, 2011 Dental Hygiene Committee Meeting Minutes.
5. Approved December 3, 2012 Dental Hygiene Legislation and Regulation Subcommittee

Meeting Minutes.

6. Draft September 6, 2013 Dental Hygiene Committee Meeting Minutes.
7. Dental Practice Act, California Code of Regulations, Title 16, Division 10, Sections 1000, 1001, 1067, 1080, 1080.1, 1080.2, and 1080.3.

ECONOMIC IMPACT ASSESSMENT

This regulatory proposal will have the following effects:

- It would not create or eliminate jobs within the State of California because this proposed regulation clarifies dental hygiene terms used in current practice and education, specifies functions that may be delegated to the DHCC's Executive Officer, specifies the conduct of and appeals process for written and clinical dental hygiene examinations, and references minimum standards for infection control that are currently utilized by all dental professionals.
- It would not create new businesses or eliminate existing businesses within the State of California because the proposal specifies definitions currently used in dental hygiene practice and education, allows for the delegation of certain duties to the DHCC's Executive Officer, specifies the current examination and appeals process, and references existing requirements for infection control.
- It would not affect the expansion of businesses currently doing business within the State of California because this proposal does not change existing definitions, processes or requirements.
- This regulatory proposal would benefit the health and welfare of California residents by having clear definitions for dental hygiene terms used in statute and by streamlining the settlement process for disciplined licensees.
- This regulatory proposal would benefit California consumers by clarifying terminology used in dental hygiene, by allowing the DHCC's Executive Officer to approve settlement agreements for disciplined licenses, and by specifying that dental hygiene licensees operate under the same minimum standards for infection control as dentists.
- This regulatory proposal would enhance worker safety in places where dental hygiene is performed by ensuring that all California licensed dental hygienists have clear and current definitions for terminology used in the practice of dental hygiene and adhere to existing minimum standards for infection control relative to the practice of dentistry and dental hygiene.

BUSINESS IMPACT

The Board has made the initial determination that the proposed regulation would not have a significant, statewide adverse economic impact directly affecting business, including the inability of California businesses to compete with businesses in other States.

This regulatory proposal would benefit the state's environment because it requires that out-of-state graduates be instructed in California's standards 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 regulations. Many new laws have been enacted since 1996 that affect the practice of dentistry and dental hygiene. In addition, it would be contrary to the Committee's public protection mandate to not include proposed changes designed to allow the DHCC better monitoring of licensees on probation with the Committee.

If rejected as a result of not passing this regulation, the terminology and the requirements for licensure and enforcement will not be current nor will it provide the authority needed to protect consumers. Using outdated regulations will not provide maximum protection to the DHCC's licensees and consumers. DHCC will be required to use the Dental Board of California's Dental Practice Act which does not reflect current statutes.