

**Proposed Regulations**

**Adopt Article 13 and Sections 1149, 1150, 1151, 1152 and 1153 of Division 11 of Title 16, of the California Code of Regulations to read:**

**Article 13.**

**Sponsored Free Health Care Events—Requirements for Exemption.**

**§1149. Definitions.**

For the purposes of section 901 of the Code:

(a) “Community-based organization” means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) “Out-of-state practitioner” means a person who is not licensed in California to engage in the practice of dental hygiene but who holds a current valid and active license or certificate in good standing in another state, district, or territory of the United States to practice dental hygiene.

(c) The term “in good standing” means the applicant:

(1) Has not been charged with an offense for any act substantially related to the practice of dental hygiene for which the applicant is licensed by any public agency;

(2) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant’s professional conduct or practice, including any voluntary surrender of a license;

(3) Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the Committee determines constitutes evidence of a pattern or negligence or incompetence.

NOTE: Authority cited: Sections 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.

**§1150. Sponsoring Entity Registration and Recordkeeping Requirements.**

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the code shall register with the Committee not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the Committee by submitting to the Committee a completed Form 901-A (04/2011), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The Committee may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process Form 901-A on behalf of the Committee. The Committee or its delegate shall inform the sponsoring entity within 15 calendar days of receipt of Form 901-A in writing that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The Committee or its delegate shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 as well as a copy of the authorization for participation issued by the Committee to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the Committee at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the Committee.

(d) Requirement for Prior Committee Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the Committee.

(e) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the Committee summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

(1) The date(s) of the sponsored event;

(2) The location(s) of the sponsored event;

(3) The type(s) and general description of all health care services provided at the sponsored event; and

(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority cited: Sections 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.

### **§1151. Out-of-State Practitioner Authorization to Participate in Sponsored Event.**

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the Committee to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the Committee to provide those services. An applicant shall request authorization by submitting to the Committee a completed Form 901-B (04/2011), which is hereby incorporated by reference, accompanied by a non-refundable, non-transferable processing fee of \$55.00. The applicant shall also furnish electronic fingerprints to establish the identity of the applicant and to permit the Committee to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check.

(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the Committee shall notify the sponsoring entity or local government entity administering the sponsored event whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The Committee shall deny a request for authorization to participate if:

(A) The submitted Form 901-B is incomplete and the applicant has not responded timely to the Committee's request for additional information.

(B) The applicant does not possess a current valid and active license in good standing.

(C) The applicant has not satisfactorily completed a course of instruction, approved by the committee, in the following procedures, if these procedures are to be performed, and the sponsoring entity will not be providing an appropriately licensed or authorized dentist for direct supervision of these procedures:

(i) Periodontal Soft-tissue curettage.

(ii) Administration of local anesthetic agents.

(iii) Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.

(D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the Committee.

(E) The Committee has been unable to obtain a timely report from a criminal history records check.

(F) The applicant was previously denied an application to practice dentistry, dental hygiene, or dental assisting in this state.

(2) The Committee may deny a request for authorization to participate if:

(A) The request is received less than 20 calendar days before the date on which the sponsored event will begin.

(B) The applicant has been previously denied a request for authorization by the Committee to participate in a sponsored event.

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the Committee.

(D) The applicant has participated in three (3) or more sponsored events during the 12 month period immediately preceding the current application.

(d) Appeal of Denial .An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 1152.

NOTE: Authority cited: Sections 144, 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.

### **§1152. Termination of Authorization and Appeal.**

(a) Grounds for Termination.The Committee may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the Committee.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the Committee.

(3) The Committee has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) Notice of Termination.The Committee shall provide both the sponsoring entity or a local government entity administering the sponsored event and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the Committee may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the Committee shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the Committee's decision to terminate an authorization in the manner provided by section 901(j)(2) of the Code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) Agency Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an agency conference with the executive officer regarding the reasons for the termination of authorization to participate. The executive officer shall, within 30 days from receipt of the request, hold an agency conference with the out-of-state practitioner. At the conclusion of the agency conference, the executive officer may affirm or dismiss the termination of authorization to participate. The executive officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the agency conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an agency conference. If the termination is dismissed after the agency conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Sections 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.

### **§1153. Additional Practice Requirements for Out-of-State Practitioners Authorized to Participate in Sponsored Free Health Care Events.**

(a) Each out-of-state practitioner authorized to participate in a sponsored event and provide dental hygiene services at the sponsored event pursuant to Section 1154 shall provide a written notice to each patient or prospective patient prior to performing any services. This notice shall be in at least 12 point font, and include, at a minimum, the following information:

(1) The state, district, or territory where the out-of-state practitioner is licensed in good standing;

(2) The name of each governmental agency that has issued the out-of-state practitioner a license to practice dental hygiene and the effective dates of each license;

(3) The out-of-state practitioner's license number(s);

(4) The dates the out-of-state practitioner is authorized to practice by the Committee; and,

(5) A disclosure that states: "The Dental Hygiene Committee of California has only authorized me to provide services under my license from another state and only at this free health care event for a period not to exceed ten (10) days."

(b) This notice required by this Section shall be provided separate and apart from all other notices or authorizations that a patient may be given or required to sign and shall be retained by the patient.

NOTE: Authority cited: Sections 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.