

**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  
1<sup>st</sup> Floor Hearing Room  
2005 Evergreen Street  
Sacramento, California on

**August 21, 2013**

**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 (Committee) at its office not later than 5:00 p.m. on August 21, 2013, 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 Sections 1905, 1906, 1909 and 1944 of the Business and Professions Code, and to implement, interpret or make specific Sections 1905, 1909 and 1944 of the Business and Professions Code, 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 (Committee) 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 specify requirements for Committee approval of courses in soft tissue curettage, administration of local anesthesia and administration of nitrous oxide used as an analgesic to assist course provider applicants to achieve approval to give these courses. There are currently no regulations in this area and the Committee is proposing the following:

- Adopt Sections 1107 and 1108 of Division 11, Title 16 of the California Code of Regulations

Existing statute, Business and Professions Code Section 1909 authorizes a registered dental hygienist to perform soft tissue curettage, administration of local anesthesia, and administration of nitrous oxide under the direct supervision of a licensed dentist after submitting evidence of successful completion of a Committee-approved course of instruction. All California dental hygiene educational programs contain this instruction; however, only 14 other states allow dental hygienists to perform all three duties. Educational programs in the 36 states that do not allow hygienists to perform the three duties would not provide this necessary instruction. The state of New York only allows dental hygienists to give local anesthetic injections in the maxillary (upper) sector of the oral cavity, not the mandibular (lower), therefore the educational programs in that state do not provide clinical instruction in giving mandibular local anesthesia. California consumers need to know that all dental hygiene licensees have successfully completed instruction in all aspects of these allowable duties and have demonstrated the ability to safely perform them on patients before issuance of their California dental hygiene license. Approximately 100 registered dental hygienist applicants per year who graduate from out-of-state educational programs that do not contain this instruction must take a course containing the three expanded duties before becoming licensed. This amounts to less than 14% of all California dental hygiene license applicants annually. In the past, the Committee has approved course providers under its statutory authority on a case-by-case basis. Approved course providers and course provider applicants seeking approval have recommended regulations be pursued to specify what a course provider applicant needs to submit for the Committee's review in order to gain approval.

The Committee is proposing regulations that would establish the requirements for approval of educational courses in the administration of local anesthesia agents, administration of nitrous oxide-oxygen analgesia, and periodontal soft tissue curettage by establishing a standard application form for course providers to use to apply for approval (DHCC SLN-03 05/2013), which is incorporated by reference. These proposed regulations would require the Committee to provide denied course provider applicants with the specific reasons for denial within 90 days, giving timely direction to applicants so they may correct any deficiencies in the application. The proposed regulations provide for course review and withdrawal of approval, and require each approved course provider to submit a biennial report on form DHCC SLN-01 (05/2013), which is incorporated by reference. These requirements would ensure that all approved course providers continue to meet the requirements contained in the regulations. The proposed regulations specify requirements for administration, faculty, facilities and equipment, general and specific curriculum content, recordkeeping and student learning resources, and establish a standard certificate of completion form to be used by all approved providers to certify a student's successful course completion (DHCC SLN-02 (05/2013)), which is incorporated by reference.

## B. Policy Statement Overview/Anticipated Benefits of Proposal

The Dental Hygiene Committee of California's (Committee) 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 protects California consumers by ensuring that all licensed registered dental hygienists

are educated and trained to the same standard in the three expanded functions duties, regardless of which state they graduated from.

Protection of the public is the Committee's primary mission. These regulations benefit the public by specifying the content and administration of courses in soft tissue curettage, administration of local anesthesia and administration of nitrous oxide, so that dental consumers are protected from dental hygiene licensees who may have graduated from other states without this education and training and cause harm to patients through their lack of knowledge of these duties.

These regulations benefit students of the courses by specifying faculty, facility and health and safety instructional requirements. Students coming from other states are not familiar with California's stringent infection control, hazardous waste management and bloodborne and infectious disease control protocols. These regulations ensure that students who take a Committee-approved course will receive instruction from qualified licensed faculty in an educationally optimal environment to learn correct protocols and procedures to perform the duties safely on California consumers.

The proposal benefits course provider applicants by standardizing the application process, so applicants know exactly what is needed to apply for and maintain approval to give the course.

#### C. Consistency and Compatibility with Existing State Regulations

This Committee has evaluated this regulatory proposal and it is not inconsistent or incompatible with existing State regulations.

#### INCORPORATION BY REFERENCE

Documents incorporated by reference:

1. Application for Approval of a Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage (SLN-01 05/13)
2. Report of a Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage (SLN-03 05/13)
3. Certification in Administration of Local Anesthesia, Nitrous Oxide-Oxygen Analgesia, and Periodontal Soft Tissue Curettage (SLN-02 05/13)

#### 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 course provider applicants. This regulation would require that course providers operating such businesses pay a \$300 one-time application fee to be approved to provide the courses. The three existing course providers charge each student a one-time fee of approximately \$4,500 to take the course. If each course provider teaches the course to 10 students annually (10% of the total current annual need), the one-time cost of the application becomes less than 3% of the annual fees that the course provider collects from students taking the Committee-approved course..

## **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 and workers by ensuring that all registered dental hygienist licensees have received education and training in the safe administration of local anesthesia, nitrous oxide-oxygen used as an analgesic and soft tissue curettage, as well as in California's infection control procedures, hazardous waste management practices and bloodborne and infectious disease control protocols.

## **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  
Fax No.: (916) 263-2688  
E-Mail Address: Lori.Hubble@dca.ca.gov

The backup contact person is:

Name: Donna Kantner  
Address: 2005 Evergreen Street, Suite 1050  
Sacramento, CA 95815  
Telephone No.: (916) 576-5003  
Fax No.: (916) 263-2688  
E-Mail Address: Donna.Kantner@dca.ca.gov

Website Access: Materials regarding this proposal can be found at the Committee's website: [www.dhcc.ca.gov](http://www.dhcc.ca.gov).