

**DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

HEARING DATE: July 19, 2010

SUBJECT MATTER OF PROPOSED REGULATIONS: Dental Assistant Educational Programs and Courses

SECTION(S) AFFECTED: Title 16, Division 10, California Code of Regulations, Section 1070, 1070.1, 1070.2, 1070.6, 1070.7, 1070.8 and 1071

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL:

The purpose of the proposed language is to place into regulations the existing statutory language governing the approval of Registered Dental Assistant (RDA) educational programs, Orthodontic Assistant Permit courses, Dental Sedation Assistant Permit courses, Infection Control Courses, and Registered Dental Assistant in Extended Functions (RDAEF) courses. When AB 2637(Ch. 499, Statutes of 2008) was passed, duties were added to the current RDA and RDAEF license categories, new Orthodontic Assistant and Dental Sedation permits were established, and a mandatory 8-hour course in infection control was implemented for all dental assistants to protect the public health and safety. These new requirements necessitated instructional criteria also be placed into statute for the Dental Board to continue to approve educational programs and courses to instruct in the new duties, with a sunset date of January 1, 2011 to allow the Board to pursue regulations. As the sunset date approaches, the Board must have regulations in place, or it will lose its authority to approve these programs and courses, and its ability to maintain the required instructional standards that contain provisions to ensure that dental assistants, Registered Dental Assistants and Registered Dental Assistants in Extended Functions have the necessary instruction to be able to perform procedures safely on patients.

Add Section 1070. General Provisions Governing All Dental Assistant Educational Programs and Courses.

This text informs students, educators, and applicants for program or course approval that this section contains general provisions applicable to all programs and courses. This Section reinstates the provisions of Business and Professions Code Section 1755, which becomes inoperative on January 1, 2011. This section sets out the general requirements applicable to all programs and courses seeking approval by the board, specifies applicable references, and is renumbered to conform the text.

The proposed changes:

- (1) Clarify in subdivision (b) that RDHs, whose licenses will be issued by the Dental Hygiene Committee of California (DHCC) rather than the Board on and after July 1, 2009, may continue to serve as program or course directors. Current statutory language states that a program or course director must be licensed by the board, making the status of RDHs as program or course directors unclear, since their licenses will be issued by the DHCC on and after July 1, 2009.

- (2) Clarify in subdivision (b) that the program or course director is responsible for ensuring that programs or courses meet the requirements specified in the following subsections.
- (2) Clarify in subdivision (c) that RDAs who have held an RDA license for 2 or more years do not need to also hold an Orthodontic Assistant (OA) permit for an additional 2 years in order to perform as faculty in an OA course. This will assure that such courses remain accessible.
- (3) Clarify that objective evaluation criteria used for evaluating students must be the same for both the program or course and the extramural facility, if one is used.

Add new Section 1070.1 Educational Program and Course Definitions and Instructor Ratios

This heading text would inform students, educators, educational program directors and applicants for educational or course approval that the Sections that follow relate to requirements for faculty ratios for all dental assisting educational programs and courses. This Section reinstates the provisions of Business and Professions Code Section 1754.5, which becomes inoperative on January 1, 2011.

Add new Section 1070.1(a)

This Section would define the term "Didactic instruction" to clarify that this instruction does not involve active participation by students and can be accomplished by home study, electronic media or live lecture and specify that the content must be approved by the board.

Add new Section 1070.1(b)

This Section would define the term "Laboratory instruction" to clarify that this instruction consists of supervised experience using study models, mannequins or other simulated means, and specifies that at least one instructor for each 14 students be required for this instruction.

Add new Section 1070.1(c)

This Section would define the term "Preclinical instruction" to clarify that this instruction consists of supervised experience performing procedures on students, faculty or staff members, and specifies that at least one instructor for each six students be required for such instruction.

Add new Section 1070.1(d)

This Section would define the term "Clinical instruction" to clarify that this instruction consists of supervised experience performing procedures in a clinical setting on patients, and specifies that at least one instructor for each six students be required for such instruction.

Add new Section 1070.2 Approval of Registered Dental Assistant Educational Programs

This Section would specify the requirements for Registered Dental Assistant educational programs. This Section reinstates the provisions of Business and Professions Code Section 1757, which becomes inoperative on January 1, 2011, with the following proposed changes.

The proposed changes to existing statute are as follows:

- (1) Subsection (b)(1) was changed to clarify the information that a program must submit if the maximum student enrollment is increased.

- (2) Subsection (b)(3)(B) relating to the requirement that program faculty complete a 30-hour teaching methodology course has been amended to delay implementation until 2012, since the current statutory deadline of January 1, 2010 has passed and the proposed regulatory language governing such courses has not yet been set for hearing.
- (3) Subsection (b)(5) relating to the number of extern hours has been amended, since the wording in Section 1757 is incorrect and essentially eliminates extern instruction, which is an integral part of all current RDA programs.
- (4) The requirement that program faculty visit each extramural clinical facility at least once every ten clinical days has been added to subsection (b)(6)(B). This requirement is in existing RDA program regulations, but was inadvertently omitted from Section 1757.
- (5) Equipment ratios have been added in subdivision (b)(7). The ratios stated for model trimmers, dental rotary equipment, vibrators, typodonts and bench mounts, and sets of hand instruments are the same ratio requirements contained in the current RDA program regulations. The ratio for orthodontically banded typodonts is the same as required for OA courses. The ratios for light curing devices, facebows, pulse oximeters, and caries detection devices are proposed as appropriate new ratios to provide students with adequate access to such equipment that were not addressed in the statute, and which are necessary to provide guidance to providers, Board staff and consultants who evaluate such courses and programs.
- (6) Subsection (b)(7)(C) has been amended to clarify that either a portion, or all, of the library holdings may be via the internet, to recognize current educational technologies.
- (7) Subsection (b)(9) is amended to clarify that programs may require that students complete CPR as a prerequisite to program enrollment, or provide evidence of completion from another provider, which was unclear in Business and Professions Code Section 1757.
- (8) Subsection (b)(9) is amended to clearly specify the manner in which programs must teach the Infection Control and Dental Practice Act (DPA) courses that RDA applicants must complete in order to apply for licensure on and after January 1, 2010. The proposed amendments reflect that their instruction in the DPA must meet the requirements set forth in the Board's continuing education regulations, and provide specific section references.
- (9) Subsection (b)(9) is amended to specify the Sections of regulatory law referenced as requirements for a radiation safety course, a coronal polishing course, a pit and fissure sealant course, an infection control course, a course in the removal of excess cement with an ultrasonic scaler, an orthodontic assistant permit course, a dental sedation permit course and continuing education courses.

Add Section 1070.6

This Section would govern Infection Control courses. It reinstates the provisions of Business and Professions Code Section 1756, which becomes inoperative on January 1, 2011, with appropriate reference corrections. No changes are proposed to this section other than the reference corrections and deletion of the repealer date.

Add Section 1070.7

This proposed regulation would govern Orthodontic Assistant (OA) courses. It reinstates the provisions of Business and Professions Code Section 1756.1, which becomes inoperative on January 1, 2011, with appropriate reference corrections and elimination of transition language that will not be necessary in the future.

The proposed modification to the current expiring statute in subsection (a) clarifies that OA course providers, like RDA programs, may reduce the course hours for RDA licensees, and for RDA licensees who also hold ultrasonic scaling permits. This assures that such licensees are not required to repeat training for duties that they are already legally allowed to perform.

Add Section 1070.8 – Dental Sedation Assistant Permit Course Requirements

This proposed regulation would govern Dental Sedation Assistant courses. It reinstates the provisions of Business and Professions Code Section 1756.2, which becomes inoperative on January 1, 2011, with appropriate reference corrections and the elimination of transition language that is unnecessary.

Add Section 1071 – RDAEF Educational Program Requirements

This proposed regulation would govern RDAEF educational programs. It reinstates the provisions of Business and Professions Code Section 1758, which becomes inoperative on January 1, 2011, with appropriate reference corrections and elimination of transition language that is unnecessary. The current statute allows polishing of existing amalgams as a duty for RDAEFs, however fails to specify the instruction that is required for this duty. Therefore, new subdivision (m) has been added to address this omission.

FACTUAL BASIS/RATIONALE

For over twenty years, the Dental Board has approved Registered Dental Assistant (RDA) educational programs and Registered Dental Assistant in Extended Functions (RDAEF) courses according to criteria established in regulation that reflected the duties allowed by those licensure categories.

With the passage of AB 2637 (Ch. 499, Statutes of 2008), new duties were allowed to be performed by RDAs and RDAEFs, and two new permits were created for dental assistants who wished to specialize in either orthodontics or oral surgery practices. Existing law did not allow licensure of any type of dental assistant other than those practicing in general or restorative practices. To allow implementation of the provisions of AB 2637, statutory language was included within the provisions of the bill that set criteria for these programs and courses and would allow the Dental Board to continue to approve them in the interim, so as not to be a barrier to employment or licensing for RDAs and RDAEFs. A sunset date of January 1, 2011 was included to provide the Board the opportunity to proceed with regulations to replace these criteria for approval contained in the statute. While a sunset date was placed on the provisions

relative to educational program and course approval, the allowed duties do not sunset. This results in licensees and permittees who are allowed by law to perform duties that do not have minimum criteria for instruction or standards to allow the Board to approve them, which may have an adverse impact on patient safety.

UNDERLYING DATA

1. AB 2637 (Ch. 499, Statutes of 2008)
2. November 9, 2009 Dental Assisting Committee Meeting Minutes
3. November 10, 2009 Dental Board Meeting Minutes
4. American Society of Anesthesiologists Physical Status Classification System

BUSINESS IMPACT

The Board does not believe that this regulation will have a significant adverse economic impact on businesses. There should be no initial or ongoing cost impact upon the educational program and course providers because they are currently equipped and required to provide this instruction by statute.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The regulatory proposal indirectly requires the use of certain types of equipment routinely used in the dental practice. No specific manufacturer or brand is required or recommended.

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.