

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 10. DENTAL BOARD OF CALIFORNIA**

FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Consolidated Continuing Education

Sections Affected: California Code of Regulations, Title 16, Sections 1016, 1016.2, 1017

Updated Information

The Initial Statement of Reasons is included in the file; the information contained therein is updated as follows:

At the November 18-19, 2021 meeting the Board approved proposed language for the implementation of California Code of Regulations (CCR) Title 16, Division 10, sections 1016, 1016.2, and 1017 regarding continuing education requirements for renewal, and directed staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing if necessary, and authorizing the Executive Officer to make any non-substantive changes to the rulemaking package.

During the 45-day comment period, there was no request for a public hearing.

During the 45-day comment period the Board received two public comments on proposed sections 1016, 1016.2, and 1017. The comments received and the Board's responses, which were approved at the February 10-11, 2022 Board meeting, are summarized in the "Objections or Recommendations/Board Responses" section below.

Board staff recommended changes to the proposed regulations at the February 10-11, 2022 Board Meeting. Those changes included the following:

(1) Amend subsection (e) of Section 1016 to specify when the Board considers an Infection Control or Dental Practice Act course to be "significantly changed" and what would trigger the requirement that a course provider submit a new course content outline to the Board. The text would be modified to state:

If a provider wishes to make any significant changes ~~to~~ which includes altering the course content of a previously approved ~~mandatory~~ course in Infection Control and the

California Dental Practice Act, the provider shall submit a new course content outline to the Board.

(2) Amend Section 1016.2 related to requirements for basic life support courses to revise the title and add relevant code sections to specify the titles of the types of dental auxiliaries intended to be covered by the proposal. The term “dental auxiliaries” refers to persons qualified by training and experience to perform dental work under the direction and supervision of a dentist. However, this term broadly refers to all types of persons working under the supervision of a dentist and includes dental assistants and all other auxiliaries licensed by the Board or the Dental Hygiene Board in the practice acts governing both boards (see e.g., Business and Professions Code section 1684.5). The proposed modifications would make it clear that this proposal is applicable only to specified categories of individuals under the jurisdiction of the Dental Board and provides the corresponding legal citations that refer to those specific types of dental auxiliaries, including: dental assistants, registered dental assistants, orthodontic assistants, and dental sedation assistants. The text would be modified to state:

Section 1016.2. Requirements for Basic Life Support Courses for Dental Assistants and Licensure of ~~Dental Auxiliaries~~ Registered Dental Assistants, Orthodontic Assistants, and Dental Sedation Assistants

(a) For the purpose of Code sections 1750(c)(3), 1750.2(a)(3), 1750.4(a)(3) and 1752.1(e)(3), and for the purpose of licensure renewal, the following are deemed to be equivalent basic life support (BLS) courses to the American Heart Association (AHA) or the American Red Cross (ARC):

Board staff recommended these modifications be made to avoid confusion in the regulated community regarding the meaning and applicability of these provisions. The Board approved the modifications and directed Board staff to notice the modified text for a 15-day public comment period and, if no adverse comments are received, to make any necessary non-substantive changes and adopt the proposed regulations as described in the modified text.

Local Mandate Determination

A mandate is not imposed on local agencies or school districts.

Small Business Impact:

The Board has determined that the proposed regulations would not affect small businesses. The Board regulates and licenses the individual dental professionals in the State of California. The Board does not maintain data relating to the number or

percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

The proposed regulation will make changes to the BLS course required for initial licensure of dental auxiliaries and renewal of licenses and permits issued by the Board. While there would be costs associated for licensees to take the Board-approved courses on Schedule II opioids, the overall number of courses required remains 50 total hours and does not increase.

Dental auxiliaries who wish to obtain their initial license or renew an existing license will not see an increase in the number of required CE courses as the minimum required number of courses for initial licensure or renewal does not change but the proposal does offer greater access to qualified approved providers in order to take courses.

The types of businesses that would be affected are businesses that offer CE courses, as there would be an additional minimum requirement for course content relating to Schedule II opioids. The cost to a provider is unknown, as the Board does not track the costs for providers to add a mandatory core course, to revise course curriculum, or for any changes to provider operations. However, because courses are already provided and acceptable course content already available generally for the profession, no additional costs are anticipated.

Anticipated Benefits

Section 1016

This proposal aims to reduce the incidence of opioid addiction and overdose by increasing awareness and education among prescribers and patients, including minor athletes and their parents. Education is a key component in understanding the very addictive nature of Schedule II controlled substances. It is necessary to warn healthcare professionals who prescribe opioid medications they can be addictive and cause drug overdoses if not used carefully. Requiring prescribers to complete CE regarding this issue will benefit larger public health efforts to address the opioid addiction epidemic. This proposal benefits the health and welfare of California residents because it seeks to decrease the effects of addiction to opioids on Californians through notice and education to these healthcare professionals.

This proposal adds ASHI to the list of accepted BLS providers for purposes of meeting the requirement for certification in BLS for licensure and initial application requirements. The addition of ASHI as a provider will allow dentist and dental auxiliaries broader

access to instruction taught by qualified instructors who are nationally recognized to respond to emergencies while protecting dental patients in California.

Section 1016.2

This proposal adds American Dental Association's Continuing Education Recognition Program (CERP), the Academy of General Dentistry's Program Approval for Continuing Education (PACE) and American Safety and Health Institute (ASHI) to the list of accepted BLS providers for acceptance for initial and renewal application requirements of dental auxiliaries. The addition of PACE, CERP, and ASHI as providers will facilitate access to instruction taught by qualified instructors who are nationally recognized. This will enable more dental auxiliaries to respond to emergencies to protect dental patients in California.

Section 1017

This proposal adds methods for licensees to earn CE credit required for renewal. Allowing unpaid volunteers who offer clinical services for which they are licensed to earn CE credit on an hour-by-hour basis will expand access to care in dental communities with limited access to practitioners. This section will also allow a retired dentist who only provides unpaid care to dental patients to complete a reduced number of CE per renewal cycle. This will assist retired dentists in uncompensated practice (volunteers) to continue to educate themselves for the benefit of patients in underserved or low-income communities.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board as part of public comments received or at the Board's meetings would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. All recommendations provided during this rulemaking were considered by the Board and rejected as discussed herein.

Objections or Recommendations/Board Responses

45 Day Comment Period

A. November 19, 2021 email from Daniel Loveland, DMD

Comment Summary: This comment opposes the requirement of mandatory continuing education courses in drug addiction as required for the renewal of a dental license. Dr. Loveland feels that the additional requirement will not affect the decisions of doctors who have already been trained on prescription drugs, how to prescribe, and the dangers or abuse and addiction. Dr. Loveland states that “They are already well informed and will decide to abuse medications however they want, no amount of CE is going to help that.” Dr. Loveland states that licensees such as himself who do not abuse medications should not be forced to take mandatory continuing education courses on this subject. Dr. Loveland also states that the Dental Board of California could dissuade dentist from abusing drugs by having stricter penalties.

Board Response: The Board considered the comment and decided to make no revisions to the text based thereon. Senate Bill (SB) 1109 (Bates, Chapter 693, Statutes of 2018) amended BPC section 1645, effective January 1, 2019, adds the risks of addiction associated with the use of Schedule II drugs, as an authorized continuing education subject matter area for a dentist licensed by Board. The Board proposes to amend Section 1016 Article 4 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations, to include mandatory coursework of a Board approved course in the responsibilities and requirements of prescribing Schedule II opioids as mandated by SB 1109. This proposal aims to reduce the incidence of opioid addiction and overdose by increasing awareness and education among prescribers and patients, including minor athletes and their parents. Education is a key component in understanding the very addictive nature of Schedule II controlled substances. It is necessary to warn healthcare professionals who prescribe opioid medications that they can be addictive and cause drug overdoses if not used carefully.

B. December 2, 2021 email from Pricilla Espinoza Vale, RDAEF2

Comment Summary: This comment neither opposes nor agrees with the proposed language. The email from Ms. Espinoza Vale is an inquiry into whether the proposed language would “help with the debt loan” for Continuing Education courses taken.

Board Response: The Board considered the comment, but the question pertains to an issue that is neither covered by the subject of the proposed rulemaking nor under the Board’s authority to address by way of a rulemaking. The Board believes that the proposed text is sufficiently clear to advise the public of the subject matter, which includes only a proposed requirement to include mandatory Board-approved coursework in the responsibilities and requirements of prescribing Schedule II opioids as mandated by SB 1109. The Board, therefore, decided to not make any revisions in response to this comment.

15 Day Modified Text Comment Period – No Comments Received