



California Regulatory Notice Register

REGISTER 2021, NUMBER 46-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

NOVEMBER 12, 2021

PROPOSED ACTION ON REGULATIONS

TITLE 2. HEALTH AND HUMAN SERVICES AGENCY

Conflict-of-Interest Code — Notice File Number Z2021-1027-01 1537

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict-of-Interest Codes — Notice File Number 2021-1103-01 1537

AMENDMENT

Multi-County: Mother Lode Job Training Agency
 State Agency: California Science Center
 Department of Health Care
 Services

ADOPTION

Multi-County: Amethod Public Schools

TITLE 4. SCHOOL FINANCE AUTHORITY

Charter School Facility Grant Program — Notice File Number Z2021-1102-17 1538

TITLE 14. FISH AND GAME COMMISSION

California Grunion — Notice File Number Z2021-1101-01 1543

TITLE 14. FISH AND GAME COMMISSION

Big Game Preference Points and Tag Refunds — Notice File Number Z2021-1102-06 1545

TITLE 16. BOARD OF ACCOUNTANCY

Definition of Satisfactory Evidence, Transcripts — Notice File Number Z2021-1102-18 1548

TITLE 16. BOARD OF BEHAVIORAL SCIENCES

Continuing Education and Additional Coursework — Notice File Number Z2021-1102-13 1551

(Continued on next page)

***Time-
Dated
Material***

TITLE 16. BOARD OF PHARMACY	
<i>Self-Assessments for Pharmacies — Notice File Number Z2021–1102–02</i>	1555
TITLE 16. BOARD OF REGISTERED NURSING	
<i>Prelicensure Nursing Programs, Sections 1423 and 1432 — Notice File Number Z2021–1102–04</i>	1558
TITLE 16. BOARD OF REGISTERED NURSING	
<i>Prelicensure Nursing Programs, Section 1427 — Notice File Number Z2021–1102–05</i>	1561
TITLE 16. BOARD OF REGISTERED NURSING	
<i>Continuing Education Courses — Notice File Number Z2021–1102–07</i>	1563
TITLE 16. BOARD OF REGISTERED NURSING	
<i>Nurse Practitioner Education — Notice File Number Z2021–1102–15</i>	1566
TITLE 16. BUREAU OF SECURITY AND INVESTIGATIVE SERVICES	
<i>Private Investigator Fees — Notice File Number Z2021–1102–01</i>	1569
TITLE 16. ARCHITECTS BOARD	
<i>Citations — Notice File Number Z2021–1102–09</i>	1574
TITLE 16. ARCHITECTS BOARD	
<i>Disability Access/Continuing Education — Notice File Number Z2021–1102–12</i>	1577
TITLE 16. DENTAL BOARD	
<i>Consolidated Continuing Education — Notice File Number Z2021–1102–14</i>	1580
TITLE 16. DENTAL HYGIENE BOARD	
<i>Registered Dental Hygienists in Alternative Practice, Performance of Soft Tissue Curettage and Administration of Local Anesthesia — Notice File Number Z2021–1102–03</i>	1585
TITLE 16. DENTAL HYGIENE BOARD	
<i>Required Curriculum for Registered Dental Hygienists — Notice File Number Z2021–1102–10</i>	1588
TITLE 16. MEDICAL BOARD	
<i>Notice to Consumers — Notice File Number Z2021–1102–08</i>	1592
TITLE 16. PROFESSIONAL FIDUCIARIES BUREAU	
<i>Inactive and Retired License Status — Notice File Number Z2021–1102–16</i>	1597
TITLE 17. DEPARTMENT OF PUBLIC HEALTH	
<i>Lead Dust Standard Update — Notice File Number Z2021–1102–11</i>	1600
SUMMARY OF REGULATORY ACTIONS	
Regulations filed with Secretary of State	1604

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for \$205.00 (annual price). To order or make changes to current subscriptions, please call (800) 328–4880. The Register can also be accessed at <http://www.oal.ca.gov>.

**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. HEALTH AND HUMAN
SERVICES AGENCY**

**NOTICE OF INTENTION TO AMEND THE
CONFLICT-OF-INTEREST CODE OF THE
CALIFORNIA HEALTH AND HUMAN
SERVICES AGENCY**

NOTICE IS HEREBY GIVEN that the **California Health and Human Services Agency**, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on November 12, 2021, and closing on December 27, 2021. All inquiries should be directed to the contact listed below.

The **California Health and Human Services Agency** proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include adding positions that involve the making or participating in making governmental decisions, removing positions that do not perform duties meeting this standard, updating position classifications due to the Information Technology position reclassification, and also makes other technical changes.

The proposed amendment and explanation of the reasons can be obtained from the agency's contact listed below.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than December 27, 2021, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than December 12, 2021.

The **California Health and Services Agency** has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses, or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Deepa Menon
Attorney
Office of Systems Integration
2495 Natomas Park Drive, Suite 515
Sacramento, CA 95833
(916) 263-0324
E-mail: Deepa.Menon@osi.ca.gov

**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

Multi-County:	Mother Lode Job Training Agency
State Agency:	California Science Center Department of Health Care Services

ADOPTION

Multi-County: Amethod Public Schools

A written comment period has been established commencing on November 12, 2021 and closing on December 27, 2021. Written comments should be directed to the Fair Political Practices Commission,

Attention Daniel Vo, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than December 27, 2021. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code-reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise

the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

TITLE 4. SCHOOL FINANCE AUTHORITY

ARTICLE 1.5, SECTIONS 10170.2 THROUGH 10170.10

NOTICE IS HEREBY GIVEN that the California School Finance Authority (Authority), to organize pursuant to Sections 17170 through 17199.6 of the Education Code, proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action. Any person interested may present written statements or arguments relevant to the proposed action to the attention of the Contact Person as listed in this Notice no later than Monday, December 27, 2021. The Authority Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposal 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(s)

designated in this notice as contact person and will be mailed to those persons who submit statements related to this proposal or who have requested notification of any changes to the proposal.

PROPOSED REGULATORY ACTION

The Authority proposes to adopt Sections 10170.2 through 10170.10 of Title 4 of the California Code of Regulations (Regulations) as permanent regulations. The Regulations implement Authority's responsibilities related to the Charter School Facility Grant Program (Program).

AUTHORITY AND REFERENCE

Authority: Section 47614.5 of the Education Code. Section 47614.5(m) allows the Authority to adopt regulations in order to administer the Program.

Reference: Section 47614.5 of the Education Code, Section 47600, et seq., of the Education Code, Section 47605 of the Education Code, and Section 47612.5 of the Education Code. The Regulations include a number of the requirements of the Program contained in Section 47614.5. They also rely on specific provisions within the Charter Schools Act of 1992, commencing with Section 47600 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Authority was created in 1985 to assist school districts and community college districts in financing school construction projects (Education Code Section 17170, et seq.). The Authority is authorized to adopt bylaws for the regulation and conduct of its business, and is vested with all powers reasonably necessary to carry out its powers and responsibilities (Education Code Sections 17179 and 17180).

Pursuant to Education Code, Section 47614.5, the State Legislature directed the Authority to commence administration of the Program with the 2013–14 fiscal year and to adopt regulations to implement the statute. Effective July 1, 2013, the Authority initiated its administration of the Program, and pursuant to Section 47614.5(m), a Certificate of Compliance was approved on August 6, 2014 by the Office of Administrative Law (OAL) (OAL Regulatory Action #2014–0625–01C).

OAL approved a second permanent rulemaking action pursuant to Government Code, Section 11346.1(h) on May 3, 2016 (OAL Regulatory Action # 2016–0401–02SR). A Certificate of Compliance was approved on May 6, 2016 (OAL Regulatory Action #2016–0401–02SR).

OAL approved a third permanent rulemaking action pursuant to Government Code, Section 11346.1(h)

on August 24, 2017 (OAL Regulatory Action # 2017–0719–02S). A Certificate of Compliance was approved on August 24, 2017 (OAL Regulatory Action #2017–0719–02S).

OAL approved a fourth permanent rulemaking action pursuant to Government Code, Section 11346.1(h) on October 18, 2018 (OAL Regulatory Action # 2018–0906–03C). A Certificate of Compliance was approved on October 18, 2018 (OAL Regulatory Action # 2018–0906–03C).

OAL approved a fifth permanent rulemaking action pursuant to Government Code, Section 11346.1(h) on March 30, 2020 (OAL Regulatory Action # 2020–0214–01SR). A Certificate of Compliance was approved on March 30, 2020 (OAL Regulatory Action # 2020–0214–01SR).

In order to establish permanent regulations for purposes of administration of the Program, the Authority is proposing permanent regulations through OAL's permanent rulemaking process.

The proposed regulations set forth Authority's policies and procedures for administering the Program, including: definitions; minimum eligibility requirements; application submission and content requirements; procedures for apportionment of grant funds and appeals; and policies governing Grantee obligations, responsibilities and approval of grant use change.

In order to be eligible for Program grant funds, Applicants are required to meet minimum eligibility requirements, which include, but are not limited to, the following: (1) applications are submitted by or on behalf of a Charter School; (2) a current charter has been awarded and is in place at the time of the application submission, or in the case of a first year charter, there is evidence that a charter petition has been submitted for approval to the Chartering Authority; and (3) either fifty–five percent (55%) or more of the student enrollment at the Charter School site must be eligible for free or reduced–price meals (FRPM) or the Charter School site for which grant funds are requested must be physically located in the local attendance area of a public elementary school that has fifty–five percent (55%) or more of its students eligible for FRPM.

Pursuant to Education Code, Section 47614.5(f), the Program provides assistance to Charter Schools with the following types of costs: costs associated with facilities consistent with the definitions used in the California School Accounting Manual or regulations adopted by Authority and costs associated with common area maintenance. For a description of further benefits, please see part “d” under the “Results of Economic Impact Assessment.”

After conducting an evaluation of any related regulations on this matter, the Authority has concluded

that these are the only regulations dealing with the Program, and therefore, these proposed regulations do not present any inconsistencies or incompatibilities with existing state regulations.

The Regulations are briefly summarized below.

Section 10170.2. Definitions

(c) — “Attendance Area”. Defined to clarify and explain which local elementary school referenced in Program Regulation Section 10170.3(d)(2) is chosen during eligibility review.

(c)–(u) — Each subsection will be amended to the next letter alphabetically.

(q) — “Good Standing” — Removes of (1) “compliance with the terms of its Charter Agreement” and (2) “no pending or outstanding Notices of Violation described in Education Code Section 47607(g)”; added “provided” and removed “prepared” as well adding “SB740” and updating the form number. The new form is provided as an attachment.

Section 10170.3. Eligible Applicant

(d)(2) — Capitalize “Attendance Area” due to the added definition and remove, “as determined by the local school district.” Add “One of the following must be met in order to demonstrate preference:”

(d)(2)(A) — Add “Education Code Section 47614.5(c)(2)(A) directly referenced regarding preference in the admission section of the current charter petition, or;”

(d)(2)(B) — “Students from said public elementary school must be specifically listed as receiving preference in the admission section of the current charter petition.”

(f) — Add “may be considered in Good Standing and/or eligible for funding” and remove “may cure ineligibility for grant funds”

(f)(1) — Add “superseding” and “funding round’s”

(f)(2) — Add “The Notice of Intent to Revoke has been withdrawn by the chartering authorizer.” and remove “An Applicant found not to be in Good Standing solely due to the Applicant failing to meet the requirements of Education Code Section 47607(f)(3) must provide evidence demonstrating fiscal solvency to the satisfaction of the Authority. Such evidence may include the Applicant’s organizational budgets and audited financials.”

(f)(3) — Add “An Applicant actively appealing a Notice of Revocation and meets the criteria described in Education Code Section 47607(l).” to add a remedy as described in Section 47607(l)

(f)(4) — Add “An Applicant that successfully appeals said revocation per Section 47607(m).”

Section 10170.5. Application Submission

(a)(1) — Add “by 9:00 a.m. on April 1.” and “on June 1 of the same year.” and “and deadlines” were added and remove “in the month of” and “the date five weeks from the date the Application is made available by the Authority”

(a)(4) — Add “If any of the dates listed in 10170.5(a)(1) & (2) fall on a Saturday or Sunday or a holiday listed in Education Code Section 45203, the new date will be the following business day.”

Section 10170.6. Content of Application

(h) — Add “initial”, “related to documentation requested”, and “a full or partial reduction”

Section 10170.9. Apportionment of Grant Funds

(f) — Add “or if a Grantee’s charter is revoked and was provided any funds provided related to under Section 10170.3(f)(2),” for the ability to invoice and collect funds related to Section 10170.3(f)(2).

Section 10170.10. Notification of Grantee; Appeal Process

(f) — Remove “Including the 30 day extension, the entire Appeal Process under subsections (b)–(d) may not exceed 120 days.”

(g) — Add “applicant fails to reach Section 10170.10 (e) within 120 days from receipt of the Authority’s notice described in Section 10170.10(b)” and remove “appeal is not able to be resolved by the deadlines provided in Section 10170.10 (b), (d), and (f)”.

(i) — Add “Applicants whose charter has been revoked and noticed as of Education Code Section 47607(n) and were determined ineligible based on a lack of Good Standing confirmation are not eligible for the appeal process provided in this section.”

INCORPORATED BY REFERENCE FORM

Charter School Facility Grant Program Good Standing Confirmation Form, CSFA 0921: revised November 2, 2021.

**OTHER MATTERS PRESCRIBED
BY STATUTES APPLICABLE TO THE
SPECIFIC STATE AGENCY OR TO
ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS**

No other matters prescribed by statute are applicable to the Authority or to any specific Regulation or class of Regulations pursuant to Section 11346.5(a)(4) of

the California Government Code pertaining to the proposed Regulations or the Authority.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Authority has determined that the Regulations do not impose a mandate on local agencies or school districts.

FISCAL IMPACT

The Authority has determined that the Regulations do not impose any additional cost or savings to any state agency, any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other non-discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

On an annual basis, the State Legislature will issue appropriations for purposes of the Program grant funds based on availability of funding and demand for the Program. For the current 2021–22 fiscal year, the State Legislature appropriated approximately \$144 million towards Program grant funds. The appropriation caused the Authority to apply the pro-rata share methodology since the ADA cost increased to \$1,232 for all eligible schools. There will be no cost or savings to any State Agency pursuant to Government Code Sections 11346.1(b) or 11346.5(a)(6).

INITIAL DETERMINATION REGARDING ANY SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Authority has made an initial determination that the Regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Authority has determined that the adoption of the Regulations will not affect small business. The Program is a voluntary grant program available to Charter Schools to assist in the costs of Charter School facilities.

COST IMPACTS

The Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT ON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

COST IMPACT ON HOUSING

The Regulations will not have any effect on housing costs.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

The proposed regulations will unlikely have an impact on the creation or elimination of jobs within the State of California. In addition, the Authority is unaware of any reason providing Grant funds to awardees would result in the elimination of jobs. The purpose of the proposed regulations is to set forth administrative criteria and requirements for administering a Grant program that will disburse funds to existing Charter Schools in need across the State of California for per pupil facilities funding. There are no provisions within the proposed regulations which place additional burdens, obligations, or expenses on existing businesses such that jobs would be created or eliminated as a result.

The proposed regulations will unlikely have an impact on the creation or elimination of new businesses within the State of California. As noted above, the purpose of the proposed regulations is to set forth administrative criteria and requirements for administering a Grant program that provides per pupil facilities funding to existing Charter Schools in need. There are no provisions within the proposed regulations, which place additional burdens, obligations, or expenses on existing businesses such that businesses would be created or eliminated as a result of the proposed regulations.

The proposed regulations will unlikely have an impact on the expansion of businesses currently doing business within the State of California. The purpose of the proposed regulations is to set forth uniform and consistent criteria to administer a Grant program that will provide per pupil facilities funding to existing Charter Schools.

The proposed regulations are intended to provide per pupil facilities funding to existing Charter Schools in need, especially serving communities with low-income households. As such, to the extent that the awards benefit the long-term viability of Charter

Schools, the Program and its proposed regulations have the potential to directly benefit economically vulnerable populations and communities throughout the State. We do not expect any anticipated benefits to worker safety or the State's environment. However while each funding is different, funding for facilities may allow schools to free up assets potentially allowing actions resulting in improved worker safety.

REASONABLE ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Authority must determine that no reasonable alternative to the Regulations considered by the Authority or that has otherwise been identified and brought to the attention of the Authority, would be more effective in carrying out the purpose for which the Regulations are proposed or would be as effective and less burdensome to affected private persons than the Regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Authority invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

AGENCY CONTACT PERSON(S)

Written comments, inquiries, and any questions regarding the substance of the Regulations shall be submitted or directed to:

Katrina Johantgen, Executive Director
California School Finance Authority
at:

300 S. Spring Street, Suite 8500
Los Angeles, CA 90013
(213) 620-4608

Or
915 Capitol Mall, Room 101
Sacramento, CA 95814
(916) 651-7710

or

kjohantgen@treasurer.ca.gov

or

csfa@treasurer.ca.gov

The following person is designated as a backup Contact Person for inquiries only regarding the Regulations:

Ravinder Kapoor, Senior Attorney
915 Capitol Mall, Room 110
Sacramento, CA 95814
(916) 653-2995

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Regulations to the Authority. The written comment period on the Regulations will end on Monday, December 27, 2021. All comments to be considered by the Authority must be submitted in writing to the Agency Contact Person identified in this Notice by that time. In the event that changes are made to the Regulations during the written comment period, the Authority will also accept additional written comments limited to any changed or modified Regulations for 15 calendar days after the date on which such Regulations, as changed or modified are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, RULEMAKING FILE AND EXPRESS TERMS OF PROPOSED REGULATIONS

The Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 915 Capitol Mall, Suite 101, Sacramento, California, during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. The Sacramento address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons and the proposed text, may be viewed on the Authority's Web site at www.treasurer.ca.gov/csfa.

PUBLIC HEARING

No public hearing regarding the Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to the Authority at least 15 days before the end of the written comment

period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the hearing is being requested.

15-DAY AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period ends and following a public hearing, if any is requested, the Authority may adopt the Regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through the Authority's Web site described above) for at least fifteen (15) calendar days before the Authority adopts the proposed Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Authority is required to prepare a Final Statement of Reasons pursuant to Government Code Section 11346.9. Once the Authority has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on the Authority's Web site described above. Written requests for copies should be addressed to the Agency Contact Person identified in this Notice.

TITLE 14. FISH AND GAME COMMISSION

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 205, 265, 275, 7071, and 8587.1 of the Fish and Game Code and to implement, interpret, or make specific sections 200, 205, 255, 265, 270, 275, 7071, 7120, and 8587.1 of said Code, proposes to amend subsection (b) of Section 27.60, Title 14, California Code of Regulations, and Section 28.00, T14, CCR, relating to California grunion.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Under current regulations grunion does not have a bag or possession limit (subsection 27.60(b), Title 14, CCR), and the grunion fishery is open from June 1 through March 31 (Section 28.00, Title 14, CCR). Grunion may only be taken recreationally from June 1 through March 31 (Fish and Game Code section 8381) and no directed commercial fishery may be developed for grunion (Section 111, Title 14, CCR).

The proposed regulatory changes will establish a bag and possession limit of 30 grunion for recreational fishers and close the month of June to take of grunion, shortening the open season by one month, from July 1 through March 31, for recreational fishing.

BENEFIT OF THE REGULATIONS

The proposed regulatory action is designed to address concerns over the health and long-term sustainability of the grunion fishery. Grunion are an endemic and culturally iconic species known for their spawning behavior, where they "run" onto beaches. Recent data have shown that the abundance of grunion has declined over the past decade. Past regulations enabled recovery of the grunion population, and the proposed regulations should likewise help to protect and recover the grunion population, thereby benefitting the sustainability of the fishery. These proposed regulations will further benefit future Californians by preserving grunion populations for all to observe and enjoy.

CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, article IV, of the California Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to the commercial take of grunion.

PUBLIC PARTICIPATION

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference meeting to be held on **Thursday, December 16, 2021**, at 8:30 a.m., or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/

teleconference meeting will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Sacramento, California, on **Wednesday, February 16, 2022**, at 8:30 a.m., or as soon thereafter as the matter may be heard. The specific location for this meeting is still being determined. As soon as this information is available, but not less than thirty days before the hearing, a continuation notice will be sent to interested and affected parties providing the exact location. The continuation notice will also be published in the California Regulatory Notice Register and published on the Commission's website. Instructions for participation in the meeting will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899.

It is requested, but not required, that written comments be submitted by 5:00 p.m. on February 2, 2022 at the address given below, or by email to FGC@fgc.ca.gov. **Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on February 11, 2022.** All comments must be received no later than February 16, 2022, during the Commission meeting. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, 715 P Street, 16th Floor, Sacramento, CA 95814.

AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, 16th Floor, Sacramento, California 95814, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or David Haug at FGC@fgc.ca.gov or at the preceding address or phone number.

Environmental Scientist, Armand Barilotti, Department of Fish and Wildlife, (Armand.Barilotti@wildlife.ca.gov or (562) 342-7164), has been designated to respond to questions on the substance of the proposed regulations.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. No equipment may be used in the take of grunion (Section 29.00 Title 14, CCR), so the new amendments to regulations will not result in the loss of revenue for tackle shops or other small businesses. The new amendments to regulations might result in a slight increase in sales for tackle and bait stores since some fishers might need to purchase bait or lures to replace grunion as a source of bait during the month of June.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of

California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The Commission does not anticipate any benefits to the health and welfare of California residents or worker safety.

The new regulations will benefit the environment by increasing the abundance of grunion. Grunion and their eggs are prey for many game fishes, birds, and other marine organisms, especially when they congregate for their spawning runs. Thus, increasing the grunion population should have positive impacts on the environment.

(c) Cost Impacts on a Representative Private Person or Business:

While many recreational grunion fishers (representative private persons) will not incur any change in costs, those who wish to substitute the bait uses of grunion that may no longer be harvested in June with another source of bait would incur new costs. The discretionary cost to fishers to purchase alternative forms of bait or artificial lures from tackle stores to replace grunion constitute the initial costs for an individual. A typical lure that imitates a grunion costs up to \$20.00, while frozen bait costs much less. Such lures generally last several years, so that the cost would be a one-time cost and not an annual cost. Bait and fishing tackle stores (representative businesses) would incur no new costs, but they would be the recipients of individual grunion fisher's expenditures on lures or bait.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a) (1).

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, 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 proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

**TITLE 14. FISH AND GAME
COMMISSION**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 203, 219, 265, 331, 460, 1050, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code and to implement, interpret or make specific Sections 200, 203, 203.1, 255, 265, 331, 332, 458, 459, 460, 713, 1050, 3051, 3452, 3453, 3953 and 4334; Title 14, California Code of Regulations, relating to big game mammal hunting regulations.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The California Department of Fish and Wildlife (Department) manages deer, bighorn sheep, pronghorn antelope, and elk resources in California. Deer hunting tags, bighorn sheep hunting tags, pronghorn antelope hunting tags, and elk hunting tags are required to hunt these species in California. The Department distributes hunting tags for certain deer, bighorn sheep, pronghorn antelope, and elk annually via the big game drawing. Public demand for deer, bighorn sheep, pronghorn antelope, and elk hunting tags exceeds the available opportunities; therefore, a modified preference point system (currently Section 708.14) provides preference to hunters who have applied for, but not received, tags in past drawings. Each year a hunter applies for a premium deer, bighorn sheep, pronghorn antelope, or elk hunting tag and is not drawn, that hunter receives a preference point which gives that hunter preference in future drawings for that species. A portion of the tag quota for deer, bighorn sheep, pronghorn antelope,

and elk tags are allocated by preference point drawing each year. A portion of tags are issued randomly to allow some opportunity for new hunters and hunters that do not have enough preference points to draw through the preference point portion of the drawing.

The 2021 season trails the catastrophic 2020 fire season, and like 2020, has caused unprecedented public land closures, including the temporary closure of all national forests in California. These closures have resulted in a loss of opportunity for hunters who had “once in a lifetime” deer, bighorn sheep, pronghorn antelope, or elk hunting tags. Hunters used many years of accumulated preference points (in many cases 19 years of preference points) to obtain the required tags for the hunts specified in the proposed regulation.

Regulations to address conditions resulting from the 2021 fire season are needed to allow hunters to return their first-choice tags after the season starts. The Department is proposing to amend Section 708.14, subsections (j) (for deer) and (k) (for bighorn sheep, pronghorn antelope, and elk) to allow hunters who lost their opportunity to hunt due to land closures caused by fires to return certain deer, bighorn sheep, pronghorn antelope, and elk tags for reinstatement of the preference points used to obtain the tag through the drawing and earn one preference point for the license year after the start of the hunting season. The eligibility for tag refund continues to apply only to the elk, bighorn sheep, and pronghorn antelope tags. Hunters who request a refund would be required to pay the \$31.93 nonrefundable big game tag return processing fee specified in Section 702.

The purpose of the proposed regulation is to authorize the Department to consider reinstatement of preference points and award one preference point for the license year for certain deer tags and to refund tag fees, reinstate preference points, and award one preference point for the license year for bighorn sheep, pronghorn antelope, and elk hunts whose hunt zones are inaccessible for sixty-six percent (66%) or more of the season as a result of public land closures. Considering that public lands access restrictions have changed during the preparation of these regulatory documents (fall 2021), this regulation aims to function retroactively, whereby written requests for point reinstatements (and refunds, if applicable) would need to be postmarked before May 1, 2022 for consideration. The regulation would act prospectively for the 2022 license year and beyond, and require postmark before February 28 of that license year.

The proposal would affect hunters who were drawn for the following deer, bighorn sheep, pronghorn antelope, and elk hunts:

Deer

- Those deer zones defined in Title 14, Section 708.1 and described as Premium Deer Hunt Tags
 - The approximate number of premium deer hunt tags eligible for points re-instatement (as of September 16, 2021): **15,037** across 14 archery zones and 6 general zones

Bighorn Sheep

- Those zones defined in Title 14, Section 362
 - The approximate number of bighorn sheep hunt tags affected (as of September 16, 2021): **0**. No sheep hunts are affected by known public land closures and thus the proposed regulation.

Pronghorn Antelope

- Those zones defined in Title 14, section 363
 - The approximate number of pronghorn antelope hunt tags affected (as of September 16, 2021): **106**

Elk

- Those zones defined in Title 14, Section 364
 - The approximate number of elk hunt tags affected (as of September 16, 2021): **113** across 7 general zones, 1 archery zone, and 2 apprentice zones

BENEFITS OF THE REGULATIONS

The proposed regulation will authorize the Department to reinstate preference points and award one additional preference point for the license year for certain deer tags, and reinstate preference points, award one additional preference point for the license year, and issue tag fee refunds to hunters who lost elk, bighorn sheep, and pronghorn antelope hunting opportunities due public land closures.

NON-MONETARY BENEFITS TO THE PUBLIC

The Commission expects this proposal will provide non-monetary benefits to the public by promoting fairness in the allocation of public hunting opportunities because hunters who lost deer, elk, bighorn sheep, and pronghorn antelope hunting opportunities will have the ability to have their preference points reinstated, earn a preference point for the license year, and have another chance to obtain a deer, elk, bighorn sheep, or a pronghorn antelope tag in the future. The Commission does not anticipate non-monetary benefits to the public through the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of social equity and the

increase in openness and transparency in business and government.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

The Commission, pursuant to Fish and Game Code Sections 200 and 203, has the sole authority to regulate deer, elk, bighorn sheep, and pronghorn antelope hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to deer, elk, bighorn sheep, and pronghorn antelope tag allocations are consistent with Title 14. Therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing to be held on Wednesday, December 15, 2021, at 8:30 a.m., or as soon thereafter as the matter may be heard. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Sacramento, California on Thursday, February 17, 2022 at 8:30 a.m., or as soon thereafter as the matter may be heard. The specific location for this meeting is still being determined. As soon as this information is available, but not less than thirty days before the hearing, a continuation notice will be sent to interested and affected parties providing an exact location. The continuation notice will also be published in the California Regulatory Notice Register and published on the Commission's website.

It is requested, but not required, that written comments be submitted on or before February 17, 2022 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on February 11, 2022. All comments must be received no later than February 17, 2021, during the hearing. If you would like copies of any modifications to this proposal, please include your name and email or mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

AVAILABILITY OF DOCUMENTS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation

in underline and strikeout format can be accessed through the Commission website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P Street, P.O. Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above-mentioned documents and inquiries concerning the regulatory process to Melissa Miller-Henson or David Thesell at the preceding address or phone number. **Brad Burkholder, Environmental Program Manager, has been designated to respond to questions on the substance of the proposed regulations. He can be reached at (916) 373-6619 or via email at Brad.Burkholder@wildlife.ca.gov.**

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when the approved final has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly

affecting business, including the ability of California businesses to compete with businesses in other states. Considering the relatively small number of tags eligible for refund for bighorn sheep for the 2021 license year (zero), pronghorn sheep (100), and elk (109) over the entire state, this proposal is economically neutral to business. Given the recent timing of wildfires and potentials for public land closures, the impacts for the 2022 license year are anticipated to be similar.

- (b) **Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:**

The Commission anticipates no impact on the creation or elimination of jobs within the state, no impact on the creation of new business, the elimination of existing businesses or the expansion of businesses in California as minor variations in hunting regulations are, by themselves, unlikely to provide a substantial enough economic stimulus to the state.

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The proposed action will not provide benefits to worker safety. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources

- (c) **Cost Impacts on a Representative Private Person or Business:**

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action. Individuals may receive refunds for previously paid tag fees that could vary from \$45.60 for a resident bighorn sheep tag (includes base fee and surcharge), to \$159.91 for a resident pronghorn antelope tag, to \$475.20 for a resident elk tag. A \$31.93 nonrefundable big game tag return processing fee per refund, as specified in Section 702, is deducted from the amount refunded. The choice to obtain a refund is not required and is purely discretionary for each individual.

- (d) **Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State**

Under the proposed regulation, a total of 209 hunters could be eligible for tag refunds.

Hunters would be required to pay the \$31.93 nonrefundable big game tag return processing fee specified in Section 702. There are no big horn sheep hunters, 100 pronghorn antelope (including 6 apprentice hunters), 109 elk hunters (including four apprentice hunters), 0 bighorn sheep hunters, and 38 pronghorn antelope hunters who could potential request tag refund. At most, the Department would be required to issue 209 tag refunds for up to a net total of approximately \$61,120.

Additionally, the Department anticipates that the projected increase in the total number of refunds and point reinstatements may exceed staff time currently budgeted for those job tasks. In the current hunt season, the total staff time/costs redirected to processing tag refunds and/or point reinstatements is estimated to exceed a typical year by \$291,657.

The combined cost estimates total \$352.77.

- (e) **Nondiscretionary Costs/Savings to Local Agencies:** None.
- (f) **Programs Mandated on Local Agencies or School Districts:** None.
- (g) **Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:** None.
- (h) **Effect on Housing Costs:** None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, 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 proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

TITLE 16. BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) 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 as follows:

Public Hearing for Proposed Changes to Division 1 of Title 16, Article 1, Section 2.8 of the California Code of Regulations Hosted by the California Board of Accountancy

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m57d7b5d28eb64253c898bf68f1c2a725>

Tuesday, Dec 28, 2021 10:00 am | 2 hours | (UTC-07:00) Pacific Time (US & Canada)

Event number: 2498 506 6490

Event password: Accountancy (22268682 from phones)

Agenda: Public hearing to receive comments on the proposed changes to Division 1 of Title 16, Article 1, Section 2.8 of the California Code of Regulations regarding the Definition of Satisfactory Evidence

Join by phone
+1-415-655-0001 U.S. Toll
Access code: 249 850 66490

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 CBA at its office by **5:00 p.m., Tuesday, December 28, 2021**, or must be received by the CBA at the hearing. The CBA, upon its own motion or at the request 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 section 5010 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 5092, 5093, 5094, 5094.3, and 5094.6 of the BPC, the CBA is considering changes to Division 1 of Title 16, Article 1, Section 2.8 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. Informative Digest

BPC section 5010 authorizes the CBA to adopt regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of this chapter. The regulations are in existence to establish the current requirements that must be met for examination, licensing, license renewal, and enforcement. These regulations are referenced by CBA staff, stakeholders, licensees, consumers, as well as other government organizations to determine various regulatory requirements regarding the accounting profession in California.

BPC section 5094 requires education to be earned from a degree-granting university, college, or other institution of higher learning accredited by a regional or national accrediting agency. Education earned from a college, university, or other institution of learning located outside the United States may be qualifying if determined by the CBA to be equivalent to education earned in the United States. The CBA, as provided for by BPC section 5094, has individuals submit documentation to credential evaluation services to assess the educational equivalency.

BPC sections 5092 and 5093 outline various requirements for CPA licensure, including that applicants for licensure shall meet specified education, examination, and experience requirements. These sections require that applicants meet minimum educational requirements both for examination and licensure and that applicants shall present satisfactory evidence of the education being completed from a degree-granting university, college, or other institution of higher learning accredited by a regional or national accrediting agency.

BPC sections 5094.3 and 5094.6 specify additional educational requirements that applicants for CPA licensure must meet as required by BPC section 5093. These are commonly referred to as ethics study and accounting study, respectively.

Applicants for admission to the Uniform CPA Examination (CPA Exam) and those applying for CPA licensure are required to meet specified education. The education must be granted by degree-granting universities, colleges, or other institutions of higher learning. Documentation that applicants have met the specified educational requirements must meet the CBA's satisfaction.

The regulatory proposal is as follows:

Amend Title 16, CCR Section 2.8

Section 2.8 currently defines satisfactory evidence for the purposes of demonstrating completion of the educational requirements. Presently, this

requires educational institutions, except in unusual circumstances, to send certified transcripts directly to the CBA by mail.

The CBA proposes to update the definition for satisfactory evidence as it relates to meeting the educational requirements for applicants applying for admission to the CPA Exam and CPA licensure by streamlining how the CBA may receive certified transcripts, including the ability to receive certified transcripts via electronic transmission by the educational institution.

B. Policy Statement Overview/Anticipated Benefits of Proposal

This regulatory proposal would provide flexibility and additional pathways to applicants for examination or licensure when submitting satisfactory evidence of their education. This regulatory proposal would also lessen delays in CPA Exam and licensure application processing by improving the efficiency of the process for submitting to the board satisfactory evidence of education.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the CBA has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

None.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The proposed regulations do not result in a fiscal impact to the state.

Because the CBA currently requires educational transcripts to be submitted and reviewed during the license application process, the amendments authorizing transcripts to be submitted electronically is not anticipated to result in additional workload or costs to the state.

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 Require Reimbursement:

None.

Business Impact:

The CBA 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 CBA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Currently, domestic and international educational institutions, including those operating in the state, incur costs to transmit (digitally or traditional mail) student transcripts. These institutions already charge fees for this service or include the as part of a “document” fee surcharge for these services with tuition costs.

Because the costs for transcript services already exist in institutions the proposed regulations are not anticipated to result in an economic impact to the state.

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The CBA has determined that the proposed regulations would not affect small businesses. This regulatory proposal would provide flexibility and additional pathways to applicants for examination or licensure when submitting satisfactory evidence of their education.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The CBA 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 CBA has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state’s environment:

This proposal would provide flexibility and additional pathways to applicants for examination or licensure when submitting satisfactory evidence of their education.

This regulatory proposal does not affect worker safety because it has nothing to do with worker safety.

This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

CONSIDERATION OF ALTERNATIVES

The CBA must determine 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 that 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 CBA 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 any document incorporated by reference, 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 CBA at 2450 Venture Oaks Way, Suite 300, Sacramento, California, 95833.

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: Jennifer Jackson
Address: 2450 Venture Oaks Way,
Suite 300
Sacramento, CA 95833
Telephone Number: (916) 561-1763
Fax Number: 916-263-3677
E-Mail Address: Jennifer.Jackson@cba.ca.gov

The backup contact person is:

Name: Denise Murata
Address: 2450 Venture Oaks Way,
Suite 300
Sacramento, CA 95833
Telephone Number: (916) 561-1730
Fax Number: 916-263-3677
E-Mail Address: Denise.Murata@cba.ca.gov

Website Access:

Materials regarding this proposal can be found at <http://www.dca.ca.gov/cba/about-cba/laws-and-rules.shtml>.

TITLE 16. BOARD OF BEHAVIORAL SCIENCES

AMEND DIVISION 18 — CONTINUING EDUCATION AND ADDITIONAL COURSEWORK SECTIONS

Subject Matter of Proposed Regulations: Continuing Education and Additional Coursework

Sections Affected: Add section 1810.5; Amend sections 1807, 1807.2, 1810, 1887, 1887.1, 1887.2, 1887.3, 1887.4.0, 1887.4.1, 1887.4.2, 1887.4.3 and 1887.11.0; Repeal sections 1810.1, 1810.2, 1887.4, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11 and 1887.15 of Division 18 of Title 16 of the California Code of Regulations.

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (board) is proposing to take the action described in the Informative Digest/Policy Statement Overview.

PUBLIC HEARING

The board has not scheduled a public hearing on this proposed action. The board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under Contact Person in this notice.

COMMENT PERIOD

Any person interested may present statements or arguments relevant to the action proposed in writing. 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 board at its office no later than **Monday, December 27, 2021**, or at the public hearing, if applicable.

AVAILABILITY OF MODIFICATIONS

The board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations 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 the 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 4980.60 and 4990.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 25, 28, 29, 32, 4980.36, 4980.41, 4980.54, 4980.72, 4980.78, 4980.81, 4982, 4984.8, 4984.41, 4989.34, 4989.44, 4989.45, 4989.54, 4992.3, 4996.2, 4996.17.1, 4996.17.2, 4996.22, 4997, 4997.1, 4999.32, 4999.33, 4999.60, 4999.62, 4999.76, 4999.90, 4999.112 and 4999.113 of the BPC; and sections 12926 and 12944 of the Government Code, the board is considering changes to Division 18 of Title 16 of the California Code of Regulations as described in this Notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The board licenses and regulates Licensed Marriage and Family Therapists (LMFTs), Licensed Educational Psychologists (LEPs), Licensed Clinical Social Workers (LCSWs), and Licensed Professional Clinical Counselors (LPCCs).

The board also registers and regulates individuals gaining supervised experience toward meeting the requirements for licensure. This includes registered Associate Marriage and Family Therapists (AMFTs), Associate Professional Clinical Counselors (APCCs) and Associate Clinical Social Workers (ASWs), and applicants pending registration.

- Existing law:

- Specifies the additional training required for licensure and sets forth course content, number of hours, acceptable providers, and other related requirements:
 - BPC sections 25, 28, 29, 4980.36, 4980.41, 4980.72, 4980.78, 4980.81, 4996.2, 4996.17.1 and 4996.17.2; and
 - Title 16, California Code of Regulations (16 CCR) sections 1807, 1807.2, 1810, 1810.1 and 1810.2.
- Specifies the continuing education (CE) requirements for licensees, including course requirements, CE requirements for license renewal, exceptions from CE requirements, and acceptable providers:
 - BPC sections 4980.54, 4989.34, 4996.22 and 4999.76.
 - 16 CCR sections 1887, 1887.1, 1887.2, 1887.3 and 1887.4.0.
- Specifies the board-approved providers and the requirements and responsibilities of CE providers (16 CCR sections 1887.4.3, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11 and 1887.11.0).
- Specifies the board-recognized CE provider approval agencies and sets forth CE approval agency responsibilities (16 CCR sections 1887.4.1 and 1887.4.2).
- Specifies the transition period pertaining to the overarching CE changes made in 2015 (16 CCR section 1887.15).

The CE requirements underwent a complete overhaul in 2015 with a corresponding transition period which recently ended. As such the current CE requirements in regulation are outdated and require revision.

This proposal will:

- Update content requirements for human sexuality, child abuse assessment and reporting, and alcoholism and other chemical substance dependency training, and create consistency in the required qualifications for training providers.
- Clarify that a CE course may be provided in person or online.
- Clarify that individuals who hold more than one license may apply the same CE courses to both licenses if the subject matter relates to each license's scope of practice.
- Strike the 18-hour CE exception for initial renewal periods and strike the definition of "initial renewal period".
- Clarify that a licensee granted retired status is exempt from CE.
- Rename CE "exceptions" to "temporary waivers" (CE waiver) and "exemptions."

- Modify CE waiver criteria for licensees impacted by their own health condition, reduce the amount of detail required in regards to health information, and require documentation of income (or lack thereof) during the period of disability.
- Modify CE waiver criteria for licensees who are the primary caregiver of an immediate family member with a physical or mental disability.
- No longer allow CE waivers for being absent from California due to military service or residing in another country.
- Clarify that a licensee whose request for CE waiver is denied must fully comply with CE if renewing in an active status.
- Require licensees who are granted a CE waiver to complete six hours of CE in law and ethics.
- Update CE waiver forms incorporated by reference for consistency with the proposed updated requirements and for clarity.
- Include a release of protected health information (PHI) to be signed by the family member when a licensee is requesting a CE waiver due to being that family member's primary caregiver.
- Repeal the outdated requirement that LMFTs and LCSWs who began graduate study prior to January 1, 1986 take a CE course in alcohol and other chemical substance dependency during their first renewal period.
- Clarify that a course on law and ethics designed specifically to meet supervisor training requirements cannot be accepted toward meeting the six-hour law and ethics course required of all licensees each for renewal period, but does count toward the overall 36-hour CE requirement.
- Specify that licensees may fulfill a maximum of 18 hours of the 36-hour CE requirement by teaching CE courses during a single renewal period for a board-accepted provider.
- Allow a licensee who completes a board occupational analysis survey to be credited with six hours of CE.
- Clarify that in order for a licensee's participation in a professional organization's law and ethics review committee to be credited, it must be with a mental health professional organization.
- Specify the types of documentation of completion necessary for certain activities allowed for CE credit and the length of retention required.
- Repeal outdated regulations pertaining to the board's former CE program.
- Clarify CE course content requirements.

- Clarify that professional associations are the only type of organization that may be recognized by the board as a CE provider.
- Make grammatical and other nonsubstantive changes.

ANTICIPATED BENEFITS OF PROPOSAL

This proposal is expected to result in the following benefits:

- Update, streamline and provide clarity and consistency in the board's CE regulations.
- Help protect consumers by ensuring that CE course content meets professional standards.
- Provide clearly defined and straightforward criteria to qualify for a CE waiver.
- Limit the scope and help ensure privacy of the PHI of a licensee applying for a CE waiver (or if a caregiver of a family member, the family member's information).
- Help licensees better understand the CE waiver application process and what to do once the board provides an approval or denial.
- Provide increased consumer protection by requiring licensees who have been granted a CE waiver to complete a 6-hour law and ethics course.
- Provide increased consumer protection by encouraging licensees who teach courses for CE credit, to obtain CE on topics in addition to the courses taught, and ensure that the course taught meets the same requirements as a board-accepted CE course.
- Make it easier to determine quickly whether an entity is a board-recognized provider and avoid requests for board recognition from unqualified organizations.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, the board conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE

The following documents have been incorporated by reference into section 1887.2:

- *Form 37A-635: "Request for Temporary Continuing Education Waiver — Licensee Application"* [Revised (OAL to insert effective date)].

- *Form 37A–636: “Request for Temporary Continuing Education Waiver — Verification of Disability or Medical Condition”* [Revised (OAL to insert effective date)].

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The proposal is not anticipated to increase workload or costs to the state, as the changes are designed to simply provide clarity in the board’s regulations and streamline the regulations and associated processes.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17500 to 17630 Require Reimbursement: None.

Business Impact: The board 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, because it only affects licensees and providers within the state of California.

Cost Impact on Representative Private Person or Business: The cost impact that a representative regulated person or business will incur in reasonable compliance with the proposed action is \$180. This is because this proposal requires 18 hours of CE for certain licensees, which they were not previously required to complete. The average cost for one hour of CE is \$10.

Impact on Jobs/New Businesses: The board 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.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations will affect small businesses because this proposal requires 18 hours of CE for certain licensees, which they were not previously required to complete.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The board has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting

businesses. This initial determination is based on the following facts:

- **Analysis of creation/elimination of jobs:** This proposal is not anticipated to create or eliminate any jobs within California as the majority of the proposed amendments are for the purpose of clarifying, streamlining, or creating consistency in the board’s regulations. Other proposed amendments increase the amount of CE to be completed by certain licensees and, though this may increase revenue for CE providers, it is not likely to be enough to create new jobs, except for potentially new CE providers that enter the CE marketplace due to the added CE requirement.
- **Analysis of creation/elimination of businesses.** This proposal will not create or eliminate any businesses in California for the reasons described above.
- **Analysis of expansion of business:** This proposal will not expand any businesses in California for the reasons described above, except for potentially new CE providers that enter the CE marketplace due to the added CE requirement.
- **Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:** This regulatory proposal will help protect consumers by helping to ensure that licensees remain competent to practice by timely completing the clearly defined CE requirements. The proposal will have no effect on worker safety or the State’s environment.

As part of its Economic Impact Analysis, the board has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, and that it will not eliminate any jobs or occupations. As stated above, this proposal does not impact multiple industries.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be 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 action, 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 with respect to the alternatives to the

proposed regulations at the scheduled hearing or during the written comment period.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an Initial Statement of 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, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing, if one is held, or upon request from the person designated in the Notice under Contact Person or by accessing the board's website at https://www.bbs.ca.gov/about/law_reg.html.

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: Christy Berger
Address: 1625 North Market Boulevard,
Suite S-200
Sacramento, CA 95834
Telephone Number: (916) 574-7817
Fax Number: (916) 574-8625
E-Mail Address: BBS.Rulemaking@dca.ca.gov

The backup contact person is:

Name: Rosanne Helms
Address: 1625 North Market
Boulevard, Suite S-200
Sacramento, CA 95834
Telephone Number: (916) 574-7897
Fax Number: (916) 574-8625
E-Mail Address: Rosanne.Helms@dca.ca.gov

Website Access: Materials regarding this proposal can be found on the board's website at https://www.bbs.ca.gov/about/law_reg.html.

TITLE 16. BOARD OF PHARMACY

SELF-ASSESSMENTS FOR PHARMACIES

NOTICE IS HEREBY GIVEN that the California State Board of Pharmacy (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. 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 Board at its office **by Monday, December 27, 2021**.

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations 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 the 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 section 4005 and 4127 of the Business and Professions Code to implement, interpret, and make specific sections 4005, 4019, 4021, 4022, 4029, 4030, 4036, 4037, 4038, 4040, 4050, 4051, 4052, 4059, 4070, 4081, 4101, 4105, 4110, 4113, 4115, 4119, 4120, 4127, 4201, 4301, 4305, 4330, 4332 and 4333, of the Business and Professions Code, the Board is proposing to amend Section 1715 of Article 2 of Division 17 of Title 16 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law requires that a pharmacy be licensed by the Board in order to operate. (Business and Professions Code (BPC) section 4110.) There are various types of pharmacies, including hospital pharmacies and community pharmacies. (See BPC

sections 4029 and 4037.) There are some distinctions between settings, but all pharmacies are subject to some general requirements. Each pharmacy must designate a pharmacist-in-charge (PIC), who is responsible for the pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy. (BPC section 4113.) All pharmacies are subject to extensive state and federal laws and regulations including those governing scope of practice for pharmacists and other personnel working in the pharmacy; prescription and labeling requirements; record keeping requirements, including policies and procedures; cooperating with inspections; duties related to storage, handling, and security of drugs and devices; duties related to compounding sterile drug products; and duties with respect to notices to the Board regarding certain changes to staff, facilities, and operations.

Existing regulations, California Code of Regulations, title 16 (CCR), section 1715, requires the PIC of a pharmacy licensed pursuant to BPC section 4029 or 4037 to complete a self-assessment using a designated form every odd numbered year and when certain changes occur that affect the location, organization, or management of the pharmacy. The self-assessment form is incorporated by reference within 16 CCR section 1715, so as law and regulations change, the form must be updated through the rulemaking process. This is a time-intensive process and the board has not been able to update the regulation and self-assessment form as frequently as necessary, with the last update being completed in 2014.

The Board proposes to amend Section 1715 of Article 2 of Division 17 of Title 16 of the California Code of Regulations (CCR) to update the self-assessment forms that pharmacists-in-charge must complete (*Community Pharmacy Self-Assessment* [17M-13] and *Hospital Pharmacy Self-Assessment* [17M-14]) to reflect current laws and regulations. In addition, the Board proposes to incorporate many of the form's requirements into the regulation text itself.

The forms incorporated by reference are being updated to include questions to be answered by the pharmacy about the pharmacy's compliance with specific laws and regulations. The self-assessment forms assist the pharmacy's PIC to increase the pharmacy's compliance with federal and state requirements and also make the pharmacy inspection process more meaningful by providing relevant information from the PICs to the Board inspectors.

Existing law specifies that protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the

protection of the public shall be paramount. Existing law generally authorizes the Board to amend rules and regulations necessary for the protection of the public pertaining to the practice of pharmacy.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

This proposal will update the forms incorporated by reference to reflect current laws and regulations. Therefore, the pharmacists-in-charge (PIC) of pharmacies throughout California will be conducting self-assessments based on current and up-to-date laws, rather than inaccurate references to laws on outdated self-assessment forms. This should assist pharmacies in complying with current law; since the laws are designed for consumer protection, consumer protection will be advanced by pharmacies' compliance.

This proposal also allows for a streamlined process for updating the self-assessment form as changes to pharmacy law occur, which will provide a more effective and efficient use of board resources, by reducing the workload associated with the rulemaking process.

EVALUATION OF CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

For the purposes amending Section 1715 of Article 2 of Division 17 of Title 16 of the CCR, the following forms are incorporated by reference:

- Community Pharmacy Self-Assessment/Hospital Outpatient Self-Assessment (Form 17M-13, Rev. 07/18)
- Hospital Pharmacy Self-Assessment (Form 17M-14, Rev. 07/18)

DISCLOSURES REGARDING THE PROPOSED ACTION, INCLUDING FISCAL IMPACTS

The Board has made the following initial determinations:

Mandate on Local Agencies and School Districts:
None.

Cost to Any Local Agency or School District That Requires Reimbursement Pursuant to Government Code Sections 17500–17630: None.

Costs/Savings to Any State Agency: The proposed regulations do not result in a fiscal impact to the state. The board currently requires pharmacies to complete and submit self-assessments, as specified. The regulation does not increase the number of self-assessments to be submitted or require additional board workload or costs from the current process.

Nondiscretionary Costs/Savings to Local Agencies: None.

Costs/Savings in Federal Funding to the State: None
Effect on Housing Costs: None.

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because, as discussed below under Small Business Effect, the requirement to complete these self-assessments already exists and these regulations are updating the statutes and regulations listed within the self-assessment forms incorporated by reference. Because the Board currently requires pharmacies to complete and submit self-assessments. The proposed regulations do not increase the workload or costs for these licensees to comply.

Cost Impact on Representative Private Person or Business:

The Board 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 SMALL BUSINESS

The Board has made an initial determination that the proposed regulatory action would not have a significant adverse economic impact directly affecting small businesses, as discussed below. While the Board does not have specific data to determine if its pharmacy licensees are a “small business” as defined in Government Code section 11342.610, a smaller community retail pharmacy may fall into that definition.

Completion of a self-assessment form is required by existing regulation biennially and based on certain events; the completed forms are also required to be maintained. The updates will change some of the questions on the forms, but do not ask significantly more questions. It is therefore not anticipated that the pharmacy will use more time completing, or more space storing, the self-assessment form. As the requirement to complete and maintain these forms

already exists in regulations, this proposal will not have an impact on businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses:

The Board has determined that it is:

- (1) unlikely that this proposal will create jobs within California;
- (2) unlikely that this proposal will eliminate jobs within California;
- (3) unlikely that this proposal will create new businesses within California;
- (4) unlikely that this proposal will eliminate of existing businesses within California;
- (5) unlikely that this proposal will expand businesses currently doing business in the State of California.

Benefits of Regulation:

The regulatory proposal will benefit the health and welfare of California residents because pharmacies who provide drugs to California consumers will be conducting self-assessments based on current and up-to-date laws, rather than outdated laws, which will make it more likely that pharmacies will follow current laws and regulations. When PICs are actively engaged in reviewing the current laws and regulations, they are more likely to identify and remedy any violations of pharmacy law and regulations, which exist primarily for consumer safety. Additionally, this proposal will allow for a more efficient use of Board resources during pharmacy inspections, since pharmacy compliance should be better, and in updating the forms for the future. The proposal does not impact the state’s environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention: (1) would be more effective in carrying out the purpose for which the action is proposed, (2) would be as effective and less burdensome to affected private persons than the proposed action, or (3) 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 is invited to present statements or arguments in writing with respect to alternatives during the comment period.

**AVAILABILITY OF RULEMAKING FILE,
INCLUDING INITIAL STATEMENT
OF REASONS, TEXT OF PROPOSED
REGULATIONS, AND INFORMATION**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address listed for, and from the person identified as, the contact person below. The rulemaking file currently includes this notice, the proposed text of the regulations, the documents incorporated by reference, the initial statement of reasons, and all the information upon which the proposal is based.

AVAILABILITY OF MODIFIED TEXT

If the Board proposes to substantively modify the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Requests for copies of any modified regulations may be sent to the contact person below. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

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 Martinez
Address: 2720 Gateway Oaks Drive,
Suite 100
Sacramento, CA 95833
Phone Number: (916) 518-3078
Fax Number: (916) 574-8618
E-Mail Address: Lori.Martinez@dca.ca.gov

The backup contact person is:

Name: Debbie Damoth
Address: 2720 Gateway Oaks Drive,
Suite 100
Sacramento, CA 95833
Phone Number: (916) 518-3090
Fax Number: (916) 574-8618
E-Mail Address: Debbie.Damoth@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at the Board of Pharmacy's website: https://www.pharmacy.ca.gov/laws_regs/pending_regs.shtml.

**TITLE 16. BOARD OF REGISTERED
NURSING****APPROVAL REQUIREMENTS, § 1423
CHANGES TO AN APPROVED
PROGRAM, § 1432**

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. 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 Board at its office on Monday, December 27, 2021.

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations 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 the 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 Business and Professions Code (BPC) sections 2715, 2786, and 2788, the Board proposes to implement, interpret and make specific BPC sections 2715, 2786 and 2788, in amending sections 1423 and 1432, Division 14 of Title 16 of the CCR.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law for approval of prelicensure programs provides that the Board may deny approval to a nursing program or revoke an approved program's approval if the applicant makes a material misrepresentation of fact to the Board. Existing regulation addresses only misrepresentation of facts but not concealment of facts from the Board. The Board proposes to amend the regulation to adopt more comprehensive language to address both types of misrepresentation to better ensure that all relevant information is provided to the Board.

Existing law provides that approved nursing programs may not make substantive changes to a prelicensure program without prior Board authorization. The regulation states that four (4) categories of substantive changes must be reported to the Board for approval: a change in location, a change in ownership, the addition of a new campus or location, and a significant change in the agreement between an approved nursing program that is not an institution of higher education and the institution of higher education with which it is affiliated.

This proposal will:

- Amend section 1432(b) to replace "authorization" with "approval" to track the enabling statute.
- Reference in section 1432(b)(3) "Instructions for Institutions Seeking Approval of a New Prelicensure Registered Nursing Program" (EDP-I-01 Rev 03/10)" (Form) as the means to seek Board approval for a new campus or location. The Form outlines the process by which a nursing program may obtain approval for the addition of a new campus or location from the Board.
- Add to the list of reportable "substantial changes" in section 1432(b)(5), any increase in the total annual enrollment, or any change in the frequency, timing, or number of new student admissions for each board approved nursing program or degree option.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

The proposal will encourage complete and forthright communication with the Board and increase the integrity of the Board's oversight of prelicensure nursing programs. The amended regulation will communicate to nursing program applicants and approved programs the Board will deny or revoke approvals when a program knowingly conceals required information or misrepresents a material fact submitted to the Board.

Additionally, the proposal will clarify that the Board must preapprove a nursing program increasing enrollment or making a change to its enrollment pattern. The proposed amendment will protect consumers by ensuring that approved nursing programs have adequate faculty, facilities, clinical placements, policies, procedures, staff, support services, physical space, and equipment to operate a sustainable program for the number of students the program intends to enroll.

The BRN continues its efforts to increase the number of RN graduates through program approval and enrollment increase process for nursing programs. Additionally, the BRN is working with schools to develop collaborations that allow for timely matriculation for students pursuing a higher degree by alleviating course repetition through standardized course requirements and finding ways to increase access to nursing programs, especially for socioeconomically disadvantaged students. This regulation will benefit nursing students to become nurses, and thus provide more options for those employers trying to hire nurses.

The data collection, analysis, and evaluation that is completed through this process in collaboration with these programs requesting these changes allows the Board to strategically address issues associated with California's nursing workforce, including preparing for anticipated shortages, which benefits the general health and safety of all Californians.

DETERMINATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING REGULATION

During the process of developing these regulations and amendments, the Board conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies: The proposed regulations do not have a fiscal impact to the state because nursing programs are already required to notify the Board of enrollment changes under current law and Board practice. As a result, the Board does not anticipate any additional workload or costs to implement the regulations.

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 Require Reimbursement: None.

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. There are currently 150 pre-licensure nursing programs in California. The proposed regulations encourage increased program transparency and oversight integrity and make explicit the Board's long-standing interpretation of its existing regulation regarding Board preapproval of new/additional locations, enrollment increases, and changes in enrollment patterns.

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in state of California. The regulations only expand the types of untruthfulness that could cause revocation of approval or denial of approval, and make explicit the Board's long-standing interpretation of its existing regulation that an increase in enrollment or change in enrollment pattern require preapproval of the Board. The inclusion of form EDP-I-01 Rev 03/10) which is incorporated by reference in existing regulation will help the Board evaluate each program and will assist schools who wish to make changes to program locations, frequency, timing or number of new student admissions for each program previously approved by the Board to detail their request.

Cost Impact on Representative Private Person or Business:

The proposed regulations are intended to better align the Board's regulations with existing practice and procedures consistent with current law. The Board 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 Board estimates that there will be no increased costs for small businesses with the proposed regulations. This change may actually assist small businesses by leveling the playing field for them as clinical placement slot availability can become

competitive and larger businesses could otherwise exert greater influence.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Board has determined this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the state of California. It may actually streamline and help to minimize clinical displacement that can occur through program growth, including increased enrollment numbers and frequency, additional locations, and approval of new nursing programs.

These regulations benefit the health and welfare of California residents because the data obtained regarding enrollment changes from programs allows the Board to strategically address issues associated with California's nursing workforce, including preparing for anticipated shortages, which benefits the general health and safety of all Californians.

The proposed amendments will not affect worker safety and the environment because this regulation does not relate to worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered 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 or would be as effective and less burdensome to affected private persons than the proposed regulatory action or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present statements or arguments orally or in writing relevant to the above determinations at the above scheduled hearing or during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and may be obtained upon request from the person designated in the Notice under Contact Person or by accessing the Board's website, www.rn.ca.gov.

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: Evon Lenerd Tapps,
Assistant Executive
Officer
Address: California Board of
Registered Nursing
1747 North Market
Boulevard, Suite 150
Sacramento, CA 95834
Telephone Number: 916-574-7610
Fax Number: 916-574-7700
E-Mail Address: Evon.Lenerd@DCA.CA.Gov

The backup contact person is:

Name: Ras Siddiqui
Address: 1747 North Market
Boulevard, Suite 150
Sacramento, CA 95834
Telephone Number: 916-574-7922
Fax Number: 916-574-7700
E-Mail Address: ras.siddiqui@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.rn.ca.gov.

**TITLE 16. BOARD OF REGISTERED
NURSING**

PRELICENSURE NURSING
PROGRAMS, § 1427

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (hereinafter referred to as "Board") is proposing to amend California Code of Regulations (CCR), Title 16, Division 14, section 1427, as described in the Informative Digest.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENTS

Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than **5:00 p.m. on Tuesday, December 28, 2021**.

The Board, upon its own motion or at the request 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. Apart from 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 2715 and 2786 of the Business and Professions Code (BPC), the Board is proposing to implement, interpret and make specific BPC sections 2715 and 2786-2788, in amending section 1427, Division 14 of Title 16 of the CCR.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Existing law provides that a nursing program shall not utilize any agency or facility for clinical experience without prior approval by the Board. Each program must submit evidence that it has complied with the requirements of maintaining written objectives for student learning at clinical facilities and the ability of the facility to meet those learning objectives. It also requires each program to have a written agreement with every facility that it utilizes along with the assurance of availability and appropriateness of the learning environment in meeting the programs written objectives. This includes provisions for orientation of faculty and students and specifies the responsibilities and authority of the facility's staff as related to the educational experience of the students. The written agreement spells out the availability of quality staff

in adequate numbers to ensure safety and continuous health care services provided to patients. Provisions for continuous communication between the facility and program are detailed along with a description of responsibilities of faculty assigned to the facility utilized by the program. The nursing program also needs to take into consideration the impact of any additional group of students or students from other programs already assigned to the agency or facility.

The Board proposes to amend 16 CCR 1427 to adopt more comprehensive language to address the reporting requirements for nursing programs when they experience any changes made to their use of clinical facilities to require reporting within 90 days of when a change occurs, and also in an annual report. It also clarifies some specific “changes” that need to be reported to the Board. This includes changes to the number of students from the program approved for placement at clinical facilities, changes in annual clinical placement capacity at the facility, and cancellation or alteration of clinical affiliation agreements.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

This proposal will greatly improve the integrity of the Board’s oversight of nursing programs. The amended language communicates to new nursing program applicants and existing programs that the Board will closely review all changes impacting clinical facilities used for placement.

Additionally, the proposal will clarify for nursing programs what changes need to be reported reducing confusion on what information is required. The proposed amendment will protect consumers by ensuring that approved nursing programs have adequate faculty, facilities, clinical placements, policies, procedures, staff, support services, physical space, and equipment to operate a sustainable program for the number of students the program intends to enroll.

DETERMINATION OF INCONSISTENCY/ INCOMPATIBILITY WITH EXISTING REGULATION

During the process of developing this regulation and amendments, the Board conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies: None. The proposed regulations do not have a fiscal impact to the state because nursing programs are already required to notify the Board of clinical facility changes under currently law and Board practice. As a result, the Board does not anticipate any additional workload or costs to implement the regulations.

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 Require Reimbursement: None.

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

There are currently 146 pre-licensure nursing programs in California. The proposed regulations are intended to better align the Board’s regulations with existing practice and procedures consistent with current law.

The Board has determined that this regulatory proposal will create jobs or new businesses, eliminate jobs or existing businesses, or expand businesses within the State of California because the regulation only changes the frequency of reports by the programs to the Board. These changes are not of such a magnitude to create or eliminate jobs or businesses.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The Board estimates that there will be no increased costs for businesses or individuals to comply with the proposed regulations because nursing school programs are already required to notify the Board of facility changes, as specified, in compliance with current law and Board practice. The Board only charges for major curriculum changes and facility approval does not have a fee associated with it.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board estimates that there will be no increased costs for small businesses with the proposed regulations. To the extent a nursing school program is considered a small business, the institution is already required to notify the Board of facility changes, as specified, in compliance with current law and Board practice

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the state of California.

These regulations benefit the health and welfare of California residents by helping to ensure that licensees are properly trained and knowledgeable at clinical facilities which offer adequate space and staff to adequately cater to their need.

The proposed amendments will not affect worker safety and the environment because this regulation does not relate to worker safety and the environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered 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 or would be as effective and less burdensome to affected private persons than the proposed regulatory action or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present statements or arguments relevant to the above determinations in writing during the written comment period or orally at a hearing, if scheduled.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), this Notice, proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and may be obtained upon request from the person designated in the Notice under Contact Person or by accessing the

Board's website, <https://www.rn.ca.gov/regulations/proposed.shtml>.

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: Evon Lenerd Tapps
Address: 1747 North Market
Boulevard, Suite 150
Sacramento, CA 95834
Telephone Number: 916-574-7610
Fax Number: 916-574-7700
E-Mail Address: Evon.Lenerd@dca.ca.gov

The backup contact person is:

Name: Ras Siddiqui
Address: 1747 North Market
Boulevard, Suite 150
Sacramento, CA 95834
Telephone Number: 916-574-7922
Fax Number: 916-574-7700
E-Mail Address: ras.siddiqui@dca.ca.gov

Website Access: Materials regarding this proposal can be found at <https://www.rn.ca.gov/regulations/proposed.shtml>.

TITLE 16. BOARD OF REGISTERED NURSING

DIVISION 14, ARTICLE 5,
SECTIONS 1450 AND 1456

CONTINUING EDUCATION
COURSES, § 1456

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (Board) is proposing to amend California Code of Regulations (CCR), Title 16, Division 14, sections 1450 and 1456, as described in the Informative Digest.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on Tuesday, December 28, 2021.

The Board, upon its own motion or at the request 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. Apart from 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 the 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 Business and Professions Code (BPC) sections 2715 and 2811.5, and to implement, interpret or make specific BPC sections 2736.5 and 2811.5, the Board is considering changes to Article 5, Division 14 of Title 16 of the CCR as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

● **Amend Section 1450 — Definitions.**

Existing law authorizes the Board to establish standards for continuing education (CE) for registered nurses (RN). Section 1450 currently provides definitions of basic terms used in this law such as “Continuing Education” and “Course.”

In this regulatory proposal, the Board proposes to amend section 1450 to add three new definitions, “Experimental medical procedure or treatment,” “Implicit bias,” and “Direct patient care.”

● **Amend Section 1456 — Continuing Education Courses.**

Existing law authorizes the Board to establish standards for continuing education (CE) for registered nurses (RN). Course content must be relevant to the practice of nursing and be related to the scientific knowledge or technical skills required for the practice of nursing or be related to direct or indirect patient or client care. 16 CCR 1456 adopts these requirements

and offers examples of course content CE providers can permissibly offer.

In this regulatory proposal, the Board proposes to amend section 1456 to add that beginning January 1, 2022, CE courses contain curriculum that includes the understanding of implicit bias, unless the course is dedicated solely to research or other non-direct patient care components. This proposal would provide that course material related to experimental medical procedures or treatments is among the types of appropriate CE course content. However, the proposal would qualify that this course content is not relevant to the practice of nursing unless: (1) the underlying treatment’s efficacy is supported by at least two peer-reviewed publicly available scientific journals or studies, published in medical and scientific literature; and (2) the procedure or treatment is generally accepted as effective by the medical community. It would further provide that a medical procedure or treatment is experimental if it relates to a drug that the United States Food and Drug Administration approved, but the drug is used for a purpose other than that for which it was approved. A medical procedure or treatment would also be considered experimental if peer-reviewed scientific journals or studies show that the procedure or treatment is the subject of ongoing clinical trials.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

Under current section 1456, CE courses must be related to the scientific knowledge and/or technical skills required for the practice of nursing, or to direct and/or indirect patient/client care. However, it is important for RNs to be educated about experimental medical procedures or treatments so they can understand what alternative treatments and therapies are directly related to nursing and those that are not.

This regulatory proposal will clarify requirements for CE course content relating to experimental medical procedures or treatments, ensuring that it meets specified standards for reliability and efficacy before it will qualify for approval by the Board. Ensuring that such procedures are reliable and effective before being taught will protect public health and safety. These standards will also clarify to providers what content is appropriate for CE courses relating to experimental medical procedures or treatments.

Adding a requirement for coursework regarding implicit bias will raise awareness for RNs and foster better patient care.

DETERMINATION OF INCONSISTENCY/
INCOMPATIBILITY WITH
EXISTING REGULATION

During the process of developing these regulations and amendments, the Board conducted a search of any similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations. But interpretations and populations can differ. While 22 CCR 97700.17 includes administrative duties into “direct patient care” for the provisions of scholarships to registered nurses under the Health Professionals Education Foundation, 17 CCR 1029.70¹ does not include administrative duties for purposes of licensure of clinical laboratory personnel. The Board determined that for purposes of this regulation, and as is discussed more fully in the Initial Statement of Reasons, Direct Patient Care will not include first line supervision.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Board will be able to ensure compliance with the new requirement for the inclusion of an understanding of implicit bias in all CE coursework as a part of its routine oversight of course providers.

The Board indicates approximately 50 CE providers opting to provide these courses in experimental treatments will be required to submit CE course applications to the Board for approval.

A Nursing Educational Consultant (NEC) will take approximately six hours to review and approve each application at costs of \$564 per institution. The Board’s total costs to review and approve 50 CE providers is estimated to be \$28,000.

Additionally, the Board will be required to ensure compliance with the proposed regulations. However, because the Board already regulates and provides oversight of these 50 CE providers, no additional workload or costs are anticipated at this time.

The Board notes there is no fee related to CE course applications. As a result, the proposed regulations do not result in additional revenue.

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 Require Reimbursement: None.

Business Impact:

The Board has made an initial determination that this proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

CE providers may only offer courses that meet the Board’s requirements. They may be impacted if a CE provider develops a course that is not approved. Those CE providers that provide course content related to experimental procedures in California may incur costs related to supporting efficacy requirements, course development, and enlisting health care content experts to ensure the content is relevant to the practice of nursing.

This regulation proposal will predominantly impact the following occupations: nursing, healthcare, education, accreditation and certification agencies. Jobs impacted other than nurses include: administrators, analysts, content experts, educators including program Directors and Deans, evaluators, instructors, physicians, researchers, scientists and technical experts.

Cost Impact on Representative Private Person or Business:

This regulation proposal impacts all nurses in California. BPC section 2811.5(a) requires RNs renewing their licenses to submit proof of completion of CE or other education deemed equivalent by the Board. CE providers who offer course content in experimental procedures and treatments and implicit bias in all coursework may pass along their costs to RNs who register for the training through tuition or course fees. Corporations represent 41% of the Board’s CE providers and are more likely to fund this type of course content. Health facilities (17%), individuals (15%), associations (10%), universities/schools (9%), government agencies (5%), and partnerships (2%) represent the remaining 59% of the Board’s CE providers.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined this regulation will affect small businesses that provide course content related to experimental medical procedures or treatments and implicit bias requirements to California registered nurses. Small business CE providers may incur costs related to supporting efficacy requirements, course development and enlisting health care content experts to ensure the content is relevant to the practice of

¹“Direct patient care” means medical, psychiatric, nursing, or other health care that is legally provided by a care giver or health-care provider directly to a patient, and that includes observation of the patient’s physical or mental condition to enable the care giver or healthcare provider to report changes in the patient’s condition.

nursing. Any financial impact on these businesses will likely be offset by increased tuition or course fees.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Board has determined that this regulatory action will not create or eliminate jobs, will not create new business or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California. Based on the number of courses affected by the amendments to section 1456, the Board does not anticipate that this regulatory action will create or eliminate jobs, create new businesses or eliminate existing businesses or affect the expansion of businesses currently doing business. This proposal will benefit the health and welfare of California residents for the reasons explained above in the "Anticipated Benefits" section of this Notice. This proposal is not anticipated to benefit or impact worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered 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 or would be as effective and less burdensome to affected private persons than the proposed regulatory action or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present statements relevant to the above determinations in writing during the written comment period or orally at a hearing, if scheduled.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and may be obtained upon request from the person designated in the Notice under Contact Person or by accessing the Board's website, www.rn.ca.gov.

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: Evon Lenerd Tapps
Address: 1747 North Market
Boulevard, Suite 150
Sacramento, CA 95834
Telephone Number: 916-574-7610
Fax Number: 916-574-7700
E-Mail Address: Evon.Lenerd@dca.ca.gov

The backup contact person is:

Name: Ronnie Whitaker
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Sacramento, CA 95834
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Website Access: Materials regarding this proposal can be found at www.rn.ca.gov.

TITLE 16. BOARD OF REGISTERED NURSING

NURSE PRACTITIONER EDUCATION, § 1484

NOTICE IS HEREBY GIVEN that the **Board of Registered Nursing** (hereafter Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action. Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than Monday, December 27, 2021**, or must be received by the Board at the hearing, should one be scheduled.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations 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 the 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 2715, 2835.7, and 2836 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 2835, 2835.5, 2835.7, 2836, 2836.1, 2836.2, 2836.3, and 2837, the Board is considering amending section 1484 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to Business and Professions Code (BPC) section 2700 *et seq.*, the Board of Registered Nursing (Board) licenses registered nurses, and certifies advanced practice nurses, which include certified nurse–midwives, nurse practitioners, registered nurse anesthetists, clinical nurse specialists, and public health nurses. In addition to licensing and certification, the Board establishes accreditation requirements for California nursing schools and reviews nursing school criteria (“prelicensure”); receives and investigates complaints against its licensees; and takes disciplinary action as appropriate. As of 2020, the Board licenses over 450,000 RNs and certifies approximately 97,000 advanced practice nurses.

BPC section 2715 authorizes the Board to amend or adopt regulations in accordance with the Administrative Procedure Act that may be reasonably necessary to enable it to carry into effect the Nursing Practice Act (Act). Section(s) 2835 and 2835.7 of the Business and Professions Code (BPC) authorize the Board to standardize procedures for licensing nurse practitioners. BPC section 2835.5 sets forth the

requirements for an applicant to qualify or certify as a nurse practitioner, including the requirement that an applicant satisfactorily complete a nurse practitioner program approved by the Board.

Existing regulation at Section 1484 of Title 16 of the California Code of Regulations (CCR) sets forth the Board’s minimum requirements for nurse practitioner curriculum, including at subdivision (h) (5), the minimum number of required clinical hours of supervised direct patient care (500 clinical hours) “as specified in current nurse practitioner standards.”

Stakeholders, including applicants and educational institutions, have contacted the Board regarding whether the existing minimum 500–hour requirement would be in conflict with other requirements in regulation and expressed confusion regarding whether the educational program’s length could exceed 500 hours and still meet the Board’s curriculum requirements.

To address stakeholder confusion, the Board proposes the following amendments to section 1484:

- (a) This proposal would add language to Section 1484, subsection (h)(5) that the program shall meet “and may exceed” the minimum of 500 clinical hours of supervised direct patient care experiences; and,
- (b) Add a comma to subdivision (h)(5) and new text that such specifies that current nurse practitioner standards are “described in this section.”

Anticipated Benefits of Proposal

This proposal will eliminate stakeholder confusion regarding the Board’s interpretation of its existing regulations regarding the educational program curriculum requirements for Nurse Practitioners, and benefit the general health and safety of all Californians by making education requirements for Nurse Practitioners (who care for Californians) less confusing.

Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on these topics and has concluded that these regulations are neither duplicative, inconsistent, nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

The Board has made the following initial determinations:

FISCAL IMPACT ESTIMATES

The proposed regulations do not result in a fiscal impact to the state in the form of federal funding or any cost or savings to any state agency because this addition in language is a clarification of current law and Board-acceptable practice. As a result, the Board does not anticipate any additional workload or costs to implement the regulations.

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 Require Reimbursement: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

This regulatory proposal will not:

- Create or eliminate jobs or businesses within the State of California because the regulations make explicit the Board's long-standing interpretation of its existing regulation that 500 clinical hours of supervised direct patient care for nurse practitioners is a minimum education requirement that may be exceeded.
- Affect the expansion of businesses currently doing business within the State of California, as the proposed regulations only state the Board's existing interpretation of an existing regulation.
- Affect the state's environment because it is not related to any environmental issues.
- Affect worker safety because this regulation does not relate to worker safety.

This regulation proposal will benefit the general health and welfare of California residents by:

- Eliminating stakeholder confusion regarding the Board's interpretation of its existing regulation regarding the education requirement for Nurse Practitioners.
- Making regulatory language consistent with authorizing statutes.
- Making education of Nurse Practitioners (who care for Californians) less confusing.

BUSINESS IMPACT

The Board has made the 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. This initial determination is based on the following facts.

There is no significant statewide adverse economic impact directly affecting business with this regulation proposal. There are currently approximately 27,600 Certified Nurse Practitioners (CNPs) in California. The proposed regulation encourages increased program transparency and oversight integrity and makes explicit the Board's longstanding interpretation of its existing regulation regarding educational qualifications for CNPs in California. This proposal would not change the Board's existing interpretation. Therefore, this proposal would not result in any further economic impact to business.

Impact on Jobs/Businesses

The Board has determined that this regulatory proposal will not have any 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 because this regulation change is meant to clarify any confusion that may arise on the minimum number of hours of direct patient care required. However, this proposal would not change the minimum requirements in existing regulation for educational programs for nurse practitioners, but rather clarify the Board's existing interpretation of its own regulations. Therefore, this proposal would not result in any further economic impact to jobs or businesses.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Effect on Small Business

The Board has determined that the proposed regulations will not affect small businesses because this proposal would not change the minimum requirements in existing regulation for educational programs for nurse practitioners, but rather clarify the Board's existing interpretation of its own regulations. Therefore, this proposal would not result in any further economic impact to small businesses.

Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Effect on Housing Costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board 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; 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.

Interested persons are invited to present statements or arguments orally or in writing relevant to the above determinations during the written comment period or the hearing if one is scheduled, as specified above.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

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 upon request from the Board at 1747 North Market Boulevard, Suite 150, Sacramento, California 95834.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the 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.

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 PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Evon Lenerd Tapps, Assistant Executive Officer
Address:	California Board of Registered Nursing 1747 North Market Boulevard, Suite 150 Sacramento, CA 95834
Telephone Number:	916-574-7610
Fax Number:	916-574-7700
E-Mail Address:	Evon.Lenerd@DCA.CA.Gov

The backup contact person is:

Name:	Ras Siddiqui
Address:	California Board of Registered Nursing 1747 North Market Boulevard, Suite 150 Sacramento, CA 95834
Telephone Number:	916-574-7922
Fax Number:	916-574-7700
E-Mail Address:	ras.siddiqui@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board's website at <https://www.rn.ca.gov/regulations/proposed.shtml>.

TITLE 16. BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

PRIVATE INVESTIGATOR FEES, § 639

NOTICE IS HEREBY GIVEN that the Bureau of Security and Investigative Services (Bureau or BSIS) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. 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 Board at its office by **Monday, December 27, 2021**.

The Bureau has not scheduled a public hearing on this proposed action. The Bureau will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

The Bureau may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations 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 the 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 Business and Professions (BPC) section 7515, and to implement, interpret or make specific BPC sections 7529, 7530, and 7570, the Bureau proposes changes to section 639 of Division 7 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Bureau of Security and Investigative Services (Bureau) regulates professions in six (6) practice acts: Alarm Company Act, Locksmiths, Private Investigator Act, Private Security Services Act, Proprietary Security Services Act, and Collateral Recovery Act.

Every Bureau licensee is required to carry proof of licensure in the form of a pocket card issued by the Bureau, which is mailed to the licensee at the time of initial licensure and at each renewal cycle.

The Bureau is a self-supporting, special fund agency that obtains its revenues from licensing, permit, registration and application fees. Under existing law, Business and Professions Code (BPC) section 7570, the Bureau is authorized to collect fees to support its functions. The fees are intended to be sufficient to cover the cost of the Bureau's regulatory services.

As part of its effort to manage its financial resources wisely, the Bureau underwent two independent fee audits, one for the Private Investigator Fund (PI Fund) and one for the Private Security Services Fund (PSS Fund) (see documents entitled "California Bureau of Investigative and Security Services, Fee Audit Review

– Private Investigator Fees, September 7, 2018 (Final Report), CPS HR Consulting" and "California Bureau of Security and Investigative Services, Performance and Fee Review, April 14, 2017 (Final Report), CPS HR Consulting," respectively (collectively, "audit")), that reviewed the licenses and fees supporting the fund conditions. The process used for collecting and analyzing the data for the audit required active participation by the Bureau's and Department of Consumer Affairs' (DCA) management and staff.

The scope and objectives of the PI Fund audit included the following:

- Assess and correlate the workload for approximately six (6) Bureau employees supported by the PI fund to the actual activities performed to determine an hourly or unit cost to support licensing, renewal, enforcement, etc.
- Analyze all fees and other revenues collected by the Bureau within the PI fund and related expenditures (including DCA overhead pro rata expenses), to determine if fee levels are sufficient for the recovery of the actual cost of conducting its programs.
- Determine a cost basis to fairly increase existing fees to: cover all PI-related costs, ensure a sufficient PI fund reserve, and assess other PI funded services provided by the Bureau when a separate fee is not provided by statute or regulation.
- Based on the financial analysis, project fees/revenues and related costs for the next three to five fiscal years.
- Prepare a written report of the findings and recommendations.

The Legislature enacted legislation to increase statutorily authorized fees for the Bureau where necessary to sufficiently fund operations and recover costs in accordance with the PI audit. Effective July 1, 2020, Senate Bill (SB) 609 (Glazer, Chapter 377, Statutes of 2019) amended BPC section 7570 to increase the statutory minimums amounts of various fees, including the application and examination fee, the branch office certificate fee, the fee for an original private investigator license, the fee to obtain a certificate of licensure, and the reexamination fee for applicants and qualified managers.

As reflected on page 9 in the Senate Committee on Business, Professions and Economic Development's analysis dated September 12, 2019 for SB 609, the private investigator application, licensing, renewal and re-examination fee increases were deemed necessary for the following reasons:

On September 7, 2018, an independent consulting firm completed its fee audit review of BSIS's PI fees. The audit found that "fee income" has been

up and down slightly over the last three Fiscal Years (FY), but overall revenues have not kept up with expenditures since FY 14–15. Moreover, scheduled fees have not been raised for 20 years. The current PI fee structure is insufficient to recover PI-related costs and will deplete the reserve in FY 19–20 unless action is taken before then to increase fees.

Unless fee adjustments are made in the near future, the BSIS will have insufficient revenue to continue operating many of its licensing programs funded through PI fees. SB 609 would increase fees within the PI Act, including those for application, examination, and license renewal.

BPC section 7570 enacted and codified the audit and legislative recommendations set forth above as the minimum and maximum PI fees the Bureau could charge.

The scope and objectives of the PSS Fund audit included the items listed below. Page 6 of the audit clarifies its applicability to the PI Act, stating “pursuant to a cross reference to the Private Security Services Act, the Act authorizes PI licensees and qualified managers to obtain a Bureau-issued firearm permit under specified conditions.”

- Assess and correlate the workload for approximately 65 Bureau employees to the actual activities performed to determine an hourly or unit cost to support licensing, renewal, enforcement, etc.
- Analyze all fees and other revenues collected by the Bureau within the PSS fund and related expenditures (including DCA overhead pro rata expenses), to determine if fee levels are sufficient for the recovery of the actual cost of conducting its programs.
- Determine a cost basis to fairly increase existing fees to: cover all PSS-related costs, ensure a sufficient PPS fund reserve, and assess other PSS-funded services provided by the Bureau when a separate fee is not provided by statute or regulation.
- Based on the financial analysis, project fees/revenues and related costs for the next three to five fiscal years.
- Prepare a written report of the findings and recommendations.

The Legislature also enacted legislation to increase statutorily authorized fees for the Bureau where necessary to sufficiently fund operations and recover costs in accordance with the PSS audit. Effective July 1, 2018, SB 547 (Hill, Chapter 429, Statutes of 2017) amended BPC section 7588 to increase the statutory minimums amounts of various fees, including the firearms permit fee and the firearms permit renewal

fee, for private patrol operators, private patrol operator qualified managers, and security guards. (Bus. & Prof. Code, § 7588, subdivisions (i)(1) and (i)(2).)

As reflected on page 14 in the Senate Committee on Business, Professions and Economic Development’s analysis dated September 15, 2017 for SB 547, various fee increases, including the firearms permit fee and the firearms permit renewal fee for private patrol operators, private patrol operator qualified managers, and security guards, were deemed necessary for the following reasons:

The BSIS conducted an independent fee audit in April 2017, which found that the current fee structure needed to be adjusted. As a result, the BSIS proposed fee increases for many of its licensing categories based on the recommendations from the audit. The proposed fee adjustments address the impact of inflation as well as more appropriately aligning fee amounts with the workload incurred by the BSIS associated with each fee.

Section 7588(i)(1) and (i)(2) established fees related to firearms permits for private patrol operators, as follows:

- (i)(1) A firearms permit fee shall be at least one hundred dollars (\$100) and may be increased to an amount not to exceed one hundred ten dollars (\$110).
- (i)(2) A firearms permit renewal fee shall be at least eighty dollars (\$80) and may be increased to an amount not to exceed eighty-eight dollars (\$88).

Effective January 1, 2019, SB 1217 (Morrell, Chapter 791, Statutes of 2018), enacted at BPC section 7570(i) and (j), established statutory minimums for the firearms permit and renewal fees to \$100 and \$80, respectively, for PIs. Prior to the enactment of BPC section 7570(i) and (j) in 2019, the PI Act cross-referenced firearm provisions in the PSS Act, including the requirement for an applicant to pay application fees. As such, PIs applying for an initial or renewal firearms permit paid the fee as required by BPC section 7588, which was increased in 2018 as a result of the PSS audit.

Effective January 1, 2021, Senate Bill (SB) 385 (Jones, Chapter 326, Statutes of 2019), amended Business and Professions Code (BPC) section 7529 to require the Bureau to issue an enhanced photo identification card to licensees upon issuance or renewal beginning January 1, 2021. Prior to the bill’s enactment, private investigators (PIs) were required to carry a photo identification card. (Bus. & Prof. Code, § 7529.) Presently, the Bureau has a contract with Psychological Services Industries (PSI) to provide photo identification cards to Bureau licensees for a five-dollar (\$5) fee, which includes a \$1 processing

fee. The enhanced photo identification card will contain the name of the licensee, license expiration date, and a photograph of the licensee.

BPC section 7529 authorizes the Bureau to recover costs for the enhanced photo identification card by including the fee in the initial and renewal application fee. As the Bureau will now collect the fee for the enhanced card from licensees, PSI will bill the Bureau directly for the card, which will eliminate the \$1 processing fee. Accordingly, licensees will pay only \$4 for the card.

The fee increases in this proposal reflect the audit recommendations and legislative determinations that these fee increases are necessary to support the PI license, application and firearms permit functions provided by the Bureau. The proposed increase in fees is necessary to enable the Bureau to sustain operations to effectively protect consumers through its licensing and enforcement functions.

This proposal will:

- Increase the initial and renewal private investigator application fees to include a four-dollar (\$4) per licensee (all license principals and qualified manager) charge for the cost of the enhanced photo identification card as authorized by SB 385;
- Increase the following private investigator (PI) fees to the statutory minimums required by SB 609's amendments to BPC 7570 (and reflected as the "floor" in the table above), which became operative on July 1, 2020: (a) PI original license application and examination fee, (b) original branch office certificate application fee, (c) original PI license fee, (d) PI license renewal fee, (e) branch certificate renewal fee; and, (f) assignment of PI license fee; and,
- Adopt fees for the firearm permit and renewal fees consistent with the statutory minimums required by SB 1217, which are \$100 and \$80, respectively.

ANTICIPATED BENEFITS OF THE PROPOSAL

The proposed amendments to the Bureau's fees will enable the Bureau to recoup the costs of producing enhanced photo identification card, and continue operating its licensing programs funded through PI fees, including the Private Security Services Fund. The proposal will also eliminate any confusion caused by an inconsistency between the statutes and the regulation, and will therefore provide clarity to licensees.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, the Bureau has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The proposed regulations will result in one-time costs of \$28,300 to update the Bureau's information technology system to receive and process the enhanced photo identification (ID) card fee revenues.

However, because the Bureau currently maintains a contract with the PI photo ID card company (PSI) for other services and because PSI already invoices the Bureau for other costs, adding the PI photo ID cost is not anticipated to increase workload or costs. Licensees are currently required to pay \$5 directly to PSI to receive a photo ID card upon initial licensure and biennial license renewal. Under this proposal, licensees will pay \$4 to the Bureau, which will be paid to PSI to pay the costs of the photo ID.

The Bureau anticipates approximately 4,962 photo ID cards will be issued per year, which would result in revenues of \$19,848 per year.

The Bureau recognizes that additional fees for private investigator applications, renewal, re-examination, and firearms permits and renewals are being revised or added; however, these remaining adjustments align the regulation with current law at BPC section 7570 and therefore this regulatory proposal will not result in additional revenue for the Bureau. BPC 7570, as amended by SB 609 (Glazer, Chapter 377, Statutes of 2019) and SB 1217 (Morrell, Chapter 791, Statutes of 2018), sets these fees as minimum statutory fee amounts.

The regulations conform the Bureau's regulations to current law. As a result, no additional workload, costs, or revenues will result from these amendments.

Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: No direct nondiscretionary costs or savings to local agencies are anticipated.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Cost Impact on Representative Private Person or Business, and Effect on Small Business: The

regulations reduce the costs for licensees to obtain an ID card from \$5 to \$4. The Bureau anticipates 4,962 licensees will save \$1 each or total cost savings of \$4,962 per year and up to \$49,620 over a ten-year period.

The Bureau recognizes that additional fees are being adjusted in this proposal. However, the remaining adjustments align the regulation with current law (the minimum fees PIs are already required to pay by statute) and will not result in any impact to the PI applicant or licensee population.

Effect on Housing Costs: None.

Effect on Small Business:

The Bureau has determined that the proposed regulations may affect small businesses. The proposed regulations affect licensees and applicants applying for private investigator licensure, renewal, reexamination, or firearms permits or renewals. However, the Bureau does not keep data regarding the type or number of individuals or entities that may be considered a small business.

The regulations reduce the costs for licensees to obtain an ID card from \$5 to \$4. The Bureau anticipates 4,962 licensees will save \$1 each or total cost savings of \$4,962 per year and up to \$49,620 over a ten-year period.

The Bureau recognizes that additional fees are being adjusted in this proposal. However, the remaining adjustments align the regulation with current law (the minimum fees PIs are already required to pay by statute) and will not result in any impact to the PI applicant or licensee population.

BUSINESS IMPACT

The Bureau has made the initial determination that the proposed regulations will not have a statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States.

This initial determination is based on the following facts:

The regulations would reduce the costs for licensees to obtain an enhanced photo identification card from \$5 to \$4. The Bureau anticipates 4,962 licensees will save \$1 each or total cost savings of \$4,962 per year and up to \$49,620 over a ten-year period.

The Bureau recognizes that additional fees are being adjusted in this proposal to align with the statutorily required minimum fees for private investigator applications, licenses and renewals and for firearms permits and renewals as set forth in Business and Professions Code section 7570. However, these adjustments align the regulation with current law (the minimum fees PIs are already required to pay

by statute) and will not result in any additional fiscal impact to the PI applicant or licensee population.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

This regulatory proposal will have the following effects:

It will not create or eliminate jobs, create new business or eliminate existing businesses, or affect the expansion of businesses currently doing business within the State of California because the fees in this proposal align with the statutorily required minimum fees for private investigator applications, licenses and renewals and for firearms permits and renewals as set forth in Business and Professions Code section 7570. These adjustments align the regulation with current law (the minimum fees PIs are already required to pay by statute) and therefore will not result in any additional fiscal impact to the PI applicant or licensee population.

This regulatory proposal does not affect the health and welfare of California residents or worker safety because this proposal does not involve health and welfare issues or worker safety. This regulatory proposal does not affect the state's environment because this proposal is not relevant to the state's environment. It is solely related to private investigator application, license, renewal and firearms permit and renewal fees.

Benefits of the Proposed Action:

The proposed amendments to the Bureau's fees will enable the Bureau to recoup the costs of producing enhanced photo identification card, and continue operating its licensing programs funded through PI fees, including the Private Security Services Fund. The proposal will also eliminate any confusion caused by an inconsistency between the statutes and the regulation, and will therefore provide clarity to licensees.

CONSIDERATION OF ALTERNATIVES

The Bureau 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 public hearing

or during the written comment period, as described above.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Karissa Huestis
Address: 2420 Del Paso Road,
Suite 270
Sacramento, CA 95834
Telephone Number: (916) 575-7158
Fax Number: (916) 575-7287
E-Mail Address: BSISRegs@dca.ca.gov

The backup contact person is:

Name: Antoine Hage
Address: 2420 Del Paso Road,
Suite 270
Sacramento, CA 95834
Telephone Number: (916) 575-7099
Fax Number: (916) 575-7287
E-Mail Address: BSISRegs@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.bsis.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Bureau will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Karissa Huestis at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing, if requested, and considering all timely and relevant comments received, the Bureau may adopt the proposed regulations substantially as described in this notice. If the Bureau makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Bureau adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Karissa Huestis at the address indicated above. The Bureau will accept written comments on the modified

regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Karissa Huestis at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at www.bsis.ca.gov.

TITLE 16. ARCHITECTS BOARD

§ 152 CITATIONS

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than Monday, December 27, 2021**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 125.9, 148, and 5526 of the Business and Professions Code (BPC) and to implement, interpret, or make specific BPC sections 5536, 5536.1, 5536.4, and 5536.5, the

Board is considering amending section 152 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This regulatory proposal will revise CCR section 152, subsection (c)(1), to additionally specify violations of BPC sections 5536.1 (Signature and Stamp on Plans and Documents; Unauthorized Practice; Misdemeanor), 5536.4 (Instruments of Service—Consent), 5536.5 (State of Emergency; Practice Without License or Holding Self Out as Architect; Penalty), and CCR section 134 (Use of the Term Architect; Responsible Control within Business Entity). All of these sections of the BPC and CCR encompass actions by unlicensed individuals commonly reported in the complaints received and investigated by the Board. Since the current language of CCR section 152, subsection (c)(1) does not include these sections, the Board is currently unable to issue citations and fines for the specific type of unlawful conduct outlined in these sections of the BPC and CCR. These sections to be added each encompass slightly different violations of the practice act by unlicensed individuals. The proposed changes would broaden the scope of section 152 citations and enable the Board to implement more robust consumer protection and effective disciplinary actions against unlicensed individuals who violate the Architects Practice Act.

Additionally, the Authority and Reference citations in the regulation's Note are being updated to show the authority to cite unlicensed individuals and the types of violations referenced which the regulation, consistent with the current references.

Anticipated Benefits of Proposal

The Board anticipates that consumers will benefit from this regulatory proposal, which clarifies the Board's authority to cite unlicensed persons acting in the capacity of an architect or engaged in the practice of architecture. By adding the violations set out in BPC sections 5536.1, 5536.4, and 5536.5 and CCR section 134, the public will be better informed as to the types of conduct and exact violations that may result in the Board's citations containing orders of abatement and/or administrative fines against unlicensed individuals. The changes to CCR section 152 would allow the citations to be more specific and accurate by being able to include the violations of multiple sections in the citation. A citation would be able to include all of the possible violations of the Architects Practice Act and will be more inclusive of the violations involved in a specific citation when displayed on the Enforcement Actions Summary on the Board's website. In turn, the citations issued could be for a more substantial amount of money. Sharing this information with consumers

works to protect them from potential future harm. The amendment will also help the Board be able to distinguish a pattern of behavior if an unlicensed individual continues to take the same illegal actions in the future. It will make the Board's case stronger if a case needs to be referred to the District Attorney's office for further criminal charges.

This regulatory proposal would benefit the health and welfare of California residents because the proposal updates CCR section 152 to clarify the BPC and CCR sections for which the Board has the authority to issue citations, but which were not originally included in CCR section 152. This, in turn, provides increased protection to the health and welfare of the public by ensuring the Board's recommendations for citations are more accurate and may include violations of multiple sections within a citation. The citation will include all of the possible violations of the Architects Practice Act and will be more inclusive of the violations in a citation when displayed on the Enforcement Actions Summary online. It could also impact worker safety because the changes could deter an unlicensed person from stamping plans when they are not a licensed architect, resulting in safer working conditions.

Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on these topics and has concluded that these regulations are neither duplicative, inconsistent, nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

FISCAL IMPACT ESTIMATES

The proposed regulations do not result in a fiscal impact to the state.

Current law authorizes the Board to issue a citation and fine for violations against the Architects Practice Act. Because the amendments provide clarity consistent with current law, the Board does not anticipate an increase in citations issued per year. As a result, no additional workload costs or citation fee revenues are anticipated.

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 Require Reimbursement: None.

RESULTS OF ECONOMIC IMPACT
ASSESSMENT/ANALYSIS

BUSINESS IMPACT ESTIMATES

The Board has made the 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. This initial determination is based on the following facts:

Impact on Jobs/Businesses

The Board has determined that this regulatory proposal will not 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. The proposed regulation should not impact businesses because it relates solely to unlicensed individuals. Unlicensed individuals were already subject to citations for violations of BPC section 5536.

Benefits to Regulation

Benefits to the Health and Welfare of California Residents: The Board has determined that this regulatory proposal will benefit the health, safety, and welfare of California consumers. By empowering the Board to cite unlicensed individuals who offer and/or provide architectural services and to combine violations, issue citations for more money, and track patterns of behavior, the Board will better deter unlicensed individuals from preying on California consumers.

Benefits to Worker Safety and the State's Environment: The proposal may improve worker safety because the changes may deter an unlicensed person from stamping plans when they are not a licensed architect, resulting in safer working conditions. The proposal does not affect the state's environment, as it specifies how the Board may cite unlicensed individuals who offer and/or provide architectural services.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Effect on Small Business

The Board has determined that the proposed regulations will not likely affect small businesses because it relates solely to unlicensed individuals. Unlicensed individuals were already subject to citations for violations of BPC section 5536.

Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Effect on Housing Costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board 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 submit comments to the Board in writing relevant to the above determinations at 2420 Del Paso Road, Suite 105, Sacramento, California 95834.

AVAILABILITY OF STATEMENT OF
REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2420 Del Paso Road, Suite 105, Sacramento, California 95834.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the 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.

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 PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Katie Wiley
Address: Enforcement Unit
2420 Del Paso Road.,
Suite 105
Sacramento, CA 95834
Telephone Number: (916) 575-7208
Fax Number: (916) 575-7283
E-Mail Address: katie.wiley@dca.ca.gov

The backup contact person is:

Name: Alicia Kroeger
Address: Enforcement Unit
2420 Del Paso Road,
Suite 105
Sacramento, CA 95834
Telephone Number: (916) 575-7216
Fax Number: (916) 575-7283
E-Mail Address: alicia.kroeger@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Actions the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board's website at https://cab.ca.gov/news/laws/proposed_legislation.shtml#proposed.

TITLE 16. ARCHITECTS BOARD

CONTINUING EDUCATION § 165

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) is proposing to adopt California Code of Regulations (CCR), Title 16, Division 2, Section 165 as described in the Informative Digest, below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or the interested person's authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under Contact Person in this notice.

WRITTEN COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or email to the address listed under Contact Person in this Notice, must be received by the Board at its office no later than **Monday, December 27, 2021**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 5526 and 5600.05, and to implement, interpret or make specific BPC section 5600.05, the Board is considering changes to adopt an Article 10, Division 2 of Title 16 of the CCR as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This regulatory proposal clarifies and makes specific the continuing education requirements for renewal of an architect's licensure with the Board. The Board is a state agency vested with the authority to regulate the practice of architecture. The Board's highest priority when exercising its licensing, regulatory, and disciplinary authority is the protection of the public health, safety, and welfare, as mandated by BPC section 5510.15. The Board is authorized by BPC section 5526 to promulgate regulations as may be necessary and proper. (BPC section 5526.) BPC section 5600.05

authorizes the Board to promulgate regulations to establish qualifications for continuing education (CE) courses and course providers. In addition, BPC section 5600.05 requires licensed architects to obtain five hours of CE regarding disability access requirements for public facilities, during each two-year license renewal period prior to the license expiration date, as a condition of license renewal.

This regulatory proposal would specify the time period in which CE coursework needs to occur, the minimum qualifications for courses and course content, and the requirements for issuance of completion certificates or copies of records to course participants. It would also establish procedures for enforcing and administering the CE requirement along with Board actions for architects found noncompliant with the CE requirement.

Anticipated Benefits of Proposal

The broad objective of the regulatory proposal is to ensure that licensed architects have an adequate amount and the right kind of CE. The specific benefits anticipated from the regulations are increased protection of the public by ensuring that licensed architects remain competent in the practice of architecture and ensuring that licensed architects are familiar with California and federal laws that govern disability access requirements for public facilities.

Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Board conducted a search of any similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The proposed regulations do not result in a fiscal impact to the state.

The Board has required licensees to complete CE courses, as specified, and ensured compliance since 2009, under statutory authority. This proposal updates the Board's regulations consistent with the existing practice and procedures and current law. As a result, no additional workload or costs are anticipated.

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 Require Reimbursement: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

BUSINESS IMPACT ESTIMATES

The Board has made an initial determination that this regulatory proposal will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The requirements for disability access in the design and construction of buildings and facilities has long been in place throughout the country.

Additionally, although the Board has not previously had any CE course requirements for its licensees that were mandated by regulation, CE providers have already been offering the specified five-hour CE coursework on disability access since 2009. The proposed regulations are intended to better align the Board's regulations with current law and existing practice.

This regulatory proposal will predominantly impact the following occupations: architects and trainers or educators that provide CE.

CE providers may offer courses that meet the Board's proposed criteria for courses and provider responsibilities. Those CE providers that provide course content related to disability access requirements may incur costs conforming to the requirements of this rulemaking related to staffing needs, expansion of the curriculum, and IT costs for courses offered online and for recordkeeping. CE providers who develop disability access coursework that does not meet the proposed criteria may be negatively impacted.

Impact on Jobs/Businesses

The Board has determined that this regulatory action will not eliminate jobs for licensees, but it will possibly both eliminate and create jobs for CE providers, trainers, or educators. In those situations where CE providers have trainers or educators who do not meet the minimum criteria of the regulation, those jobs could potentially be eliminated.

The regulatory proposal will not create new business but might eliminate an unknown number of existing architecture CE provider businesses within the state if those businesses are unable to comply with the requirements of the proposed regulations. However, most architecture CE provider businesses are expected to have the ability to meet the regulatory requirements as many businesses have already been providing compliant CE disability access coursework since 2009.

The regulatory proposal will not affect the expansion of businesses as a sufficient number of businesses have been in existence since 2009 who already provide disability access CE courses to architects renewing their licenses.

The regulatory proposal will establish consistent CE requirements for licensees, which will benefit the health, safety, and welfare of California residents.

The regulatory proposal affects worker safety because architects better versed in disability access requirements will design buildings that are more inclusive and thus a benefit to all who use those buildings.

Finally, the regulatory proposal does not affect the state's environment because it is not related to the environment in any manner.

Business Reporting Requirements

While this regulatory proposal does not require businesses to file a report with the Board, it will require individual licensed architects to continue to file their documentation of CE compliance with the Board as they have done since the requirement was implemented in 2009.

Effect on Small Business

The Board has determined these regulations will affect small businesses that provide course content related to disability access requirements to California architects. Small business CE providers may voluntarily incur some initial and ongoing costs related to staffing, coursework development, expanded curriculum, IT costs, and record keeping databases. The Board has determined that these costs would likely be minimal as such costs may already be built into the business's infrastructure for providing CE coursework. Any financial impact on these businesses will likely be offset by increased course fees.

Cost Impact on Representative Private Person or Business

This proposal impacts licensed architects in California by specifying CE requirements as part of license renewal. The Board estimates licensees pay approximately \$200 to complete the five-hour CE requirement.

However, licensees have been required to complete and pay CE course (five hours) fees consistent with current law since 2009. As a result, this proposal does not increase costs to individuals.

Significant Effect on Housing Costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered 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, or would be as effective and less burdensome to affected private persons than the proposed regulatory action or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present comments orally or in writing relevant to the above determinations at the hearing, if one is scheduled or in writing to the Board at 2420 Del Paso Road, Suite 105 Sacramento, CA 95834, during the public comment period.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and may be obtained upon request from the person designated in the Notice under Contact Person or by accessing the Board's website www.cab.ca.gov.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board upon request from the person designated in the Notice under Contact Person or by accessing the Board's website.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the 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.

**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 PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Jesse Bruinsma
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Sacramento, CA 95834

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Fax Number: (916) 575-7283
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The backup contact person is:

Name: Marccus Reinhardt
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Email Address: marccus.reinhardt@dca.ca.gov

Website Access: Materials regarding this proposal can be found at https://www.cab.ca.gov/news/laws/proposed_regulation.shtml.

TITLE 16. DENTAL BOARD

**SECTION 1016, CONTINUING EDUCATION
COURSES AND PROVIDERS
SECTION 1016.2, BASIC LIFE SUPPORT FOR
LICENSURE OF DENTAL AUXILIARIES
SECTION 1017, CONTINUING EDUCATION
UNITS REQUIRED FOR RENEWAL OF
LICENSE OR PERMIT**

NOTICE IS HEREBY GIVEN that the Dental Board of California (Board) proposes to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments

relevant to the action proposed in writing. 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 Board at its office **by Monday, December 27, 2021.**

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this Notice.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice or may modify the proposed regulations 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 the 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 Business and Professions Code (BPC) sections 1614, 1645, and to implement, interpret, or make specific sections BPC sections 1645, 1646.5, 1647.5, and 1752.1, the Board is considering changes to Division 10 of Title 16 of the California Code of Regulations (CCR) as follows:

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

The Dental Board of California (Board) regulates approximately 82,000 licensees, consisting of 35,000 dentists, 30,000 registered dental assistants, and 1,700 registered dental assistants in extended functions. In addition, the Board has the responsibility for setting the duties and functions of approximately 50,000 unlicensed dental assistants. The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. (Bus. & Prof. Code, § 1601.2.) The primary methods by which the Board achieves this goal are: issuing licenses to eligible applicants; investigating complaints against licensees and disciplining licensees for violations of the Dental Practice Act (Act); monitoring licensees

whose licenses have been placed on probation; and managing the Diversion Program for licensees whose practice may be impaired due to abuse of dangerous drugs or alcohol.

The Act provides for the licensure and regulation of persons engaged in the practice of dentistry by the Board. The Act authorizes the Board, as a condition of license renewal, to require licentiates to successfully complete CE relevant to developments in the practice of dentistry and dental assisting consistent with regulations adopted by the Board and permits the Board to require of CE hours in specific areas, including patient care, health and safety, and law and ethics. (Bus. & Prof. Code, § 1645.)

The Board's regulations contained in Article 4 of Division 10 of Title 16 of the California Code of Regulations establish such regulatory requirements for renewal. However, recent amendments to the Act necessitate revisions to Article 4 to add new requirements for continuing education related to the risks of addiction associated with the use of Schedule II drugs, revise the Board's current processes and requirements for approval of CE courses and provider requirements, and add requirements for basic life support (BLS) for licensure and renewal of dental auxiliaries.

This proposal will amend sections 1016 and 1017, and adopt section 1016.2 of the CCR:

1. Amendments to Section 1016

Existing law requires licensees to complete continuing education (CE) courses in subjects including infection control, the Dental Practice Act, and basic life support (BLS) to renew a license. The regulation specifies that licensees may satisfy their BLS CE requirement by completing courses offered by specified providers. Senate Bill (SB) 1109 (Bates, Chapter 693, Statutes of 2018) amended BPC section 1645, effective January 1, 2019, to add risks of addiction associated with the use of Schedule II drugs as an authorized CE subject matter area for dentist licensees. Mandatory CE coursework prescribed by the Board cannot exceed 15 hours per renewal period for dentists. (Bus. & Prof. Code, § 1645, subdivision (b).)

This proposal would amend section 1016 to:

- Require coursework relating to the responsibilities and requirements of prescribing Schedule II opioid drugs to align the regulation with course content authorized by SB 1109;
- Add professional ethics as mandatory CE coursework;
- Provide a BLS course taught by a provider approved by the American Safety and Health Institute (ASHI) will satisfy the mandatory

requirement for certification in Basic Life Support;

- Add a requirement that, at a minimum, course content for a Board-approved course on the responsibilities and requirements of prescribing Schedule II opioid drugs shall include the practices for pain management in dentistry, regulatory requirements for prescribers and dispensers, and dental office procedures for managing vulnerable or substance use disorder patients;
- Add sexual harassment prevention as an example of the types of course of study in the actual delivery of dental services to the patient or the community that would be acceptable for mandatory CE credit;
- Add business planning services and operations as an example of the types of courses to be considered primarily for the benefit to the licensee and provide that it is limited by the Board to a maximum of 20% of a licensee's total required course unit credits for each license or permit renewal period;
- Strike an outdated and unnecessary reference to "Beginning January 1, 2016" in subdivision (e) related to enforcement and provider records retention;
- Add references to "Infection Control" and the "California Dental Practice Act" to the current requirements for board approval for significant changes to the content of a previously approved course in subdivision (e) and clarify that a provider cannot offer the "significantly changed" course until the Board approves the course;
- Strike the words "mandatory," "mandatory" and "mandatory education" in subdivision (e), and revise existing requirements to clarify that all new applicants for provider status shall submit course content outlines for courses in "Infection Control and California Dental Practice Act" to board staff for review and approval at the time of application and prior to instruction; and,
- Make grammatical, syntax and other technical, non-substantive clarifying amendments.

2. Amendments to Section 1016.2

Existing law requires an applicant for licensure and renewal as a dental auxiliary, including as a registered dental assistant, to provide proof of completion of a course in BLS offered by an instructor approved by the American Red Cross (ARC), American Heart Association (AHA), or any other course approved by the Board as equivalent.

This proposal would adopt section 1016.2 to identify additional Board-approved courses in BLS deemed

equivalent by the Board to the AHA or ARC and specify the required elements of BLS courses.

3. Amendments to Section 1017

Existing law requires licensees to complete mandatory courses in infection control, the Dental Practice Act, and BLS to renew their license or permit. Existing law also specifies the coursework oral conscious sedation permitholders must complete every two years.

This proposal would amend section 1017 to: (1) provide only dentists are required to complete two units of CE on the responsibilities and requirements of prescribing Schedule II opioids; (2) eliminate obsolete provisions regarding oral conscious sedation permits for minors; (3) allow licensees who provide direct patient care as unpaid volunteers at free public health care events or clinics to obtain CE credit and prescribe how it will be calculated; (4) prescribe CE requirements for retired dentists in only uncompensated practice; and (5) make grammatical, syntax and other technical, nonsubstantive clarifying amendments.

ANTICIPATED BENEFITS OF THE REGULATIONS

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.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, the Board conducted a search of any similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None. The regulations help to provide additional guidance related to CE coursework requirements and do not result in a fiscal impact to the state in the form of federal funding or any cost or savings to any state agency. There are no additional workload or costs to the Board.

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 Require Reimbursement: None.

Fiscal Impact on Individuals

The proposed regulation would not have a significant effect on individuals. The proposed regulation does not add more required CE units, but only adds a requirement for dentist licensees to take two units minimum of CE credit related to opioids out of the required minimum of 50 units. If licensees decide to take more CE units to compensate, then there would

be an added fiscal impact on the licensees. However, licensees will not be required to pay more to meet the new requirement.

The provisions related to BLS course providers and approved courses will not have a significant fiscal impact on dentists or dental auxiliaries seeking licensure or renewal as it does not increase the requirements for these activities. While the proposed text includes additional required course material it does not increase the overall number of hours of courses which are required.

The proposed regulations will not have a significant fiscal impact on general anesthesia or moderate sedation permit holders seeking renewal as the documentation of cases completed is minimal and would be completed by the permit holder during normal practice.

Business Impact:

The Board has made the initial determination 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 initial determination is based on the following facts.

The amendments proposed by the Board would only require a minimum of two units of CE credits for prescriptions of Schedule II opioids for dentist licensees. There would be costs associated for licensees to take the Board-approved courses on Schedule II opioids. However, the overall number of courses required for renewal 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 cost 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.

The Board does not maintain data relating to the number or percentage of licensees who own a business. Therefore, the number or percentage of businesses that may be impacted cannot be predicted.

Cost Impact on Representative Private Person or Business:

This regulatory proposal would only require a minimum of two units of CE credits for prescriptions of Schedule II opioids for dentist licensees. 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. 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. However, CE providers are not required to offer the Schedule II opioid course.

The addition of approved providers accepted for the BLS course would allow for additional providers who were not previously accepted to offer the BLS course and the provider would not incur additional cost. 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.

The Board does not maintain data relating to the number or percentage of licensees who own a business. Therefore, the number or percentage of businesses that may be impacted cannot be predicted.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

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.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has made the initial determination that this regulatory proposal will not have a significant impact on the creation of jobs or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because the proposed regulations will increase the list of approved providers the Board will accept for dentists and dental auxiliaries who wish to obtain an initial license or renew their license, as well as provide specificity regarding instruction for the BLS course and certification. These providers are already in existence however, and the Board does not anticipate that new providers will leave or enter the market solely as a result of this rulemaking.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to health and welfare of California residents:

This proposal assists the Board in fulfilling its highest priority: protection of the public when exercising its licensing, regulatory, and disciplinary functions. These proposed regulatory changes are authorized by statute and would benefit the public. This proposed regulatory change allows for licensees of the Board to adequately address the public health issue of opioid misuse and overdoses.

This proposal will continue to ensure that licensees and applicants are competent in basic life saving techniques and can protect patients under their care.

This regulatory proposal does not affect worker safety or the state's environment because the proposal pertains to regulations regarding courses for CE.

CONSIDERATION OF ALTERNATIVES

The Board 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 Board 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, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing, if held, or prior to the hearing upon request from the Dental Board of California at 2005 Evergreen Street, Suite 1550, Sacramento, California 95815 or by accessing the Board's website at <http://www.dbc.ca.gov/laws/regs/index.shtml>.

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: Wilbert Rumbaoa, Legislative
& Regulatory Analyst
Dental Board of California
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The backup contact person is:

Name: Jessica Olney, Staff Services
Manager I
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2005 Evergreen Street,
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Sacramento, CA 95815
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Fax Number: (916) 263-2140
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AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 1905 and 1906, and to implement, interpret, or make specific BPC section 1926.01, the Board is considering changes to Division 11 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

WEBSITE ACCESS

Materials regarding this proposal can be found at the Board's Website at <http://www.dbc.ca.gov/lawsregs/index.shtml>

TITLE 16. DENTAL HYGIENE BOARD

REGISTERED DENTAL HYGIENISTS IN ALTERNATIVE PRACTICE, PERFORMANCE OF SOFT TISSUE CURETTAGE AND ADMINISTRATION OF LOCAL ANESTHESIA, SECTION 1118

NOTICE IS HEREBY GIVEN that the Dental Hygiene Board of California (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. 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 Board at its office **by Monday, December 27, 2021.**

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice or may modify the proposed regulations 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 the 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.

BPC sections 1905 and 1906 authorize the Board to adopt, amend, and revoke regulations to implement the statutory requirements of Article 9 of Chapter 4, BPC sections 1900 through 1967.4, regarding dental hygienists. The Board, a constituent agency within the Department of Consumer Affairs (DCA), regulates registered dental hygienists, registered dental hygienists in alternative practice (RDHAP), and registered dental hygienists in extended functions (RDEF) (collectively RDHs). The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The Board's core functions are issuing licenses to qualified applicants, investigating consumer complaints filed against licensees, disciplining licensees for sustained violations of the BPC and Title 16 of the CCR, regulating and approving RDH educational programs, and monitoring licensees placed on disciplinary probation by the Board.

This proposal will adopt Title 16, section 1118 to set forth the requirements applicable to RDHAPs who perform soft tissue curettage (STC) and administer local anesthesia (LA) in the defined settings of BPC section 1926.01.

• Add Section 1118 to Title 16 of the California Code of Regulations.

Senate Bill (SB) 653 (Chapter 130, Statutes of 2020) enacted BPC section 1926.01, which permits an RDHAP to perform the duties authorized by BPC section 1909(a) (performance of STC) and (b) (administration of LA) with documented consultation with a collaborating dentist in specific settings. The Board proposes to implement BPC section 1926.01 by establishing the rules governing RDHAPs who perform STC and administer LA in the settings set forth in BPC section 1926.01(a).

This proposal will adopt Title 16, section 1118 to establish the requirements applicable to RDHAPs who perform STC and administer LA in specific settings. These requirements will include: (1) documenting consultations with California licensed dentists to authorize the use of STC or LA for each patient to be treated by the RDHAP in STC or LA; (2) requiring the physical presence on the premises of one additional

individual trained in basic life support and qualified to administer cardiopulmonary resuscitation during an emergency when STC or LA administration will take place; and (3) requiring access to portable oxygen administration equipment to assist with administration of basic life support.

Anticipated Benefit(s) of the Proposed Amended Regulation:

The anticipated benefits of this proposal are:

- First, the requirements ensure RDHAPs have consulted with a California licensed dentist to ensure the acceptability of performing STC or administering LA to the patient during their care. This will enhance patient safety and ensure the appropriateness of care for RDHAPs' patients.
- Second, requiring the physical presence of one additional individual trained in basic life support and qualified to administer cardiopulmonary resuscitation during an emergency when STC or LA administration will take place ensures that should an emergency arise, the patient will be treated and monitored during the crisis while the additional individual aids in treatment and can access emergency medical services (EMS) (e.g., calling 911 to request an ambulance and advanced life-support personnel). This will enhance patient safety and increases the patient's chance of survival should a life-threatening emergency occur.
- Third, requiring access to portable oxygen administration equipment during STC or LA administration will assist with administration of basic life support. This will enhance patient safety and increases the patient's chance of survival should a life-threatening emergency occur.

Determination of Inconsistency and Incompatibility with Existing State Regulations:

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING THE
PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None. The proposed regulations do not result in additional workload or costs to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to any Local Agency or School District for which Government Code Sections 17500 through 17630 Require Reimbursement: None.

Business Impact:

The Board 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. This initial determination is based on the following facts:

The proposed regulation would simply define provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

Cost Impacts on a Representative Private Person or Businesses:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Effect on Housing Costs: None.

Business Reporting Requirement:

The regulatory action does not require businesses to file a report with the Board. The change in regulatory language will only define provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

Results of the Economic Impact Analysis/Assessment

Impact on Jobs/Businesses: The Board has determined that this regulatory action will not create or eliminate jobs, will not create new business or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California as the regulation would define provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

Benefits of the Proposed Action: This regulatory proposal benefits the health and welfare of California residents as the regulation would establish RDHAP reporting requirements: (1) to ensure RDHAPs consult with a California licensed dentist to ensure the acceptability of performing STC or administering LA to the patient during their care, thereby increasing safety and ensuring appropriateness of care for the patients of RDHAPs; (2) to require the physical presence of one additional individual trained in basic life support and qualified to administer cardiopulmonary resuscitation during an emergency, thereby enhancing patient safety and increasing the patient's chance of survival should a life-threatening emergency occur; and

3) to require access to portable oxygen administration equipment which will assist with administration of basic life support, thereby enhancing patient safety and increasing the patient's chance of survival should a life-threatening emergency occur.

This regulatory proposal does not affect worker safety because it does not involve worker safety, and does not affect the State's environment because it does not involve environmental issues.

Effect on Small Business: The Board has determined that this regulatory action would not affect small businesses because the proposed language in the regulation would only define provisions by which RDHAPs may perform STC and administer LA in the defined settings of BPC section 1926.01.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered 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 or would be as effective and less burdensome to affected private persons than the proposed regulatory action or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present statements or arguments in writing relevant to the above determinations during the written comment period.

CONTACT PERSONS

Inquiries or comments concerning the proposed regulatory action may be directed to the following designated agency contact persons:

Dental Hygiene Board of California
Attention: Adina A. Pineschi-Petty, DDS
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Phone: (916) 576-5002
Email: adina.petty@dca.ca.gov

Backup Contact Person:

Attention: Anthony Lum
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Phone: (916) 576-5004
Email: anthony.lum@dca.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Dr. Pineschi-Petty at the above address. In

her absence, please contact the designated back-up contact person.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the amendments as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that was noticed to the public. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for review and or written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text by contacting Dr. Pineschi-Petty at the address above.

AVAILABILITY OF FINAL STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting Dr. Pineschi-Petty at the address above.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to Dr. Pineschi-Petty at the address above or by accessing the website listed below.

TEXT OF THE PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the ISOR, and all of the information on which the proposal is based, may be obtained upon request from the Board at 2005 Evergreen Street, Suite 1350, Sacramento, California 95815, or by accessing the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Actions, the Initial Statement of Reasons, Forms Incorporated by Reference, and the text of the regulations can be accessed through the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

TITLE 16. DENTAL HYGIENE BOARD

REQUIRED CURRICULUM, SECTION 1105.2

NOTICE IS HEREBY GIVEN that the Dental Hygiene Board of California (Board) is proposing to take the rulemaking action described below under the heading Informative Digest/Policy Statement Overview. Any person interested may present statements or arguments relevant to the action proposed in writing. 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 Board at its office **by Monday, December 27, 2021**.

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations 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 the 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 Business and Professions Code (BPC) sections 1905, 1906, 1909, 1914, 1941 and 1950.5, and to implement, interpret or make specific BPC sections 1905, 1912, 1914, 1941, and 1950.5, and Health and Safety Code section 106975, the Board is considering changes to Division 11 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

BPC sections 1905 and 1906 authorize the Board to adopt, amend, and revoke regulations to implement the statutory requirements of Article 9 of Chapter 4, BPC sections 1900 through 1967.4, regarding dental hygienists. The Board, a constituent agency within the Department of Consumer Affairs (DCA), regulates registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions (collectively RDHs). The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The Board's core functions are issuing licenses to qualified applicants, investigating consumer complaints filed against licensees, disciplining licensees for sustained violations of the BPC and Title 16 of the CCR, regulating and approving RDH educational programs, and monitoring licensees placed on disciplinary probation by the Board.

This proposal would amend the language and requirements for Required Curriculum for the education of RDHs. The proposal is as follows:

• **Amend Section 1105.2 to Title 16 of the CCR.**

Existing law sets forth the criteria for the Board's approval, and continuation of approval, for RDH educational programs. Section 1105.2 prescribes the required curriculum that an RDH educational program shall meet for approval, and continuation of approval, by the Board.

The Board proposes to amend section 1105.2 to:

- (1) Update the regulation to reflect current educational terminology;
- (2) Provide a process by which the Board will review out-of-state education in soft tissue curettage, local anesthesia, and nitrous oxide-oxygen analgesia (SLN) to ensure applicants educated out of state meet the educational requirements of 16 CCR 1107. The proposal will incorporate by reference an "Application for Approval of an Out-of-State Dental Hygiene Educational Program Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN)" DHBC SLN-04 (New 10/2021), and require approved courses to submit a biennial report "Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN) Course Provider Biennial Report" (DHBC SLN-03, Rev 03/2021) which is incorporated by reference at section 1107(a)(5);
- (3) Provide a process by which an out-of-state applicant for licensure may seek certification from the Board that they have met SLN requirements. The proposal will incorporate by reference

an “Application for Certification of Out-of-State Dental Hygiene Education in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide–Oxygen Analgesia (SLN)” DHBC SLN–05 (New 10/2021) and a “Certification of Completion of SLN Course Requirements” DHBC SLN–06 (New 10/2021);

- (4) Adopt provisions governing radiation safety and radiography techniques instruction; and
- (5) Update the regulation to reflect the amended name of the Board. Effective January 1, 2019, Senate Bill 1482 (Hill, Chapter 858, Statutes of 2018) (SB 1482) changed the name of the Dental Hygiene Committee of California (DHCC) to the Dental Hygiene Board of California (DHBC).

Anticipated Benefits of the Proposed Amended Regulation:

The anticipated benefits of the proposed amendments to section 1105.2 are: (1) clarifying outdated terms in educational terminology; (2) removing barriers to out-of-state dental hygiene programs by providing a more specific means for obtaining the Board’s approval of the program; (3) removing barriers for out-of-state applicants by providing a process by which the Board can approve an applicant’s education in SLN and (4) enhancing public safety by incorporating currently accepted radiation safety guidelines and techniques and defining requirements for courses in radiation safety and radiography techniques.

Determination of Inconsistency and Incompatibility with Existing State Regulations:

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on this topic and has concluded that the proposed regulatory action is not inconsistent or incompatible with existing state regulations.

FORMS INCORPORATED BY REFERENCE

- SLN–04 — Application for Approval of an Out-of-State Dental Hygiene Educational Program Course in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide–Oxygen Analgesia (SLN) (New 10/2021)
- SLN–05 — Application for Certification of Out-of-State Dental Hygiene Education in Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide–Oxygen Analgesia (SLN) (New 10/2021)
- SLN–06 — Certification of Competency in Performance of Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide–Oxygen Analgesia (SLN) (New 10/2021)

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

The Board has made the following initial determinations:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Board anticipates up to five educational institutions will initially seek program approval. These out-of-state schools are located adjacent to California (Nevada and Arizona). No other schools are anticipated to apply for approval at this time.

The Board will require approximately five hours of workload (Associate Governmental Program Analyst at \$107 per hour) to receive, process, review, and approve each institution’s application, which results in estimated workload costs of \$535 per program or \$2,675 total (one-time) for five schools.

The Board estimates approximately 45 out-of-state students (half of 90 applicants) will seek certification per year. It takes the Board approximately five workload hours to complete the application approval process, which results in estimated workload costs of \$535 per student or total costs of \$24,075 per year and up to \$240,750 over a ten-year period.

The Board will also incur one-time information technology estimated costs of \$1,350 to update revenue and accounting software codes.

Total costs are estimated to be \$26,750 in year one of implementation and \$24,075 annually thereafter and up to \$243,875 over a ten-year period.

The Board estimates one-time revenues of \$2,500 to approve five out-of-state institutions and revenues of \$22,500 per year ongoing to approve 45 students per year, which results in revenues of \$25,000 in year one of implementation and \$22,500 ongoing thereafter and up to \$227,500 over a ten-year period.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to any Local Agency or School District for which Government Code Sections 17500 through 17630 Require Reimbursement: None.

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have a minor statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

There is a minor business impact because the proposed amendments to the regulation set forth

a mechanism to review out-of-state education in SLN submitted to the Board to ensure applicants educated out-of-state in SLN meet Board educational requirements.

Currently, California-based SLN providers train and certify all out-of-state RDH applicants to meet Board standards. To the extent out-of-state applicants (45) will no longer be required to complete the additional SNL training and pay estimated tuition fees of \$5,000 each, these SNL providers would collect approximately \$225,000 less revenues per year.

Cost Impacts on a Representative Private Person or Businesses:

The proposed regulations may result in economic impacts to California and other states as follows:

California Impact: The Board estimates 45 out-of-state applicants will be certified by the Board per year. These individuals will not have to complete additional SNL training and pay estimated tuition fees of \$5,000 each, which would result in reduced revenues of approximately \$225,000 per year and up to \$2.25 million over a ten-year period.

Out-of-State (Individuals): Out-of-state individuals applying for certification will be required to pay a \$500 one-time fee to the Board to review and ensure the applicant's out-of-state educational experience in SLN meets Board standards. The Board estimates up to 45 individuals will apply per year and pay \$500 each, which results annual revenues of \$22,500 and up to \$225,000 over a ten-year period.

Additionally, these out-of-state applicants (45) will save approximately \$5,000 each for not having to pay additional SNL training fees, which results in cost savings of \$225,000 per year and up to \$2.25 million over a ten-year period.

Out-of-State (Business): The Board anticipates five out-of-state RDH educational institutions will initially apply for approval and pay \$500 to the Board, which would result in one-time revenues of \$2,500.

Significant Effect on Housing Costs: None.

Business Reporting Requirement

An approved out-of-state SLN course provider is required to report to the Board any changes in content, facilities, or staff applicable to SLN the course on a biennial basis. Course providers will not incur any additional costs to report these changes to the Board. It is necessary for the health, safety, and welfare of the people of the state that the regulation apply to business. It is necessary for the health, safety, and welfare of the people of the state that the regulation apply to businesses.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Impact on Jobs/Businesses:

Creation or elimination of jobs within California

The Board has determined that this regulatory action will create jobs by allowing dental hygienists educated out-of-state to be able to apply for licensure and will not eliminate jobs within California.

However, there may be a slight reduction in RDH educational jobs. The proposed amendments to the regulation set forth a mechanism to review out-of-state education in SLN submitted to the Board to ensure applicants educated outside the state in SLN meet Board educational requirements. Previously, the Board relied on three California SLN providers to train and certify all out-of-state RDH licensure applicants in SLN. With the proposed amendments, the California SLN providers may see a reduction in need for their services. Therefore, there may be a reduction in employment of instructional staff.

Creation of new businesses or elimination of existing businesses within of California

It would not create or eliminate businesses in California. However, it would affect businesses because the proposed amendments to the regulation set forth a mechanism to review out-of-state education in SLN submitted to the Board to ensure applicants educated out-of-state in SLN meets Board educational requirements. Previously, the Board relied on three California SLN providers to train and certify all out-of-state RDH licensure applicants in SLN. As the Board receives approximately 90 out-of-state applications per year, with the proposed amendments, the Board estimates that approximately 45 applications (half of the applicants) may request review of the applicant's SLN education. Therefore, California SLN providers may see a reduction in need for their services.

Expansion of businesses currently doing business within the state

It would not create an expansion of businesses currently doing business within the state because the proposed amendments to the regulation set forth a mechanism to review out-of-state education in SLN submitted to the Board to ensure applicants educated out-of-state in SLN meets Board educational requirements. Therefore, California SLN providers may see a reduction in need for their services.

Benefits of the Proposed Action: This regulatory proposal would positively impact the health and welfare of California residents as the amendments would clarify language with regard to educational requirements on radiographic technique in the regulation and allow for more uniform training of

RDHs to increase safety of x-ray usage. Additionally, the amendments to the regulation would ensure properly trained individuals oversee infection control processes to ensure patients of the dental hygiene educational programs (DHEPs) are treated with properly processed dental instruments to decrease the possibility of exposure to infection.

This regulatory proposal would positively affect worker safety as the amendments to the regulation would clarify language with regard to educational requirements on radiographic technique within the regulation and allow for more uniform training of RDHs to increase safety of x-ray usage. Additionally, the amendments to the regulation would ensure properly trained individuals oversee infection control processes to ensure safe usage of infection control equipment by students of the DHEPs.

This regulatory proposal would not affect the state's environment because it does not involve environmental issues.

Effect on Small Business: The Board has determined that this regulatory action would affect small businesses because the proposed amendments to the regulation set forth a mechanism to review out-of-state education in SLN submitted to the Board to ensure applicants educated out-of-state in SLN meets Board educational requirements. Previously, the Board relied on three California SLN providers to train and certify all out-of-state RDH licensure applicants in SLN. As the Board receives approximately 90 out-of-state applications per year, with the proposed amendments, the Board estimates that approximately 45 applications (half of the applications) may request review of the applicant's SLN education. Therefore, California SLN providers may see a reduction in need for their services.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered 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 proposed regulatory action, or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of the law.

Interested persons are invited to present statements or arguments in writing relevant to the above determinations during the written comment period.

CONTACT PERSONS

Inquiries or comments concerning the proposed regulatory action may be directed to the following designated agency contact persons:

Dental Hygiene Board of California
Attention: Adina A. Pineschi-Petty, DDS
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Phone: 916-576-5002
Email: adina.petty@dca.ca.gov

Backup Contact Person:

Attention: Anthony Lum
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Phone: 916-576-5004
Email: anthony.lum@dca.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Dr. Pineschi-Petty at the above address. In her absence, please contact the designated back-up contact person.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the amendments as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that was noticed to the public. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for review and or written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text by contacting Dr. Pineschi-Petty at the address above.

AVAILABILITY OF FINAL STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting Dr. Pineschi-Petty at the address above.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to Dr. Pineschi-Petty at the address above or by accessing the website listed below.

TEXT OF THE PROPOSAL

Copies of the exact language of the proposed regulations, documents incorporated by reference, ISOR, and all of the information on which the proposal is based, may be obtained at a hearing, should one be requested, or upon request from the Board at 2005 Evergreen Street, Suite 1350, Sacramento, California 95815, or by accessing the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Actions the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board's website at <https://www.dhbc.ca.gov/lawsregs/index.shtml>.

TITLE 16. MEDICAL BOARD

NOTICE TO CONSUMERS AMEND SECTIONS 1355.4 AND 1379.58; ADOPT SECTIONS 1378.5 AND 1379.4

NOTICE IS HEREBY GIVEN that the Medical Board of California (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under Contact Person in this notice.

COMMENT PERIOD

Any person interested may present statements or arguments relevant to the action proposed in writing. 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 Board at its office no later than Monday, December 27, 2021**, or at the hearing, if applicable.

AVAILABILITY OF MODIFICATIONS

The Board may, after considering all timely and relevant comments, adopt the proposed regulations substantially as described in this notice, or may modify the proposed regulations 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 the 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 2018 and 2026 of the Business and Professions Code (BPC or Code), and to implement, interpret or make specific Sections 138, 2026 and 2508 of said Code, the Board is considering changes to Title 16, Division 13, California Code of Regulations (CCR) sections 1355.4 and 1379.58, and is considering adopting sections 1378.5 and 1379.4.

INFORMATIVE DIGEST

Senate Bill (SB) 798 (Hill, Chapter 775, Statutes of 2017) added BPC section 2026 to the Medical Practice Act (Act—BPC §§ 2000 et seq.) in the Code, to become effective January 1, 2018. BPC section 2026 required the Board to initiate rulemaking to require “licentiates and registrants to provide notice to their clients or patients that the practitioner is licensed or registered in this state by the board, that the practitioner’s license can be checked, and that complaints against the practitioner can be made through the board’s Internet Web site or by contacting the board.”

This proposed rulemaking implements BPC section 2026 by mandating the required notification to consumers by licensees and registrants of the Board, including physicians and surgeons, research psychoanalysts, licensed midwives, and polysomnographic trainees, technicians, and technologists.

On July 26, 2018, the Board reviewed and approved proposed language for this rulemaking, and authorized staff to proceed with the rulemaking process as follows:

Amend 16 CCR section 1355.4

Existing law under 16 CCR section 1355.4 requires physicians and surgeons to provide notice to their patients that medical doctors are licensed and regulated by the Board. The Board's toll-free phone number and website are also required to be included in the notice.

Further, existing law under section 1355.4 provides physicians three options for complying with the notice requirement: 1) they can prominently post the notice in an area visible to patients in at least 48-point type Arial font; 2) they can include the notice in a written statement to be signed and dated by the patient or the patient's representative and retained in that patient's medical records; or 3) they can provide the notice on a document that is given to the patient or the patient's representative where the notice is placed immediately above the signature line.

This rulemaking proposes to amend 16 CCR section 1355.4 subdivision (a) to add the additional information to the notice to consumer required by BPC section 2026, namely that a medical doctor's license can be checked, and that complaints against a medical doctor can be made through the Board's website or by contacting the Board. The notice will also be amended to identify it as a notice to patients.

Further, this rulemaking proposes to amend section 1355.4 subdivision (b)(1) to adjust the font size from 48- to 38-point type in Arial font to account for the additional information required to be included on the posted notice.

Additionally, this rulemaking proposes to amend section 1355.4 subdivision (b)(2) to require physicians using this method to comply with the notice requirement to include the notice and an acknowledgment of receipt and understanding in a written statement in the patient's or patient's representative's primary language.

This rulemaking also proposes to amend section 1355.4 subdivision (b)(3) to require the notice to be provided in the patient's or patient's representative's primary language.

Finally, this proposed rulemaking would add subdivision (c) to section 1355.4 which would provide that if the licensee chooses to post a sign to comply with the notice requirement, then they must also provide the notice as described in subdivisions (b)(2) or (b)(3) of this section if the sign is not posted in the patient's or patient's representative's primary language.

Adopt 16 CCR section 1378.5

Existing regulations relating to research psychoanalysts do not provide for a notice to their patients. Accordingly, in order to implement BPC

section 2026, the Board proposes to add Section 1378.5 to Article 3, Chapter 3, Division 13 of Title 16 of the CCR.

Under the proposed new section, 16 CCR section 1378.5 subdivision (a), research psychoanalysts will be required to provide notice to each patient of the fact that the registrant is registered and regulated by the Board, the registration can be checked and complaints against the registrant can be made through the Board's website or by contacting the Board. This section provides the details that must be included in the notice, including the Board's web address, email address, and phone number.

Under 16 CCR section 1378.5 subdivision (b), the proposed regulation provides three ways in which the registrant may comply with this notice requirement: (1) prominently posting the notice in an area visible to patients in at least 38-point type in Arial font; (2) including the notice and an acknowledgment of receipt and understanding in a written statement in the patient's or patient's representative's primary language signed and dated by the patient or patient's representative and retained in the patient's medical records; or (3) including the notice in the patient's or patient's representative's primary language in a statement on letterhead, patient instructions, or other document given to a patient or patient's representative, where the notice is placed immediately above the signature line for the patient in at least 14-point type.

Finally, under 16 CCR section 1378.5 subdivision (c), this proposed rulemaking would provide that if the registrant chooses to post a sign to comply with the notice requirement, then they must also provide the notice as described in subdivisions (b)(2) or (b)(3) of this section if the sign is not posted in the patient's or patient's representative's primary language.

Adopt 16 CCR section 1379.4

Existing law under BPC section 2508 subdivision (a)(11), mandates licensed midwives to include in their required oral and written disclosures to their clients information about the availability of the text of laws regulating licensed midwifery practices on the Board's internet web site and the procedure for reporting complaints to the Board. There currently are no regulations for licensed midwives requiring them to provide notice to their clients consistent with BPC section 2026.

Accordingly, in order to implement BPC section 2026, the Board proposes to add Section 1379.4 to Article 1, Chapter 4, Division 13 of Title 16 of the CCR.

Under the proposed new section, 16 CCR section 1379.4 subdivision (a), licensed midwives will be required to provide notice to each client of the fact that the licensee is licensed and regulated by the Board, the license can be checked and complaints against the

licensee can be made through the Board's website or by contacting the Board. This section provides the details that must be included in the notice, including the Board's web address, email address, and phone number.

Under 16 CCR section 1379.4 subdivision (b), the proposed regulation provides three ways in which the licensee may comply with this notice requirement: (1) prominently posting the notice in an area visible to clients in at least 38-point type in Arial font; (2) including the notice and an acknowledgment of receipt and understanding in a written statement in the client's or client's representative's primary language signed and dated by the client or client's representative and retained in the client's medical records; or (3) including the notice in the client's or client's representative's primary language in a statement on letterhead, client instructions, or other document given to a client or client's representative, where the notice is placed immediately above the signature line for the client in at least 14-point type.

Finally, under 16 CCR section 1379.4 subdivision (c), this proposed rulemaking would provide that if the licensee chooses to post a sign to comply with the notice requirement, then they must also provide the notice as described in subdivisions (b)(2) or (b)(3) of this section if the sign is not posted in the client's or client's representative's primary language.

Amend 16 CCR section 1379.58

Existing law under 16 CCR section 1379.58 requires polysomnographic registrants and their supervising physicians to provide notice to their patients that medical doctors and polysomnographic technologists, technicians, and trainees are licensed and regulated by the Board. The Board's toll-free phone number and website are also required to be included in the notice.

Further, existing law provides polysomnographic registrants and their supervising physicians three options for complying with the notice requirement: (1) they can prominently post the notice in an area visible to patients in 48-point type in Arial font; (2) they can include the notice in a written statement to be signed and dated by the patient or the patient's representative and retained in that patient's medical records; or (3) they can provide the notice on a document that is given to the patient or the patient's representative where the notice is placed immediately above the signature line.

This rulemaking proposes to amend 16 CCR section 1379.58 subdivision (a) to add the additional information required by BPC section 2026 to the notice to consumer, namely that the provider's license or registration can be checked, and that complaints against a medical doctor or polysomnographic registrant can be made through the Board's website or by contacting the Board. The notice will also be amended to identify it as a notice to patients.

Further, this rulemaking proposes to amend 16 CCR section 1379.58 subdivision (b)(1) to adjust the font size from 48 to 38-point type in Arial font to account for the additional information required on the posted notice.

Additionally, this rulemaking proposes to amend 16 CCR section 1379.58 subdivision (b)(2) to require providers using this method to comply with the notice requirement to include the notice and an acknowledgement of receipt and understanding in a written statement in the patient's or patient's representative's primary language.

This rulemaking also proposes to amend section 1379.58 subdivision (b)(3) to require the notice to be provided in the patient's or patient's representative's primary language.

Finally, this proposed rulemaking would add subdivision (c) to 16 CCR section 1379.58 which would provide that if the provider chooses to post a sign to comply with the notice requirement, then they must also provide the notice as described in subdivisions (b)(2) or (b)(3) of this section if the sign is not posted in the patient's or patient's representative's primary language.

**POLICY STATEMENT OVERVIEW/
ANTICIPATED BENEFITS OF PROPOSAL**

Public protection is the highest priority of the Board whenever it exercises its regulatory authority. See BPC section 2001.1. These proposed amendments and additions to the Board's regulations further its consumer protection mission.

Adopting the proposed amendments to 16 CCR sections 1355.4 and 1379.58 and the proposed new sections, 16 CCR sections 1378.5 and 1379.4, will implement BPC section 2026 by requiring physicians, research psychoanalysts, licensed midwives, and polysomnographic registrants to provide notice to their patients or clients regarding the Board's oversight function. Consequently, the providers will be helping to educate consumers about the Board and its role in consumer protection. The notice will also provide three methods to contact the Board to make it as easy as possible for consumers to check up on their provider's license or registration. Additionally, these regulations will require the Board's licensees and registrants to provide the notice in the patient's or patient's representative's primary language to ensure the information is conveyed effectively.

The Board anticipates that consumers will be better informed about the Board's role and providers will be encouraged to stay current and compliant with the laws and regulations impacting their practice.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, the Board has conducted a search for any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The proposed regulations do not result in any fiscal impact to the state, including costs or savings to state agencies or costs or savings in federal funding to the State.

The Board plans on posting the revised notification text, including various non-English languages, on its website, to inform licensees of the new requirements. However, these actions are not anticipated to increase workload or costs to the Board because any information technology website modifications and/or translation services can be made during routine updates, which would not increase costs to the state.

Additionally, licensees are currently required to provide notification, as specified, to patients or otherwise have the required information currently available to patients. As a result, the proposed regulations are anticipated to increase the Board's inspection or enforcement workload or costs.

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 Require Reimbursement: None.

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following facts. The Board anticipates the vast majority of licensees and registrants would implement this regulation via the easiest means of posting a sign in a visible place, such as a reception/check-in area or waiting room. Licensed midwives, however, who often see clients in the clients' homes, would likely implement this regulation by using a portable sign.

The Board will make signage available on its website for download in the 12 most common non-English languages that are spoken in California per the California Census 2020 Language and Communication Access plan prepared by California

Complete Count — Census 2020, May 17, 2019. These are Spanish, Chinese (including Mandarin and Cantonese) Vietnamese, Tagalog (including Filipino), Korean, Armenian, Farsi, Arabic, Russian, Japanese, Punjabi, Khmer.

Licensees and registrants will be able to complete the translation and post the notification within normal business operations at no additional costs.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Board anticipates the vast majority of licensees and registrants would implement this regulation via the easiest means of posting a sign in a visible place, such as a reception/check-in area or waiting room. Licensed midwives could use a portable sign when they are seeing a client at the client's home.

The Board will make signage available on its website for download in English and in the 12 most common non-English languages that are spoken in California per the California Census 2020 Language and Communication Access plan prepared by California Complete Count — Census 2020, May 17, 2019.

While the Board will provide translations for the 12 most common non-English languages spoken in California, for purposes of this rulemaking, it assumes the licensees and registrants will be required to obtain one additional translation. It is also assumed licensees and registrants will be able to complete the translation and post the notification within normal business operations at no additional costs.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed rulemaking would have a minor impact on small businesses since many licensees and registrants work in a small business practice setting.

This proposed rulemaking would require licensees and registrants to determine which of the three notification options provided would be most appropriate for their practices, and then (1) prominently post a sign in a conspicuous location in 38-point type in Arial font; (2) put the required language on a piece of paper to be signed by each patient or patient's representative and retained in the patient's file; or (3) include the language in another document just above the patient's or patient's representative's signature line.

Licensees and registrants will have to ensure the notice is provided in the primary language of the patient or the patient's representative. While the Board will provide translations for the 12 most common non-

English languages spoken in California, it assumes the licensees and registrants will be able to make modifications to existing notifications to comply with the regulations as part of normal business operations at no additional costs.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not create or eliminate jobs within California, create new businesses or eliminate existing businesses and will not affect the expansion of businesses currently doing business within the State of California. This determination has been made based upon the fact that the proposed amendments and additions will require licensees and registrants to print a one-page notice to consumers and post it in their place of business or provide it in another written format if desired, or when required, which can be completed within normal business operations at no additional costs.

Benefits of Regulation:

The benefit of this proposed rulemaking is that its adoption will implement the provisions of Business and Professions Code section 2026 and will better inform consumers about the Board's role and its oversight function. This rulemaking furthers the Board's primary mission of consumer protection.

Benefits to the health and welfare of California Residents: This proposed rulemaking will benefit the health and welfare of California residents because they will be better informed about the Board's role and its oversight function.

Benefits to worker safety, and the state's environment: None.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered 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 or would be as effective as and less burdensome to affected private persons than the proposed action 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 Board has prepared an initial statement of 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 any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the person designated in the Notice under Contact Person, below, or by accessing the Board's website at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

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: Alexandria Schembra
Address: Medical Board of California
2005 Evergreen Street,
Suite 1200
Sacramento, CA 95815
Telephone Number: (916) 263-2389
Fax Number: (916) 263-2387
E-Mail Address: regulations@mbc.ca.gov

The backup contact person is:

Name: Kerrie Webb
Address: Medical Board of California
2005 Evergreen Street,
Suite 1200
Sacramento, CA 95815
Telephone Number: (916) 263-2389
Fax Number: (916) 263-2387
E-Mail Address: regulations@mbc.ca.gov

Website Access: Materials regarding this proposal can be found at http://www.mbc.ca.gov/About_Us/Laws/Proposed_Regulations.

TITLE 16. PROFESSIONAL FIDUCIARIES BUREAU

NOTICE OF PROPOSED REGULATIONS CONCERNING INACTIVE OR RETIRED LICENSE STATUS; FEES NON-REFUNDABLE

NOTICE IS HEREBY GIVEN that the Professional Fiduciaries Bureau (Bureau) of the Department of Consumer Affairs 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 via a WebEx event as follows:

Virtual Hearing via WebEx
Date: Tuesday, December 28, 2021
Time: 10:00 a.m.

To access the WebEx event, attendees will need to click the following link and enter their first name, last name, email, and the event password listed below:
<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=mceb9601cbe1ac1ec58432d921b1dca5c>

If joining using the link above
Event number: 2483 049 8249
Event password: PFB12282021

If joining by phone
+1-415-655-0001 U.S. Toll
Access code: 248 304 98249
Passcode: 73212282
During hearing, use *3 to raise/lower hand

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 Bureau at its office not later than **Monday, December 27, 2021**, or must be received by the Bureau at the hearing.

The Bureau, upon its own motion or at the request 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 Business and Professions Code (BPC) sections 462, 464, 6517, 6542, and 6592 and to interpret, implement, and make specific sections 462, 464, 6531, 6541, 6542, and 6592, the Bureau, is considering changes to Division 41 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST

A. *Informative Digest*

- Adopt Title 16 CCR sections 4563, 4564, 4565, 4566, 4567, 4568, 4569, 4570, 4571, 4572, 4573, 4574, 4575, 4576, and 4581; amend 16 CCR sections 4560, 4562, and 4580.

The Professional Fiduciaries Bureau (Bureau) was created by legislation enacted in 2007 (Senate Bill (SB) 1550, Figueroa, Chapter 491, Statutes of 2006) to license and regulate non-family member professional fiduciaries, including conservators, guardians, trustees, personal representatives of a decedent's estate, and agents under durable power of attorney as defined by the Professional Fiduciaries Act (BPC section 6500 et seq.). The Bureau is under the authority of the Department of Consumer Affairs. Professional fiduciaries provide critical services to seniors, persons with disabilities, and children. They manage matters for clients including daily care, housing and medical needs, and offer financial management services ranging from basic bill paying to estate and investment management.

Existing law, BPC sections 462, 464, and 6542 respectively, authorize the Bureau to adopt regulations establishing an inactive or retired license category for persons who are not engaged in the practice of a professional fiduciary. The proposed new regulation sections establish a system to apply for, renew, and restore inactive and retired licenses. It also will define that an inactive or retired license is not allowed to perform any licensed activity. The changes and additions to regulations through this proposed rulemaking are as follows:

CCR 4560 will be updated to differentiate between renewal of an active license and other renewal types.

CCR 4562 will be updated to indicate delinquency fees and accrued and unpaid renewal fees shall not apply to a license placed in an inactive or retired status pursuant to Section 4564 or 4572.

Article 8.3 related to inactive license status will be added to Division 41 of Title 16 of the CCR, beginning with section 4563, which will establish definitions for terms used in the Article. Section

4564 will describe the effect of an inactive license status, limitations on license usage by inactive status holders, and exemption from continuing education requirements by inactive status holders.

CCR 4565 will establish eligibility requirements for licensees seeking to place their license in inactive status. CCR 4566 will outline the application process and contents for those seeking inactive status. CCR 4567 will describe the renewal requirements of inactive license status holders and grounds for the Bureau's refusal to renew inactive licenses.

CCR 4568 will describe the process for reinstatement of inactive license status to active license status, ongoing continuing education requirements for reinstated licensees, and grounds for denial of reinstatement. CCR 4469 will describe the consequences for failure to renew or reinstate an inactive license. CCR 4570 will note the Bureau's authority to discipline inactive licensees.

Article 8.5 related to retired license status will be added to Division 41 of Title 16 of the CCR, beginning with section 4571, which will establish definitions for terms used in the Article. Section 4572 will describe the effect of a retired license status, limitations on license usage by retired status holders, exemption from annual reporting requirements by retired status holders, and ongoing change in address notification requirements by retired status holders.

CCR 4573 will establish eligibility requirements for licensees seeking to place their license in retired status. CCR 4574 will outline the application process and application requirements for those seeking retired status.

CCR 4575 will describe the process for reinstatement of retired license status to active license status, ongoing continuing education requirements for reinstated licensees, and grounds for denial of reinstatement. CCR 4576 will note the Bureau's authority to discipline retired licensees.

CCR 4580 will be amended to reflect the fees related to an inactive or retired license, and will also be amended to reflect that delinquency fees shall not apply to a license placed in an inactive or retired status pursuant to Section 4564 or 4572 of this Division.

Finally, section 4581 will be added, indicating that fees are nonrefundable except as described in Section 158 of the Business and Professions Code, regardless of whether an application is withdrawn or abandoned, an applicant is found ineligible, the applicant's qualifications are found

insufficient, or the licensee stops practicing or becomes unable to practice.

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

This proposed regulation would allow professional fiduciaries who are not actively engaged in the practice of a professional fiduciary or any activity that requires him or her to be licensed by the Bureau to place their license in an inactive or retired status. The Bureau believes licensees would prefer an inactive or retired status rather than delinquent or cancelled status.

C. *Consistency and Compatibility with Existing State Regulations*

The Bureau has evaluated this regulatory proposal and it is not inconsistent or incompatible with existing state regulations.

D. *Reporting Requirements*

A licensee applying for inactive or retired status would be required to submit an update of the most recent annual statement as required in section 6561 of BPC showing their caseload is under the requirements for licensure.

If a licensee applies for restoration of his/her license, the licensee is required to submit an updated annual statement as required in section 6561 of BPC and proof of completion of continuing education as described in section 4442 of the Bureau's regulations.

The Bureau does not license businesses and the present regulation does not directly impose a reporting requirement on businesses.

INCORPORATION BY REFERENCE

N/A

ECONOMIC IMPACT ASSESSMENT

The Bureau has determined that this proposed regulatory action will not affect the creation or elimination of jobs within California, the creation of new businesses within California, the elimination of existing businesses in California and the expansion of businesses currently doing business within the state because the proposed regulation only seeks to create a new license status and does not impose or eliminate restrictions on businesses. Because this proposal only adds new license statuses, there are no direct benefits to the health and welfare of California residents, worker safety and the state's environment.

Nondiscretionary Costs/Savings to Local Agencies:
None.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies and Costs or Savings in Federal Funding to the State:

The Bureau anticipates that the proposed regulatory action will result in program expenditures of \$9,744 in 2021–22, with estimated annual workload and costs ranging from \$9,744 to \$75,192 per year. The Bureau has estimated initial and renewal license fee revenues ranging from \$12,600 to \$46,200 per year.

This proposal will result in no costs or savings in federal funding to the state.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

The Bureau has made an initial determination that this proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation only adds two optional classes of licenses and does not add or remove obstacles that would create adverse or beneficial economic impact affecting businesses.

Cost Impact on Representative Private Person or Business:

This regulation will affect licensees who choose to apply for an inactive or retired license. The cost for an inactive or retired license would be significantly less than the cost to renew an active license. The current renewal fee for an active license is \$700. The proposed one-time application fee for placement of a license in inactive status is \$350, with an inactive license renewal fee of \$350. The proposed fee to place an active license into retired status is \$350. The proposed cost for reinstatement for an inactive or retired license to active status is \$700 for the first 12 months plus a prorated amount defined in the proposed regulation to adjust the duration of the initial license period after reinstatement.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Bureau has determined that this proposed regulatory action would have no significant statewide adverse economic impact directly affecting small businesses, including the ability of California businesses to compete with businesses in other states. This regulation only gives licensees a different but optional license status that would reflect their ceasing to perform work for which an active license is required. These two new license statuses do not impose restrictions/requirements or remove restrictions/requirements on small businesses.

Benefits of Regulation:

The benefit of this regulation is that licensees would have the option to designate their license as inactive or retired instead of delinquent or cancelled. A delinquent or cancelled license status conveys a negative connotation to the public. Licensees have expressed concerns that a delinquent or cancelled license status makes it appear they have either been disciplined by the Bureau or allowed their license to lapse when they simply want to cease practicing as a professional fiduciary. In addition, this regulation will make clear that inactive or retired licensees cannot practice while on their respective license status.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency that 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 proposed action, or would be more cost-effective to affected private persons and equally in implementing the statutory policy or other provision of law. The Bureau invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

INITIAL STATEMENT OF
REASONS AND INFORMATION

The Bureau 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 regulation and of the initial statement of reasons, and all other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Professional Fiduciaries Bureau at 1625 North Market Boulevard, Suite S–209, Sacramento, CA 95834.

AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS AND
RULEMAKING FILE

All the information upon which the proposed regulation is 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: Angela Cuadra
Address: 1625 North Market
Boulevard, Suite S-209
Sacramento, CA 95834
Telephone Number: (916) 574-7498
Fax Number: (916) 574-8645
E-Mail Address: fiduciary@dca.ca.gov

The backup contact person is:

Name: Rebecca May
Address: 1625 North Market
Boulevard, Suite S-209
Sacramento, CA 95834
Telephone Number: (916) 574-7340
Fax Number: (916) 574-8645
E-Mail Address: fiduciary@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.fiduciary.ca.gov.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

DPH-20-011 LEAD DUST UPDATE

Notice is hereby given that the California Department of Public Health (Department) is proposing the regulation described below. This notice of proposed rulemaking commences a rulemaking to make the regulations permanent after considering all comments, objections, and recommendations regarding the regulation.

PUBLIC PROCEEDINGS

The Department is conducting a 45-day written public proceeding during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in the Informative Digest/Policy Statement Overview section of this notice.

To request copies of the regulatory proposal in an alternate format, please write or call: David Martin, Office of Regulations, 1415 L Street Suite 500,

Sacramento, CA 95814, at (916) 440-7673, email to david.martin@cdph.ca.gov or use the California Relay Service by dialing 711.

PUBLIC HEARING

A public hearing has not been scheduled for this rulemaking. However, the Department will conduct a public hearing if a written request for a public hearing is received from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code Section 11346.8.

WRITTEN COMMENT PERIOD

Written comments pertaining to this proposal, regardless of the method of transmittal, must be received by Office of Regulations by December 28, 2021 which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely.

Written Comments must be submitted as follows:

1. By email to: regulations@cdph.ca.gov. It is requested that email transmission of comments, particularly those with attachments, contain the regulation package identifier "DPH-20-011 Lead Dust Update" in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission to: (916) 636-6220;
3. By postal service or hand delivered to: California Department of Public Health, Office of Regulations, 1415 L Street, Suite 500, Sacramento, CA 95814.

All comments, including email or fax transmissions, should include the regulation package identifier, DPH-20-011 "Lead Dust Update", along with your name and your mailing address or email address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

AUTHORITY AND REFERENCE

Authority for the proposed regulatory change is provided in sections 105250, 124160, and 131200 of the Health and Safety Code (HSC) and section 4851 of the United States Code. This proposal implements, interprets and makes specific sections 105250, 124160 and 131051 of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

Summary of Proposal

The California Department of Public Health (Department) proposes to amend the definition of lead-contaminated dust in the California Code of Regulations, title 17 (hereafter 17 CCR), section 35035, in order to comply with the new United States Environmental Protection Agency (U.S. EPA) final ruling issued in July 2019. (84 Fed.Reg. 32648, July 9, 2019.) The final ruling changes the definition of “dust–lead hazard” from “40 µg/ft² on floors or 250 µg/ft² on interior window sills based on wipe samples” to “10 µg/ft² on floors or 100 µg/ft² on interior window sills based on wipe samples” (84 Fed.Reg. 32648, July 9, 2019). The effective date of the final ruling is January 6, 2020.

Background

The proposed regulatory change is necessary for the Department to comply with authorization standard of the U.S. EPA for Lead-Related Construction (LRC) programs, and to ensure the Department’s continued eligibility for federal and state funding of lead-hazard reduction activities in the state. (Health & Saf. Code, § 105250, subdivision (e).) The U.S. EPA granted California authorization to run its own Lead Based Paint (LBP) activities program as long as “the State or Tribal program is at least as protective of human health and the environment as the corresponding Federal program” and “provides adequate enforcement.” (40 C.F.R. §§ 745.324, subdivision (e)(2), and 745.324, subdivision (i).) In order to meet the requirements of an authorized state program, the Department is required to meet or exceed the updated federal lead-dust standards by January 6, 2022. (40 C.F.R. § 745.325, subdivision (e)(1).)

The regulations implementing requirements for Accreditation, Certification, and Work Practices for Lead-Based Paint and Lead Hazards are contained in the 17 CCR sections 35001 through 36100. The Department has determined that revisions to 17 CCR section 35035 are necessary to maintain U.S. EPA-authorized state program status as stated in 40 Code of Federal Regulations (hereafter 40 CFR) part 745.324.

Problem Statement

As currently written, 17 CCR section 35035 defines lead-contaminated dust as forty micrograms of lead per square-foot of surface area (40 µg/ft²) for interior floor surfaces and 250 µg/ft² for interior horizontal surfaces. This is inconsistent with the new U.S. EPA final ruling that was issued on July 9, 2019.

By revising 17 CCR section 35035 to match the U.S. EPA standards, the Department will fulfill the federal requirement for LBP activities programs

by being “at least as protective of human health and the environment as the corresponding Federal program” and providing “adequate enforcement.” If the proposed revision is not approved, the Department may lose its authorization through the U.S. EPA to run its LBP activities program. With the absence of the state authorized program, U.S. EPA’s Lead Abatement Program would take effect, which is less stringent than the Department’s lead hazard reduction program. As such, the U.S. EPA’s Lead Abatement Program is less health protective than the state authorized program currently in place.

Additionally, if no state authorized program existed in California, the Department and local California jurisdictions would no longer qualify for federal lead abatement grants (42 U.S.C. § 4852(n)) which have totaled tens of millions of dollars over the years, including the \$16.8 million recently awarded to the County of Fresno, City of Pomona, County of Alameda, and City of Los Angeles. These jurisdictions would no longer receive additional funding to help abate lead hazards in densely populated communities throughout California.

Objectives (Goals) of the Regulation

Broad objectives of this proposed regulatory action are:

- Reduce the threat of childhood lead poisoning and other lead-based hazards.
- Increased vigilance by Lead-Related Construction programs to reduce lead-hazards.
- Closer alignment of state and federal law relating to lead-dust standards.
- Improved human health protection for the people of California.

Anticipated Benefits

- Help reduce the exposure of children to lead hazards.
- Help preserve the health and wellbeing of children and families in California.
- Improved health outcomes and increased learning abilities.

EVALUATION AS TO WHETHER
THE PROPOSED REGULATIONS ARE
INCONSISTENT OR INCOMPATIBLE WITH
EXISTING STATE AND
FEDERAL REGULATIONS

The Department evaluated whether the proposal is inconsistent or incompatible with existing state regulations. This evaluation included a review of the Department’s existing state regulations and those regulations specific lead hazard reduction activities. An internet search of other state agency regulations

was also performed. The Department determined no other state agency regulation addressed the same subject matter and this proposal is not inconsistent or incompatible with other state regulations.

FORMS INCORPORATED BY REFERENCE
(Identified in the Informative Digest)

None.

**MANDATED BY FEDERAL
LAW OR REGULATIONS**

These regulatory changes do not conflict with or duplicate any federal statutes, regulations or policies.

OTHER STATUTORY REQUIREMENTS

Not applicable.

LOCAL MANDATE

The Department has determined these regulations will not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

**DISCLOSURES REGARDING THE
PROPOSED ACTION**

FISCAL IMPACT ESTIMATES

- A) Costs to any Local or School District Requiring Reimbursement Pursuant to section 17500 et seq.:** The proposed rulemaking would not impose a mandate on local governments that require state reimbursement because the proposed regulations do not require local governments to undertake a new program or to provide an increased level of service in an existing program.
- B) Costs or Savings to any State Agency:** Any fiscal effect will be negligible. Any additional costs for enforcing the more stringent standard will be absorbed within the Childhood Lead Poisoning Prevention Branch budget and resources.
- C) Costs or Savings in Federal Funding to the State:** No fiscal impact exists for federal funds. However, if the amendment is not approved and the state loses its federally authorized program, the state and locals will no longer be eligible for millions in federal lead grants.
- D) Other Nondiscretionary Costs or Savings Imposed on Local Agencies:** If there were any fiscal impact it would be the same whether the

state regulation is amended, or whether the state loses its federally authorized program for non-compliance and the federal standard goes into effect anyway. Local governments are required to enforce State Housing Law, including HSC section 17920.10 regarding lead hazards, but that enforcement usually is done regarding deteriorated or disturbed presumed lead-based paint and does not require dust sampling. Local governments may contract with the Department to investigate homes of lead-poisoned children to collect dust samples during an Environmental Investigation, but they are not required to contract with Department.

HOUSING COSTS

The Department has determined that the rulemaking has no impact on housing costs.

**SIGNIFICANT STATEWIDE
ADVERSE ECONOMIC IMPACT
DIRECTLY AFFECTING BUSINESS,
INCLUDING ABILITY TO COMPETE**

The proposed regulations will not have any significant statewide adverse economic impact directly affecting business or the ability of California businesses to compete with businesses in other states.

**STATEMENT OF THE RESULTS OF THE
ECONOMIC IMPACT ASSESSMENT**

The Department has determined the rulemaking has the potential to increase the number of jobs within the state but will not significantly impact the creation or elimination of jobs or the creation of new businesses or the elimination of existing businesses within the state, or the expansion of businesses currently doing business with the state. The Department has determined the benefits of the regulation are expected to increase and strengthen the health and welfare of California residents, worker safety, and the state's environment.

**COST IMPACTS ON REPRESENTATIVE
PERSON OR BUSINESS**

The Department has determined that there is no cost effect on private persons. However, there may be potential costs to businesses resulting from the proposed amendment. The more stringent dust standard is expected to increase the number of jobs where lead-hazard reduction services are required. There will be increased costs to address the additional lead-hazards at properties and to analyze additional

laboratory samples using lower detection limits. It is estimated that the total annual costs to businesses in California will be \$3.8 million. These costs will occur whether California adopts the federal standards, or California loses its federally authorized program and the federal standards go into effect by default.

BUSINESS REPORTING REQUIREMENTS

The proposed regulatory amendments do not change current business reporting requirements.

EFFECT ON SMALL BUSINESS

Costs for a small business are expected to be the same as costs for a typical business. Initial costs are expected to be negligible since new equipment is not needed, but more cleaning and repair will occur to address lead in dust. Costs are estimated to be annual and ongoing. It is presumed that costs will be borne by businesses and not individuals.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

This regulation does not mandate the use of specific technologies or equipment.

ALTERNATIVES CONSIDERED

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed (to align 17 CCR with 40 C.F.R. § 745.65 as required by 40 C.F.R. § 745.325(e)(1)), would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory intent of 17 CCR section 35035 or other provision of law.

The Department invites interested persons to present alternatives with respect to the proposed regulation either during the public comment period or at the public hearing (if scheduled).

TECHNICAL, THEORETICAL, AND/ OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS RELIED UPON

- “Economic Analysis of the Final Rule to Revise the TSCA Dust–Lead Hazard Standards,” June 2019, Office of Pollution and Toxics, United States Environmental Protection Agency.
- November 21, 2019, letter from Nancy Kain, Region IX Lead Coordinator, U.S. Environmental

Protection Agency to William Hale, Chief of the Lead Hazard. Reduction Section, Childhood Lead Poisoning Prevention Branch, California Department of Public Health.

- Federal Register, Volume 84, No. 131, Tuesday, July 9, 2019, pages 32632–32648, document 2019–14024, Dust–Lead Hazard Standards; Definition of Lead–Based Paint.
- October 1, 2008, letter from Jon L. Gant, Director of the Office of Healthy Homes and Lead Hazard Control, U.S. Department of Housing and Urban Development, to California Governor Arnold Schwarzenegger.
- Office of Management and Budget, Circular A–94, Guidelines and Discount Rates for Benefit–Cost Analysis of Federal Programs.

CONTACT PERSON

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Valerie Yep of the Center for Environmental Health at (510) 620–5688.

All other inquiries concerning the action described in this notice may be directed to David Martin Office of Regulations, at (916) 440–7673.

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH–20–002.

AVAILABILITY STATEMENTS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations at, 1415 L Street, Suite 500, Sacramento, CA 95814, will be the custodian of public records, including reports, documentation, and other material related to the proposed regulations.

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternate formats for these documents be mailed to you, please call (916) 440–7673 (or the California Relay Service at 711), send an email to regulations@cdph.ca.gov, or write to the Office of Regulations at the address previously noted. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department’s Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

Final Statement of Reasons

A copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

INTERNET ACCESS

Materials regarding the action described in this notice (including this public notice, the text of the proposed regulations, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending & Opportunities for Public Participation, Proposed Regulations.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH THE
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

State Allocation Board

File # 2021-1019-01

Leroy F. Greene School Facilities Act of 1998; \$250M from General Fund

Assembly Bill 130 (2021-2022 Reg. Sess.) appropriated \$250,000,000 from the General Fund to the State Allocation Board (the "Board") for deposit into the 2016 State School Facilities Fund for certain school new construction and modernization projects (the "AB 130 Apportionment"). (Stats. 2021, Chapter 44, § 63.) These funds are to be allocated to eligible projects, by the Board, until June 30, 2022. In this emergency rulemaking, the Board is adopting regulations that allow the Board to waive the 30-calendar-day filing provision in Section 1859.90.2 if unexpected cash proceeds from sources other than bond funds become available for use for priority funding Apportionments, including the AB 130 Apportionment.

Title 02

Amend: 1859.90.2

Filed 10/28/2021

Effective 10/28/2021

Agency Contact: Lisa Jones (916) 376-1753

Department of Social Services

File # 2021-1022-01

Child Support in Lieu of CalWORKs Grant

This emergency readoption file and print action amends the Manual of Policies and Procedures (MPP) to implement Senate Bill 380 (Bradford, Chapter 729, Statutes 2017) with respect to changes to the California Work Opportunity and Responsibility to Kids (CalWORKS) program, (1) allowing applicants and recipients to elect to receive full child support payments for a stepsibling or half-sibling of an eligible child in the Assistance Unit in lieu of cash aid; and (2) exempting these child support payments from consideration in determining CalWORKS eligibility or grant amounts. The action also makes changes without regulatory effect by striking provisions rendered obsolete by statutory changes and earlier repeals from the MPP. This emergency is deemed pursuant to Section 4 of Senate Bill 380.

Title MPP

Amend: 44-102, 44-111, 44-315, 80-310, 82-504, 82-506, 82-507, 82-820, 82-832

Repeal: 44-309, 44-310

Filed 11/01/2021

Effective 11/01/2021

Agency Contact: Everardo Vaca (916) 657-2363

State Water Resources Control Board

File # 2021-1022-02

Emergency Regulation Amending Drinking Water Fee Schedule

In this action, the State Water Resources Control Board (Board) amends the fee amounts paid by public water systems into the Safe Drinking Water Account to conform to the revenue levels set forth for that account in the Budget Act for fiscal year 2021-22 to support drinking water program activities. This emergency action is exempt from review by the Office of Administrative Law and remains in effect until revised by the Board.

Title 22

Amend: 64305

Filed 11/01/2021

Effective 11/01/2021

Agency Contact: Glen Osterhage (916) 341-5032

Department of Managed Health Care

File # 2021-1019-02

Transfer of Patients

This action readopts an emergency regulation allowing for the expeditious transfer of patients (pursuant to state or local emergency public health orders that direct or allow hospitals to transfer patients to other health care facilities) from the most highly impact-

ed hospitals to hospitals with more available capacity and preventing health plan prior authorization requirements for the transfer of enrollees between hospitals from causing unnecessary delays. The regulation requires reimbursement by patients' health plans for transfer costs and reimbursement for receiving hospitals' health care services, as specified, including receiving hospitals that do not have contracts with patients' health plans.

Title 28
Adopt: 1300.67.02
Filed 10/28/2021
Effective 11/13/2021
Agency Contact: Leah Gray (916) 327-8031

Veterinary Medical Board
File # 2021-0921-01
Update of Sodium Pentobarbital Training Regulation to Reflect Merger

The Veterinary Medical Board in this action without regulatory effect is changing text that reads "California Animal Control Directors Association and the State Humane Association of California" to read "California Animal Welfare Association." This change is due to the merging of the two organizations in 2018.

Title 16
Amend: 2039
Filed 10/28/2021
Agency Contact: Justin Sotelo (916) 515-5238

Veterinary Medical Board
File # 2021-0921-02
Repeal Inoperative Language — Limited Term RVT Examination Eligibility

This action by the Veterinary Medical Board repeals a regulation regarding limited term Registered Veterinary Technician (RVT) examination eligibility. This section became inoperative by its own terms on January 1, 2010.

Title 16
Repeal: 2068.7
Filed 11/02/2021
Agency Contact: Justin Sotelo (916) 515-5238

Air Resources Board
File # 2021-0812-02
Criteria Air Pollutants and Toxic Air Contaminants

This action expands a uniform statewide system of annual reporting of emissions, criteria pollutants, and toxic air contaminants from about 1300 reporters to over 60,000, using permitted emissions and pollutant-based thresholds to establish applicability. In addition to including a multi-year phase-in schedule, there is

also an "abbreviated" reporting requirements for some permitted processes. This action also requires reporting for diesel-powered portable equipment. This action also coordinates CTR reporting requirements with the Air Toxics Hot Spots Emissions Inventory Criteria and Guidelines.

Title 17
Adopt: 93420, 93421
Amend: 93400, 93401, 93402, 93403, 93404, 93405, 93406, 93407, 93408, 93409, 93410
Filed 10/28/2021
Effective 01/01/2022
Agency Contact: Bradley Bechtold (916) 322-6533

California Architects Board
File # 2021-0920-01
Public Presentments and Advertising Requirements

This action requires landscape architects and landscape architect group practices to include their license numbers in all forms of advertisements or presentments made to the public in connection with the rendition of landscape architectural services.

Title 16
Amend: 2671
Filed 11/01/2021
Effective 01/01/2022
Agency Contact: Stacy Townsend (916) 575-7235

Dental Hygiene Board of California
File # 2021-0802-03
Definitions

In this rulemaking action, the Board amends Its regulation to change the definitions of "approved accreditation standards," "clinical instruction," "clinical practice," "dental hygiene process of care," "laboratory instruction," and "preclinical instruction."

Title 16
Amend: 1103
Filed 11/01/2021
Effective 01/01/2022
Agency Contact: Adina Pineschi-Petty (916) 516-5537

Department of Corrections and Rehabilitation
File # 2021-0519-06
Health Care Definitions

This rulemaking action by the Department of Corrections and Rehabilitation updates existing terminology to utilize the terms "medically necessary" and "endorsed institutions."

Title 15

Amend: 3000, 3341.3, 3341.5, 3377.1, 3999.98,
3999.99, 3999.364, 3999.365, 3999.367

Filed 10/28/2021

Effective 01/01/2022

Agency Contact: Justin McCall (916) 691-3325

Department of Public Health

File # 2021-0702-02

Adverse Events: General Acute Care & Acute
Psychiatric Hospitals

The California Department of Public Health (Department) is establishing procedures for reporting Adverse Events (AEs) including defining terms, categories, and how to report AEs to the Department.

Title 22

Adopt: 70970, 70971, 70972, 70973, 70974, 71565,
71566, 71567, 71568, 71569

Filed 10/28/2021

Effective 01/01/2022

Agency Contact:

Linda M. Cortez (916) 440-7807

**PRIOR REGULATORY
DECISIONS AND CCR
CHANGES FILED WITH THE
SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit www.oal.ca.gov.