

# DENTAL BOARD OF CALIFORNIA

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*Protection of the public shall be the highest priority for the Dental Board of California 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.*

— Business and Professions Code § 1601.2

The Dental Board of California (DBC), a consumer protection agency within the state Department of Consumer Affairs (DCA), is charged with enforcing the Dental Practice Act, Business and Professions Code section 1600 et seq. The Board's regulations remain codified in Division 10, Title 16 of the California Code of Regulations (CCR). DBC licenses and regulates dentists (DDS/DMD) and issues specialty permits for a variety of functions to licensed dentists who qualify for them, including permits to administer general anesthesia, conscious sedation, and oral conscious sedation for adult and minor patients. Under Business and Professions Code section 1638, DBC issues oral and maxillofacial surgery (OMS) permits to qualified dentists and physicians. OMS dentists may seek an additional permit, acquiring authorization to perform elective facial cosmetic surgery under section 1638.1. DBC issues permits to unlicensed individuals who qualify as orthodontic assistants and dental sedation assistants. DBC also licenses (1) registered dental assistants (RDA); and (2) registered dental assistants in extended functions (RDAEF). To assist the Dental Board in regulating RDAs and RDAEFs, the legislature created the Dental Assisting Council (DAC) in Business and Professions Code section 1742. The DAC consists of seven members: the RDA member of the Dental Board plus one other Dental Board member and five RDAs. The Dental Board appoints the members of the DAC to represent a broad range of dental assisting experience and education (including at least one RDAEF). The DAC retains the authorization to consider all matters

relating to dental assistants on its own initiative, or upon the request of the Board, and make appropriate recommendations in the following areas: requirements for dental assistant examination, licensure, permitting, and renewal; standards and criteria for approval of dental assisting educational programs, courses, and continuing education; allowable dental assistant duties, settings, and supervision levels; appropriate standards of conduct and enforcement for dental assistants; and requirements regarding infection control.

DBC sets standards for the approval of dental schools and dental assistant training programs, also determining the subject matter for license examinations. It licenses applicants who pass the exam and meet Board requirements for licensure, sets standards for dental practice, and disciplines licensees who do not meet those standards. DBC also remains responsible for registering dental practices (including mobile dental clinics) and corporations; establishing guidelines for continuing education requirements for dentists and dental assistants; approving radiation safety courses; and administering the Diversion Program for substance-abusing dentists and dental assistants.

DBC consists of fifteen members: eight practicing dentists, one Registered Dental Hygienist (RDH), one RDA, and five public members. Business and Professions Code section 1602 requires the professional members of the Board to have been actively practicing for at least five years prior to their appointment. The Governor appoints thirteen of the Board's fifteen members (including all the dental practitioners); the Senate Rules Committee and the Assembly Speaker each appoint one public member.

During this reporting period, the Board made one appointment. At its meeting on May 18, 2023, the Board [reappointed](#) Jeri Fowler, RDAEF, OA, as the Dental Assisting Council (DAC) for a term of four years, expiring in March 2027. The Board had three Board member vacancies, including one practitioner and two public members.

# MAJOR PUBLICATIONS

The following reports/studies/guidelines have been conducted by or about DBC during this reporting period:

- [\*\*Draft Sunset Review Report\*\*](#): Dental Board of California, October 2023 (This Board will submit the final version of this report to the legislature no later than December 1st, pursuant to Government Code section 9147.7. On October 12th, the Board approved and finalized this draft and will only make non-substantial changes before submission. The report answers inquiries from the legislature, including the inability to meet enforcement process timeline goals and practitioner probation disclosures, as well as an additional eighteen issues the Board uncovered in the preparation process.)

# RULEMAKING

The following is a status update on recent rulemaking proceedings that DBC has initiated:

- **Temporary Licenses for Military Spouses or Partners, California Code of Regulations, Title 16, Division 10, Section 1006**: On July 14, 2023, the Board gave [notice](#) of its intention to adopt section 1006 of Article 1 of Chapter 1 of Division 10 of Title 16 of the CCR, regarding temporary licenses for military spouses or partners, as set forth in the original [proposed language](#). According to the [initial statement of reasons](#), the regulations aim to simplify the application process to reduce the time for qualified spouses or domestic partners of military service members recently stationed in California to begin practicing in professions for which they have been licensed to practice in other jurisdictions. At the Board's [meeting](#) on November 9, 2023, members flagged the proposed language regarding disclosure of criminal convictions and disciplinary action as likely conflicting with the requirements of Business and Professions Code section 480, as modified by [AB](#)

[2138 \(Chiu\) \(Chapter 995, Statutes of 2018\)](#). To remedy this potential issue, the Board approved [modified language](#) in compliance with the law, of which the public comment period will end on December 3, 2023.

- **Disciplinary Guidelines and Exceptions for Uniform Standards Related to Substance-Abusing Licensees, California Code of Regulations, Title 16, Division 10, Section 1018:** On September 21, 2023, the Board gave [notice](#) of its intention to amend section 1018 of Article 4.5 of Chapter 1 of Division 10 of Title 16 of the CCR, regarding disciplinary guidelines for substance-abusing licensees, as set forth in the original [proposed language](#). The Board also drafted and proposed new language for its [disciplinary and denial guidelines](#). According to the [initial statement of reasons](#), the regulations aim to update the Board’s disciplinary guidelines to comply with DCA’s [Uniform Standards Regarding Substance-Abusing Healing Arts Licensees](#), which were updated in March 2019. Along with bringing its guidelines into compliance with the law, these new regulations aim to clarify the terms and conditions of probation to reduce the likelihood of misinterpretation, provide model orders, and strengthen consumer protection, according to the Board.

- **Replacement Licenses or Permits and Inactive Licenses, California Code of Regulations, Title 16, Division 10, Sections 1012, 1017.2, and 1021:** On September 19, 2023, the Board gave [notice](#) of proposed amendments to sections 1012, 1017.2, and 1021 of Division 10 of Title 16 of the CCR, regarding replacement licenses or permits and inactive licenses, as set forth in the [proposed language](#). According to the [initial statement of reasons](#), these regulations are intended to streamline the process for licensees requesting a replacement or duplicate wall certificate due to loss, theft, mutilation, or destruction, or a licensee’s name change. The proposed change would adopt a new form (LIC-9) to increase efficiency in processing these requests. The regulation also provides clarity to the procedures for changing a license status from active to inactive and implementing a new form

(LIC-6) with description of the requirements for such an application.

## LEGISLATION

- [AB 936 \(Wood\)](#), as amended on May 11, 2023, amends Business and Professions Code section 1626.6 to broaden an existing exemption permitting final-year dental students to provide volunteer dental services without a license. The proposed change expands this exemption to include any dental student who has started clinical training. This bill will also require a designated supervising faculty to assess the patients treated by the dental student and determine if the student has the necessary skill to provide appropriate patient care. Due to current shortages in free healthcare and dental clinics, this bill takes effect immediately following its enrollment. The Board [voted](#) to support the bill at its meeting on May 18, 2023. Governor Newsom signed AB 936 on October 8, 2023 (Chapter 550, Statutes of 2023).

## LITIGATION

*Sulitzer, et al. v. Tippins, et al.*, Case No. 2:19-cv-08902-GW-MAA (C.D. Cal.). On June 20, 2023, Judge George H. Wu, [granted](#) the parties' joint stipulation to dismiss the case. This [complaint](#) was initially filed on October 16, 2019, against an investigator, the Executive Officer, and all individual Board members of DBC, alleging violations of the Federal Sherman Antitrust Act; several Constitutional violations, including the Dormant Commerce Clause, the Equal Protection Clause, and Substantive Due Process; as well as California's Unfair Competition Law. [[25:2 CRLR 3–5](#); [26:1 CRLR 5–6, 9](#); [28:2 CRLR 6–7](#)]

*SmileDirectClub, LLC v. Montez, et al.*, *United States District Court*, Case No. 2:23-cv-01769-WBS-KJN (E.D. Cal.). SmileDirectClub, LLC filed a [complaint](#) on August 21, 2023, in the Eastern District of California against the Executive Officer and all individual Board members of DBC,

asserting claims under the Sherman Antitrust Act, civil rights claims under 42 U.S.C. § 1983, and a claim under California’s Unfair Competition Law relating the Board’s attempt to regulate and limit the telehealth services provide by SmileDirectClub. [*See* [25:2 CRLR 3–5](#)] A motion to dismiss was filed by the defendants on September 28, 2023, and the court will hear the motion on December 11, 2023.