

TITLE 16. STATE BOARD OF GUIDE DOGS FOR THE BLIND

NOTICE IS HEREBY GIVEN that the State Board of Guide Dogs for the Blind (hereinafter "board") 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 on **May 23, 2011, at 1625 North Market Blvd., Sacramento Room (Third Floor), Sacramento, CA 95834 at 2:00 p.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office **on or before 5:00 p.m. May 23, 2011, or must be received by the Board at the hearing.** The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 125.9, 148, and 7208 of the Business and Professions Code, and to implement, interpret or make specific Sections 125.9, 148, 7208, 7209.5, 7210, 7210.5, 7213, and 7215, of said Code, the board is considering changes to Division 22 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 7208 authorizes the Board to govern the admission of applicants for examination for licensure to instruct blind persons in the use of guide dogs or to engage in the business of training, selling, hiring, or being in the business of supplying guide dogs for the blind; govern the operation of schools which furnish guide dogs and train blind persons to use guide dogs.

1. Amend section 2252.

Existing regulation provides definitions for the term "Board" and the term "Code."

- This proposed regulation would add definitions for the terms "guide dog," "client," "guide dog team," "instructor," "apprentice," and "instruction."

2. Amend section 2275.

Existing regulation states that a school be required to give each blind person who receives a guide dog a certificate of a veterinarian stating that the guide dog has been neutered. The school shall retain a copy of such document in its records.

- This proposed regulation would:

- Make a grammatical change from “of” to “from.”
- Add a “spay” requirement to the spayed or neutered requirement.

3. Amend section 2284.

Existing regulation requires that an apprentice cannot act as an instructor without the “direct and immediate supervision of a licensed instructor.”

- This proposed regulation would delete the requirement that supervision be “direct and immediate.” This change will give guide dog schools more flexibility in their apprenticeship programs and give apprentices the opportunity to gradually change levels of supervision as experience is gained.

4. Add section 2295.

- This proposed regulation would:
 - Grant the Executive Officer of the Board or his designee the authority to issue citations containing orders to pay fines between \$100 and \$5,000 and an order of abatement for any violation of the Act, The California Code of Regulations, or any laws governing the guide dog schools or guide dog instructors. Citations may be issued without an assessment or fine.
 - Add a requirement that each citation be in writing and describe the nature and facts of each violation, including a reference to the statute or regulatory section that has allegedly been violated.
 - Add a provision that the citation be served upon the cited person either personally or by certified United States mail.

5. Add section 2295.1.

- The proposed regulation would require that at the issuance of each citation, the following factors be considered; nature and severity of violation, length of time since violation has occurred, consequences of violation, history of previous violations, evidence that violation was willful, gravity of violation, and the extent to which the cited person had remediated any knowledge and/or skill deficiencies which could have injured a consumer.

6. Add section 2295.2.

- The proposed regulation would:
 - Require that the citation inform the licensee that if he/she desires a hearing to contest the finding of a violation, a hearing be requested by written notice to the board within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

- Add that a cited person may, within 14 calendar days, after service of the citation, submit a written request for an informal conference with the Executive Officer.
- Require the Executive Officer or his/her designee, within 30 calendar days from receipt of the written request, to hold an informal conference with the person cited and/or his/her legal counsel or authorized representative.
- Add that the Executive Officer or his designee may affirm, modify or dismiss the citation at the conclusion of the informal conference. A written decision from the conference shall be mailed to the cited person and his/her legal counsel, if any, within 14 calendar days from the date of the informal conference. The decision shall be deemed a final order with regard to the citation issued.
- Add that if the citation is dismissed, the request for a hearing be deemed as withdrawn. If the citation is affirmed or modified, the cited person may withdraw the request for hearing or proceed with the administrative hearing process.

7. Add section 2295.3.

- This section is added to grant the Executive Officer the authority to issue a citation against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the board and who is not otherwise exempt from licensure. Each citation may contain an Administrative fine. Administrative fines shall range from \$250 to \$5,000 for each violation.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: If a fine is issued, the program could see an increase in revenue up to \$5,000. Instances of violations of the law are rare and therefore a minor increase in revenue may be realized on an inconsistent basis.

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 business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any 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 the Board relies on the input from the three (3) licensed schools, the feedback from the schools has not indicated any positive or negative impact on guide dog instructor jobs in the State.

Cost Impact on Representative Private Person or Business:

The Board has determined that there is no cost impact on private persons or places of business. There is no cost to guide dog users and the proposed language does not place any additional burdens on the schools which would result in additional costs. The agency 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 has determined that the proposed regulations would not affect small businesses because the affected guide dog schools are non-profit organizations.

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 either 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 proposal described in this Notice.

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 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 State Board of Guide Dogs for the Blind at 1625 N. Market Blvd., Suite S 202, Sacramento, California

95834.

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

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

Name: Antonette Sorrick, Executive Officer
Address: 1625 N. Market Blvd., Suite S-202
Sacramento, CA 95834
Telephone No.: (916) 574-7825
Fax No.: (916) 574-7829
E-Mail Address: antonette.sorrick@dca.ca.gov

Name: Cenne Jackson, Executive Assistant
Address: 1625 N. Market Blvd., Suite S-202
Sacramento, CA 95834
Telephone No.: (916) 574-7826
Fax No.: (916) 574-7829
E-Mail Address: cenne.jackson@dca.ca.gov

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