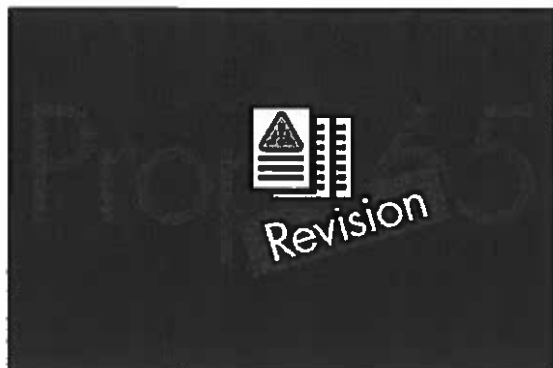


Proposition 65 notice requirements revised



The California EPA's Office of Environmental Health Hazard Assessment has adopted a regulation revising the notices that dental practices are required to post under Proposition 65, known as the Safe Drinking Water and Toxic Enforcement Act. The regulation, which takes effect in 2018, also amends the methods by which dental practices provide the notices.

Passed by voter initiative in 1986, Proposition 65 requires businesses with 10 or more employees to provide "clear and reasonable warning" if a product or business location may

expose employees or consumers to a chemical known to the state to cause cancer or reproductive toxicity.

Since 2003, CDA has been providing its member dentists with a specific court-approved notice for dental amalgam and other restorative materials. CDA then began providing a notice for nitrous oxide, which was added to the list of chemicals a few years later, and then a third notice for Bisphenol A (BPA), when that chemical was added to the list in April 2015.

The court-approved notice that CDA proposed has likely spared many dental practices from expensive, private litigation. In the lawsuit leading to the 2003 court-approved settlement, 80 practices had been sued for failure to provide an adequate warning. Additionally, CDA continued to work with regulators and stakeholders to ensure that any Proposition 65 reforms narrowed the scope of the regulation as it applies to dental practices — both to better warn patients about specific, potentially dangerous chemicals and to protect dental practices from frivolous lawsuits.

Now, under the new regulation, dental businesses (such as practices, schools and laboratories) will be required to comply with one of two provisions:

- Post one notice (in lieu of three) "at all public points of entry to the dental office or in each location within the office where an exposure is reasonably likely to occur;" or
- Provide a warning with an informed consent form or as part of an informed consent form signed by the patient prior to exposure.

Dental practices may choose to provide the warnings via both posted notice and informed consent. The notice will direct patients and employees to a website, oehha.ca.gov/proposition-65, for more information about the specific chemicals.

OEHHA relies on expert scientific panels to develop what is now a list of more than 800 chemicals that require warning notices. The governor is required to publish the list at least once a year. Either the Attorney General or private parties can enforce the warning requirement through litigation.

The regulation is effective Aug. 30, 2018. In the interim, to allow for a reasonable transition period, dental offices may choose to comply with either the current regulation or the provisions of the new regulation.

CDA is developing resources, including a revised notice in several languages and an updated FAQ, that dental offices will need to comply with the new regulation by Aug. 30, 2018. CDA will share these

resources when they become available in the *CDA Update* and on cda.org.