



**Notice of Meeting and Agenda
Teleconference Public Board Meeting
August 14, 2020**

Members of the Board:

Thomas Stewart, DDS, President
Steven Chan, DDS, Vice President
Joanne Pacheco, RDH, Secretary

Fran Burton, MSW, Public Member
Alan Felsenfeld, MA, DDS
Ross Lai, DDS
Lilia Larin, DDS
Meredith McKenzie, Public Member

Abigail Medina, Public Member
Alicia Montell, DDS
Steven Morrow, DDS, MS
Rosalinda Olague, RDA, BA
James Yu, DDS, MS

DATE & TIME: August 14, 2020 at 9:00 a.m.

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-29-20, dated March 17, 2020, a state body may hold a meeting telephonically and the requirement to have a physical location for the meeting or teleconference is suspended.

INSTRUCTIONS FOR PARTICIPATION: For all those who wish to participate or observe the meeting, please log on to this website: <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=e155848667712addf7c6fb3ff91585223>

Instructions to connect to the meeting are attached to this agenda. The preferred audio connection is via telephone conference and not the microphone and speakers on your computer. The phone number and access code will be provided as part of your connection to the meeting.

Important Notices to the Public: The Dental Board of California will hold this meeting via WebEx – instructions above. The meeting is open to the public and shall meet accessibility requirements, as applicable. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Karen M. Fischer, MPA, Executive Officer, at 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815, or by phone at (916) 263-2300. Providing your request at least five business days before the meeting will help to ensure availability of the requested accommodation.

Discussion and action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the President. In the event a quorum of the Board is unable to attend the meeting, or the Board is unable to maintain a quorum once the meeting is called to order, the members present may, at the

President's discretion, continue to discuss items from the agenda and make recommendations to the full Board at a future meeting.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board or prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issues before the Board, but the President may, at his or her discretion, apportion available time among those who wish to speak. If public comment is not specifically requested, members of the public should feel free to request an opportunity to comment. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

LUNCH BREAK estimated to occur between Noon and 12:30 – The break will be for thirty minutes.

Friday, August 14, 2020

FULL BOARD MEETING – OPEN SESSION at 9:00 a.m.

1. Call to Order/Roll Call/Establishment of a Quorum
2. Discussion and Possible Action Regarding May 14, 2020 Dental Board Meeting Minutes **[5-22]**
3. Public Comment on Items Not on the Agenda
The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 and 11125.7(a)).
4. Budget Report **[23-30]**
 - a. DCA Pro Rata **[31-37]**
 - b. Savings and Reimbursements **[38-39]**
 - c. Controlled Substance Utilization Review and Evaluation System (CURES) Fee Increase **[40]**
 - d. Diversion Program Costs **[41-42]**
5. Update Regarding Future Acceptance of WREB Manikin and Patient-Based Examinations **[43]**
6. Report on the Results of the OPES Review of Alternatives for the RDAEF Clinical and Practical Examinations **[44-45]**

7. Discussion and Possible Action Regarding Submission of a Waiver Request to the Director of DCA to Waive Business and Professions Code Sections 1753(a)(4) and 1753.4 and California Code of Regulations, Title 16, Section 1081.2 Pursuant to the Governor's Executive Order N-39-20 Relating to Waiving the Registered Dental Assistant in Extended Functions (RDAEF) Clinical and Practical Examinations **[49-50]**
8. Discussion and Possible Action Regarding Submission of a Waiver Request to the Director of DCA to Waive Business and Professions Code Sections 1646.4, 1646.9, 1647.7 and California Code of Regulations, Title 16, Sections 1043.3 to 1043.7, inclusive, Pursuant to the Governor's Executive Order N-39-20 Relating to Postponing the Requirement for On-site Inspection and Evaluations for General Anesthesia and Conscious Sedation Permits **[51-52]**
9. Discussion and Possible Action to Reinitiate a Rulemaking to Amend California Code of Regulations, Title 16, Section 1031 Relating to the Passing Score for the Dentistry Law and Ethics Examination **[53-56]**
10. Continuing Education
 - a. Discussion and Possible Action Regarding Academy of General Dentistry (AGD) Transcripts for Continuing Education **[57-58]**
 - b. Discussion and Possible Action Regarding Continuing Education Providers and Conflict of Interests **[59-67]**
 - c. Discussion and Possible Action to Reinitiate a Rulemaking to Amend California Code of Regulations, Title 16, Sections 1016 and 1017 Relating to Continuing Education **[68-82]**
11. Legislation **[83-99]**
 - a. Discussion and Possible Action Regarding the Following Legislation:
 - i. Assembly Bill 613 (Low) Dentists: clinical laboratories: license examinations
 - ii. Assembly Bill 1998 (Low) Dental Practice Act: unprofessional conduct: patient of record
 - iii. Assembly Bill 2028 (Aguilar-Curry) state agencies: Meetings
 - iv. Assembly Bill 2113: (Low; Coauthors: Carillo, Chiu, Medina, Blanca Rubio, and Gonzalez) Refugees asylees, and immigrants: professional licensing
 - v. Assembly Bill 2520 (Chiu; Coauthor: Senator Leyva) Access to medical records
 - vi. Assembly Bill 2549 (Salas; Coauthor: Gonzalez) Department of Consumer Affairs: temporary licenses
 - vii. Assembly Bill 3045 (Gray and Patterson; Coauthors: Gallagher, Fong, Gipson, Grayson, and Obernolte) Department of Consumer Affairs: boards: veterans: military spouses: licenses

- viii. Senate Bill: 878 (Jones) Department of Consumer Affairs: license: application: processing timeframes
- ix. Senate Bill 1168 (Morrell) State Agencies: licensing services
- x. Senate Bill 1474 (Glazer, Archuleta, Chang, Dodd, Galgiani, Hill, Leyva, Pan, and Wilk; Coauthor: Low) Business and professions

12. Board Member Comments on Items Not on the Agenda

The Board may not discuss or take action on any matter raised during the Board Member Comments section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 and 11125.7(a)).

RECESS TO CLOSED SESSION

CLOSED SESSION – FULL BOARD

A. Deliberate and Take Action on Disciplinary Matters

The Board will meet in closed session as authorized by Government Code §11126(c)(3).

B. Discussion Regarding *Sulitzer v. Tippins*, US District Court, Central District of CA, Case No. 2:19-CV-08902

The Board will meet in closed session as authorized by Government Code §11126(e).

RETURN TO FULL BOARD OPEN SESSION

13. Adjournment - Upon conclusion of Business

Due to technological limitations, adjournment will not be broadcast. Adjournment will immediately follow closed session, and there will be no other items of business discussed.

DENTAL BOARD OF CALIFORNIA

2005 Evergreen St., Suite 1550, Sacramento, CA 95815

P (916) 263-2300 | F (916) 263-2140 | www.dbc.ca.gov



**DENTAL BOARD OF CALIFORNIA
TELECONFERENCE PUBLIC BOARD MEETING
MEETING MINUTES
THURSDAY, MAY 14, 2020**

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

Members Present:

Thomas Stewart, DDS, President
Steven Chan, DDS, Vice President
Joanne Pacheco, RDH, MAOB, Secretary
Fran Burton, MSW, Public Member
Alan Felsenfeld, DDS, MA
Ross Lai, DDS
Lilia Larin, DDS
Meredith McKenzie, ESQ, Public Member
Abigail Medina, Public Member
Steven Morrow, DDS, MS,
Rosalinda Olague, RDA, BA
James Yu, DDS, MS

Members Absent:

None.

Staff Present:

Karen M. Fischer, MPA, Executive Officer
Sarah Wallace, Assistant Executive Officer
Tina Vallery, Chief of Administration and Licensing
Wilbert Rumbaoa, Administrative Services Unit Manager
Gabriel Nevin, Legislative and Regulatory Analyst
Pahoua Thao, Associate Governmental Program Analyst
Michael Kanotz, Legal Counsel
Danielle Rogers, Legal Counsel

Agenda Item 1: Call to Order/Roll Call/Establishment of a Quorum

The Board President called the meeting to order at 9:30 a.m. The Board Secretary called the roll and a quorum was established.

Agenda Item 2: Discussion and Possible Action Regarding February 27-28, 2020, Board Meeting Minutes

Motion/Second/Call (M/S/C) (Morrow/Chan) to approve the February 27-28, 2020 Board meeting minutes.

Ayes: Burton, Chan, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: Felsenfeld.

Absent: None.

Recusals: None.

The motion passed and the minutes were approved with no changes. There were no public comments.

Agenda Item 3: President's Report

President Stewart welcomed all attendees and acknowledged the challenges presented by the Coronavirus (COVID-19) pandemic. Dr. Stewart acknowledged and thanked Governor Newsom, the California Department of Public Health (CDPH), the Department of Consumer Affairs (DCA) Director, Kimberly Kirchmeyer, for their leadership in facilitating the continued provision of care to individuals affected by the COVID-19 outbreak. Dr. Stewart thanked the Board's Executive Officer, Karen Fischer, and Board staff for maintaining Board operations while maintaining flexibility in their changing work environment. Dr. Stewart acknowledged the hardship of office closures, postponement of examinations, and impacts to licensure relating to the dental profession. Dr. Stewart reminded all attendees that the highest priority of the Board is maintaining the protection of the public. Dr. Stewart recognized and acknowledged the leadership of the deans for the six (6) dental schools in California. There were no public comments.

Agenda Item 4: Executive Officer's Report

Ms. Karen Fischer, Executive Officer, provided a report on the impact of COVID-19 on Board operations. Additionally, she reported on the Budget Act for Fiscal Year (FY) 2020-21, personnel activities, and a Controlled Substance Utilization Review and Evaluation System (CURES) fee increase to be implemented by the Department of Justice effective January 1, 2021. There were no public comments.

Agenda Item 5: Discussion and Possible Action Regarding Dental Assisting Council Member(s)

Ms. Karen Fischer, Executive Officer, reported that Dental Assisting Council (DAC) member Ms. Anne Contreras provided a letter of her resignation. A recruitment to fill her position will be posted on the Board's website. No action was required. President Stewart commented that Ms. Contreras will be missed. There were no public comments.

Agenda Item 6(a): Discussion and Possible Action Regarding Comments Received During the 45-day Comment Period for the Board's Proposed Rulemaking to Amend California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria

Gabriel Nevin, Legislative and Regulatory Analyst, reported that the Board previously approved regulatory language to implement Assembly Bill (AB) 2138 (Chui, Chapter

995, Statutes of 2018) at its February 7-8, 2019 and August 15-16, 2019 meetings. The provisions of the bill become effective on July 1, 2020.

The Board noticed the regulatory proposal on March 13, 2020 and gave the public forty-five (45) days to provide public comment ending on April 28, 2020. No public hearing was requested or conducted.

Danielle Rogers, DCA Legal Counsel, provided recommendations to the Board to modify the proposed text to address concerns of compliance with the Administrative Procedure Act relating to necessity, authority, reference, clarity, consistency, and non-duplication. Ms. Rogers recommended the Board make the following modifications to the proposed text:

Section 1019

- Insertion in subdivision (a) of “,” after “141”, and deletion of “or.” Board staff recommended the addition of the Business and Professions Code (BPC) sections enumerated in 2., infra, staff proposed adding comma after “141, and eliminating “or” since the amendment outlined in 2. creates an additional list item.
- Insertion in subdivision (a) of “or Sections 1670.1, 1680(e), 1681(c).” The cited section referred to grounds for discipline listed in the Board’s practice act for “substantially related” offenses. This modification was added here so that references to substantial relationship were addressed together in one regulation. This amendment would add clarity to this subdivision.
- Insertion in Note of Reference sections 1670.1, 1680, and 1681. Board staff recommended adding these sections to the Reference section of the regulation because the regulation, as modified, implements, interprets, and/or makes specific to these additional BPC sections.

Section 1020

- Insertion in re-numbered subdivision (b) of “Denial of a license.” Board staff recommended adding this category because it lends greater organization and clarity to the regulation.
- Re-numbering of subdivision (b)(1)-(5) to subdivision (1)(A)-(E) and re-numbering of subdivision (c)(1)-(6) to subdivision (2)(A)-(F). The re-numbering was necessitated by the creation of new subdivision (b).
- Deletion in subdivision (b)(1) of “was” and insertion of “has been.” Board staff proposed deleting “was” and replacing it with “has been” because “has been” is

used to refer to something which started in the past and is still continued in the present tense. "Was," on the other hand, is used to refer to some action which was going on at some time in the past. Staff recommended using "has been" to include the present tense so the relevant time period for a conviction includes up to the present.

- Deletion in subdivision (b)(1) of "and is presently eligible for a license." Staff recommended deleting this phrase from subdivision (b)(1) of section 1020 because "eligible" could be seen as referring to other eligibility requirements for licensure, rather than referring to fitness or suitability for licensure. Deletion of this phrase would clarify the regulation.
- Insertion in subdivision (b)(2) of "If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (b)(1), the denial is based on professional misconduct, or the denial is based on the ground specified in Section 1687," deletion of "If subdivision (b) is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (b)," and deletion of "The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering of the following criteria, the board finds that the applicant is rehabilitated." The original text of subdivision (b)(2) was unclear in specifying the circumstances when the regulation would apply. Instead of catch-all language, staff recommended deleting the former preface to the regulation and enumerating each specific instance when subdivision (b)(1) would not apply, and proposed to include all of the specified categories. Staff recommended citing to BPC section 1687 since it is in the Board's practice act and authorizes the Board to deny a license. This would make the regulation inclusive of all of the instances in which the Board could deny a license. Staff recommended deleting the final sentence of subdivision (b)(2) for clarity and brevity.
- Insertion in subdivision (b)(2)(A)-(C) of "professional misconduct." The addition of "professional misconduct" to subdivision (b)(2)(A) through (C) was made necessary by the addition of "professional misconduct" in subdivision (b)(2).
- Deletion in subdivision (b)(2)(B) of "under Section 480 of the Code." Staff recommended adding "professional misconduct" to subdivision (b)(2), which necessitated the removal of this phrase because the amended subdivision now encompasses more than crimes and acts enumerated in section 480.

- Re-numbering of (1) and (2) in subdivision (b)(2)(C) to (A) and (B). This re-numbering was necessitated by the creation of new subdivision (b).
- Deletion in subdivision (b)(2)(E) of “-” and insertion of “through.” Staff recommended this amendment to lend greater clarity to the subdivision.
- Insertion in re-numbered subdivision (c) of “Suspension or revocation of a license.” Staff recommended adding this category because it lends greater organization and clarity to the regulation.
- Deletion in subdivision (c)(1) of “and is presently eligible for a license.” Staff recommended the deletion of this phrase from subdivision (c)(1) of section 1020 because “eligible” could be seen as referring to other eligibility requirements for licensure, rather than referring to fitness or suitability for licensure. Deletion of this phrase will clarify the regulation.
- Re-numbering of subdivision (d)(1)-(5) to subdivision (1)(A)-(E) This re-numbering was necessitated by the creation of new subdivision (c).
- Insertion in subdivision (c)(2) of “If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (c)(1), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on one or more of the grounds specified in Sections 1611.5, 1638.1, 1646.7, 1647.9, 1647.17, 1647.25, 1647.34, 1670, 1670.1, 1680, 1681, 1682, 1683, 1683.1, 1684, 1684.1, 1684.5, 1685, 1687,” deletion of “If subsection (d) is inapplicable, or the board determine s that the licensee did not make the showing of rehabilitation based on the criteria in subsection (d),” and deletion of “. The board shall find that the licensee made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated.” The original text of subdivision (c)(2) was unclear in specifying the circumstances when the regulation would apply. Instead of catch-all language, staff recommended the deletion of the former preface to the regulation and enumeration of each specific instance of when subdivision (c)(1) would not apply, and including all of the specified categories. Staff recommended citing BPC sections 1611.5, 1638.1, 1646.7, 1647.9, 1647.17, 1647.25, 1647.34, 1670, 1670.1, 1680, 1681, 1682, 1683, 1683.1, 1684, 1684.1, 1684.5, 1685, 1687 since they are in the Board's practice act and authorize the Board to discipline a license. This would make the regulation inclusive of all of the

instances in which the Board could discipline a license. Staff recommended deleting the final sentence of subdivision (c)(2) for clarity and brevity.

- Re-numbering of subdivision (e)(1)-(7) to subdivision (2)(A)-(G). This re-numbering was necessitated by the creation of new subdivision (c).
- Insertion in subdivision (b)(2)(A) and (b)(2)(C) of “disciplinary action(s).” The addition of “disciplinary action(s)” to subdivision (c)(2)(A) and (c)(2)(C) was made necessary by the addition of “disciplinary action” in subdivision (c)(2).
- Deletion in subdivision (c)(2)(F) of “-” and insertion of “through.” Staff recommended this amendment to lend greater clarity to the subdivision.
- Re-numbering of (d)(1)-(5) in subdivision (c)(2)(F) to (c)(1)(A)-(e). This re-numbering was necessitated by the creation of new subdivision (c).
- Re-numbering of subdivision (f) to (d) and re-numbering of (e) to (c)(2) in renumbered subdivision (d). This re-numbering was necessitated by the creation of new subdivision (c).
- Insertion in Note of Reference sections 1611.5, 1638.1, 1646.7, 1647.9, 1647.17, 1647.25, 1647.34, 1670, 1670.1, 1680, 1681, 1682, 1683, 1683.1, 1684, 1684.1, 1684.5, 1685, and 1687. Staff recommended adding these sections to the Reference section of the regulation because the regulation, as modified, implements, interprets, and/or makes specific these additional BPC sections.

(M/S/C) (Larin/Burton) to accept the proposed modifications to the proposed text as recommended by DCA Legal Counsel.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

On April 28, 2020, the Board received written comments in a joint letter from A New Way of Life Reentry Project, Californians for Safety and Justice, Center for Employment Opportunities, Center for Living and Learning, Community Legal Services in East Palo Alto, Criminal Justice Clinic, UC Irvine School of Law, East Bay Community Law Center,

Legal Aid at Work, Legal Services for Prisoners with Children, All of Us or None, Los Angeles Regional Reentry Project, National Association of Social Workers, California Chapter, REDF, The Record Clearance Project, San Jose State University, Root and Rebound, Rubicon Programs, and Underground Scholars Initiative outlining their concerns regarding the implementation of AB 2138.

Mr. Nevin presented each comment and staff's recommendation related to the 45-day Comment Period for the Board's Proposed Rulemaking to Amend California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria.

The joint letter stated that the proposed regulations left some gaps in the regulatory scheme pursuant to the changes to Business and Professions Code (BPC) section 480, 481, 482, and 493 as modified by AB 2138. The comment stated that the proposed regulations failed to meet and implement these statutes. Additionally, the comment stated that the proposed regulations fall short of the intent of the bill, which included combating discrimination against people with records who have demonstrated rehabilitation and seek to establish themselves professionally. Board staff recommended the rejection of the comment. The purpose of the proposed regulations was to clarify substantial relationship criteria and criteria for rehabilitation, as required by AB 2138. (BPC, § 481.) Consistent with the requirements enacted by AB 2138, these regulations would adopt all of the following criteria, which would assist the Board in the implementation of a balanced approach to evaluating an applicant's eligibility for licensure: the nature and gravity of the offense, the number of years elapsed since the date of the offense, and the nature and duties of a dentist or dental auxiliary.

Clarifying how to determine whether a crime is substantially related and clarifying the factors that will be considered when evaluating rehabilitation should assist applicants and licensees with demonstrating their rehabilitation.

(M/S/C) (Morrow/Lai) to accept staff's recommendation to reject the joint letter's comment.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

Additionally, the joint letter stated that the regulations did not comply with AB 2138 because proposed section 1019(c) states that certain violations were substantially related regardless of the time that has passed or the nature and gravity of the offense in contravention of BPC section 481. AB 2138 allows the Board discretion to determine which

crimes are substantially related on an individual basis. Section 1019(c) failed to note that criminal history that resulted in the applicant obtaining a certificate of rehabilitation, pardon, dismissal per Penal Code section 1203.4 et seq., or an arrest that resulted in a disposition other than a conviction shall not be denied a license. Board staff recommended the rejection of the comment. Subdivision (c) of section 1020 provides that substantially related crimes, professional misconduct, or acts shall include: any violation of Article 6, Chapter 1, Division 2 (hereinafter, "Article) of the Code except Sections 651.4, 654 or 655. (§ 1020, subd. (c)(1).) and any violation of the provisions of Chapter 4, Division 2 (hereinafter, "Dental Practice Act") of the Code. (§ 1020, subd. (c)(2).) Violations of the Article and violations of the Dental Practice Act are committed by licensees in performing the functions and duties of the dental profession. (See, for example, Bus. & Prof. Code, § 652 [violations of the Article "constitutes unprofessional conduct and grounds for suspension or revocation of his or her license by the board by whom he or she is licensed[.]"].) Accordingly, they evidence the present or potential unfitness of a person holding such a license to perform the functions authorized by the license. Furthermore, a violation of the Dental Practice Act does not become "no longer" substantially related due to the passage of time. Passage of time for such violations would be reviewed under rehabilitation criteria, section 1020.

As for the comment in the second paragraph (noting that section 1019(c) fails to note that criminal history that resulted in the applicant obtaining a certificate of rehabilitation, pardon, dismissal per Penal Code section 1203.4 et seq., or an arrest that resulted in a disposition other than a conviction shall not be denied a license), staff referenced the response to Comment 5 as place where the response to this comment would be located.

(M/S/C) (Burton/Yu) to accept staff's recommendation to reject the joint letter's comment.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

In addition, the joint letter commented that Section 1020 relied too heavily on law enforcement's reports and determination of the applicant's progress. Rehabilitation can and does take many forms that the current language does not fully embrace. The comment referred the reader to Comment 8 below for examples of rehabilitation to expand the regulations. Board staff recommended the rejection of the comment. As addressed more fully in the Board staff's recommended response to Comment 8, section 1020 permits the applicant to offer evidence of rehabilitation that can encompass any of the

forms of rehabilitation proposed in the letter. Accordingly, the Board believes that the proposed language is consistent with legislative intent.

(M/S/C) (Morrow/Yu) to accept staff's recommendation to reject the joint letter's comment.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

Furthermore, the joint letter requested for the proposed language to include a "7-year washout period" for consideration of convictions or discipline which are not statutorily considered serious felonies under Penal Code section 1192.7. (BPC, § 480, subd. (a)(1), effective July 1, 2020.) Board staff recommended the rejection of the comment. Staff argued that regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).) The seven-year period during which a board can deny a license for a conviction or formal discipline is fully described in BPC section 480(a)(1)(A) and (B), effective July 1, 2020. As this is already included in statute, adding this provision would be duplicative of section 480(a)(1). Therefore, it was not necessary to repeat it in the regulations.

(M/S/C) (Burton/Chan) to accept staff's recommendation to reject the joint letter's comment.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

Additionally, the joint letter also stated that the regulations should provide that a person with a criminal history shall not be denied a license if the applicant has obtained a certificate of rehabilitation, dismissal per Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, or an arrest which led to an infraction/citation or a disposition other than a conviction, or juvenile adjudication. (BPC, § 480, subds. (b)-(d).) Board staff recommended the rejection of the comment. Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).) BPC section 480(c), effective July 1, 2020, already states that a license may not be denied based on a conviction, or on the

basis of the underlying acts, if it has been dismissed pursuant to Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425, or otherwise dismissed or expunged. In addition, BPC section 480(b), effective July 1, 2020, prohibits license denial if the applicant has obtained a certificate of rehabilitation, was granted clemency or a pardon, or has made a showing of rehabilitation per BPC section 482. BPC section 480(d), effective July 1, 2020, prohibits license denial based on an arrest that resulted in something other than a conviction, such as an infraction, citation, or juvenile adjudication. Since these provisions were specifically addressed in statute, adding them again in regulation would be duplicative.

(M/S/C) (Larin/Yu) to accept staff's recommendation to reject the joint letter's comment.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

Furthermore, the joint letter stated that the regulations fail to state that the Board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. (BPC, § 480, subd. (f)(2).) Board staff recommended the rejection of the comment. Section 480(f)(2), effective July 1, 2020, provides that a board cannot require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. As this is already provided by statute, adding this provision would be duplicative of section 480(f)(2). Therefore, it was not necessary to repeat it in the regulations.

(M/S/C) (Morrow/Chan) to accept staff's recommendation to reject the joint letter's comment.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

Additionally, the joint letter stated that the proposed language failed to include that the Board must notify the applicant in writing if the applicant is denied a license or is disqualified from licensure. The comment stated that the Board must provide procedures describing the process for an applicant to challenge a decision or request consideration,

a procedure stating that the applicant has a right to appeal the Board's decision and provide a process for requesting a complete conviction history. (BPC, § 480, subd. (f)(3).) Board staff recommended the rejection of the comment. BPC sections 480(f)(3), 485 through 487, and the Administrative Procedure Act, at Government Code section 11500, et seq., already contain these requirements, including requirements for providing the legal and factual basis for the denial, service of the denial on the applicant, and notice to the applicant regarding the opportunity to request a hearing to challenge the decision. Restating these requirements would be duplicative of the statutes. (Gov. Code, § 11349, subd. (f).)

(M/S/C) (Burton/Yu) to accept staff's recommendation to reject the joint letter's comment.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

Next, the joint letter stated that the intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. The letter stated that rehabilitation can and does take many forms that extend beyond law enforcement supervision. Therefore, the letter recommended that the Board consider adding the following rehabilitation criteria which included: volunteer service, successful employment in a related field, history of work experience in an employment social enterprise, unpaid work in the community; furthered education, abstinence from controlled substances and/or alcohol, stability of family life, fulfillment of parental and familial responsibilities, new and different social and business relationships from those which existed at the time of the underlying charges at issue, change in attitude of the applicant (as evidenced by: personal testimony; evidence of rehabilitation submitted by the applicant; and evidence from family, friends and/or other persons familiar with the applicant's previous behavior patterns and subsequent attitude and behavioral changes), and other markers of rehabilitation. Board staff recommended the rejection of the comment. BPC section 482, effective July 1, 2020, requires boards to develop criteria to evaluate rehabilitation and to consider whether an applicant or licensee has made a showing of rehabilitation if either the criminal sentence has been completed without violation of probation or parole, or if the board otherwise finds the applicant rehabilitated. The final text for proposed section 1020 articulated a two-step process for evaluating rehabilitation: First, the Board must determine if the completion of the criminal sentence with no violations constitutes rehabilitation. Consistent with the direction in AB 2138, to consider rehabilitation if an applicant completes the criminal sentence at issue without a violation of parole or probation, specific criteria were added to section 1020(b) to help the Board determine whether sentence completion demonstrates rehabilitation. Criteria include the nature and gravity

of the crime(s), the length(s) of the applicable parole or probation period(s), the extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified, the terms and conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation, and the extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification. If the Board finds rehabilitation, no further information needs to be provided. Second, if rehabilitation is not demonstrated based on sentence completion, the Board is required to consider certain other criteria to evaluate rehabilitation. A general category permitting submission of any rehabilitation evidence allows an applicant to offer evidence relating to the proposed categories suggested above. As the Board can and already does give serious consideration to these factors when considering whether an applicant is rehabilitated, the Board believes that the proposed language is consistent with legislative intent.

(M/S/C) (Chan/Larin) to accept staff's recommendation to reject the joint letter's comment.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

Finally, the joint letter stated that the proposed regulations failed to state the requirements set forth in BPC section 480(g)(2), effective July 1, 2020, including, that a board retain the number of applicants with a criminal record who received notice of denial or disqualification of licensure, the number of applicants with a criminal record who provided evidence of mitigation or rehabilitation, and the final disposition and demographic information. Board staff recommended the rejection of the comment. These requirements were already set forth in statute. (BPC, § 480, subd. (g)(2), effective July 1, 2020.) Stating them in regulation would be duplicative of the statute. (Gov. Code, § 11349, subd. (f).)

(M/S/C) (Yu/Lai) to accept staff's recommendation to reject the joint letter's comment.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

At 10:50 a.m. the Board recessed for a break.

At 11:02 a.m. the Board reconvened to open session.

Agenda Item 6(b): Discussion and Possible Action Regarding Adoption of Proposed Amendments to California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship and Rehabilitation Criteria

Gabriel Nevin, Legislative and Regulatory Analyst, provided an overview of the agenda item which is available in the meeting materials on the Board's website. Based on the actions taken in the previous agenda item, the Board took the following action:

(M/S/C) (Chan/McKenzie) to modify the text in response to staff's recommendations received and direct staff to take all steps necessary to complete the rulemaking process, including preparing the modified text for a 15-day public comment period, which includes the amendments accepted by the board at this meeting. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed amendments to California Code of Regulations, Title 16, Sections 1019 and 1020 relating to substantial relationship and rehabilitation criteria as noticed in the modified text.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

Agenda Item 7(a): Discussion and Possible Action on Legislation

Gabriel Nevin, Legislative and Regulatory Analyst, provided an overview of the bills the Board has currently been tracking: Assembly Bill (AB) 2028, AB 2185, AB 2549, AB 2631, AB 2704, AB 3045, AB 3315, Senate Bill (SB) 1168. Summary of the bills are available in the meeting materials. Ms. Fran Burton led the discussion and pointed out that some of the bills discussed will not be moving forward due to impacts of COVID-19 and budget limitations. Ms. Burton commented that the chairs of each committee will choose which bills will be heard. She reported the Policy Committee will hold one hearing for the month of May.

(M/S/C) (McKenzie/Yu) to take an "oppose" position on AB 2028 and send a letter to the author outlining concerns regarding the Board's inability to discuss updated bills and new materials sent from stakeholders and the public within the 10-day timeframe.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.
Absent: None.
Recusals: None.

The motion passed. There were no public comments.

(M/S/C) (Burton/Morrow) to take a “watch” position on AB 2185 and send a letter to the author outlining concerns regarding the requirement of a rulemaking, assessment of applicants, implementation of online processes, and how it interacts will AB 2631 (Cunningham Coauthors: Horvath, Fong, Lackey, Mayes and Sens Jones and Wilk).

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.
Nays: None.
Abstentions: None.
Absent: None.
Recusals: None.

The motion passed. There were no public comments.

(M/S/C) (Burton/Yu) to take an “oppose” position on AB 2549 and send a letter to the author outlining concerns regarding the competency of practitioners who will be issued a temporary license.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.
Nays: None.
Abstentions: None.
Absent: None.
Recusals: None.

The motion passed. There were no public comments.

(M/S/C) (Burton/McKenzie) to take a “watch” position on AB 2631.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.
Nays: None.
Abstentions: None.
Absent: None.
Recusals: None.

Ms. Fran Burton pointed out that the AB 2631 has not been scheduled for hearing.

The motion passed. There were no public comments.

(M/S/C) (Lai/Larin) to take a “watch” position on AB 2704.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

(M/S/C) (Burton/Lai) to take an “oppose” position on AB 3045 and send a letter to the author outlining concerns regarding the assessment of applicants, the inability to provide temporary licenses for specialty licensees, and issues relating to reciprocal licensure.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

(M/S/C) (Burton/Morrow) to take an “oppose” position on AB 3315 and send a letter to the author indicating that the Board will be able to focus on its primary duty of protecting California consumers through the administration and enforcement of the Dental Practice Act if the responsibility for approving foreign dental schools was delegated to the Commission on Dental Accreditation (CODA).

Ayes: Burton, Chan, Felsenfeld, Lai, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: Larin.

Absent: None.

Recusals: None.

Francisco Leal, The State University of Medicine and Pharmacy “Nicolae Testemitanu” of the Republic of Moldova representative, commented that Assembly Bill 3315 is an expensive, time-consuming, and cumbersome process and can take up to eight (8) years. He believes that it will lead to a path of non-accreditation for its students who are scheduled to graduate in June 2024. Mr. Leal encouraged the Board to reassess the renewal accreditation for the State University of Medicine and Pharmacy “Nicolae Testemitanu” of the Republic of Moldova and the University of De La Salle Bajio in Mexico.

The motion passed.

(M/S/C) (Burton/Larin) to take a “watch” position on AB 1168.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments.

At 12:06 p.m. the Board recessed for a break.

At 12:15 p.m. the Board reconvened to open session.

Agenda Item 8: Discussion and Possible Action Regarding Directing the Department of Consumer Affairs' Office of Professional Examination Services to Review the WREB Mannikin Based Examination and the ADEX CompeDont Examination

Ms. Karen Fischer, Executive Officer, provided an overview of the agenda item which is available in the meeting materials on the Board's website.

(M/S/C) (Morrow/Felsenfeld) to direct staff to contact the Department of Consumer Affairs' Office of Professional Examination Services to review the WREB Mannikin Based Examination and the ADEX CompeDont Examination.

Ayes: Burton, Chan, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The Board members had a lengthy discussion regarding the validity and ability to utilize the WREB Mannikin Based Examination and the ADEX CompeDont Examination as a licensing examination.

Mary McCune, California Dental Association (CDA) representative, strongly urged the Board to move for the permanent approval of the WREB and ADEX mannikin based examination. CDA believes that the licensing exams are a final but limited evaluation of the candidate's readiness to practice and does not pose a patient safety risk. Ms. McCune commented that the Dental Practice Act does not require the periodontics exam to be on a live patient. Shelby Maurice, dental student at Western University of Health Sciences College of Dental Medicine, urged the Board to establish a timely

pathway for this year's school graduates to obtain a dental licensure and believes it does not compromise patient safety. Dr. Steven Friedrichsen, Dean at the College of Dental Medicine at Western University of Health Sciences, thanked President Stewart and members of the Board for considering a solution to the issue and expressed his support regarding Ms. McCune and Dr. Maurice's comment. Mourad Fawzy, commented that he provides services to dental schools and believes that the examinations proposed is sufficient enough to assess dental students. Anthony Lum, Executive Officer of the Dental Hygiene Board of California (DHBC), commented that DHBC be discussing their issue to modify the WREB clinical examination to a written format as a temporary basis at their Board meeting scheduled on May 29, 2020. Dr. Bruce Horn, Director of Dental Examinations for the WREB, commented that the psychometric overview provided is intended to be an interim dental examination. Dr. Horn mentioned that the periodontal scaling on a plastic tooth is not a reliable assessment. Dr. Guy Champagne, Vice President of the ADEX, commented that the CompeDont is a simulation tooth that required three (3) years of development and was not developed in response to COVID-19. Eddie Sandoval, student at the University of Moldova Dental School, expressed his support in the temporary approval of the mannikin based examination. William Pappas, DDS, President of the ADEX, addressed Board members concerns and commented that dentists are not responsible for performing the periodontal scaling procedure. Additionally, he commented that the preparation of operative procedure is covered in the Objective Structure Clinical Examination (OSCE). Dr. Huong Le, former Board member, commented that dentists should understand the diagnosis and treatment plan for periodontics. She commented that if students can successfully demonstrate the preparation for a plastic tooth, then it displays hand skills and clinical knowledge in the dental profession. Dr. Le encouraged the Board to think creatively regarding non-patient examinations. Gary Pickard, Pacific Dental Services representative, commented his support on CDA's position.

The motion passed.

Agenda Item 9: Update Regarding Impact of COVID-19 on Licensing

Tina Vallery, Chief of Administration and Licensing, provided the report, which is available in the meeting materials published on the Board's website.

Denise Romero, Program Director of the Dental Assisting Program at Pasadena City College, commented that the lab and clinical courses were suspended for the summer and would impact students who are scheduled for graduation in 2020.

Agenda Item 10: Public Comment on Items Not on the Agenda

Gary Pickard, Senior Director of Pacific Dental Services, requested for the Board to allow dentists to administer diagnostic testing as a scope of practice in light of the COVID-19 pandemic. He commented that American Dental Association (ADA) and American General Dentistry (AGD) recommended similar action.

Agenda Item 11: Board Member Comment on Items Not on the Agenda

There were no Board member comments for items not on the agenda.

At 1:25 p.m. the Board recessed to convene in closed session as a full Board to deliberate and take action on disciplinary matters and to discuss litigation.

At 3:44 p.m. the Board returned to open session.

Agenda Item 12: Adjournment

The Board President adjourned the meeting at 3:45 p.m.



MEMORANDUM

DATE	August 5, 2020
TO	Members of the Dental Board of California
FROM	Steve Long, Budget and Contract Analyst Dental Board of California
SUBJECT	Agenda Item 4: Budget Report

Background:

The following is intended to provide a summary of expenditures from July 1, 2019 to May 31, 2020 of Fiscal Year (FY) 2019-20 for both funds. The Board managed two separate funds during this reporting period: 1) the State Dentistry Fund, and 2) the State Dental Assistant Fund.

State Dentistry Fund - Summary of Expenditures from July 1, 2019 to May 31, 2020

The State Dentistry Fund's appropriation is consistent with the Current Year Revised Budget for Fiscal Year 2019-20. The expenditures in this report are based upon the budget report released by the Department of Consumer Affairs (DCA) in June 2020. This report reflects actual expenditures from July 1, 2019 to May 31, 2020. The Dental Board (Board) spent roughly \$11.7 million or 76% of its total Dentistry Fund appropriation for FY 2019-20. Of that amount, approximately \$6.2 million of the expenditures were for Personnel Services and \$5.5 million were for Operating Expense & Equipment (OE&E) for this time period.

Fund Title	Appropriation	Total Expenditures July 1, 2019-May 31, 2020
Dentistry Fund	\$15,514,000	\$11,736,399

Expenditure Projection:

Attachment 1 displays year-to-date expenditures for the State Dentistry Fund.

Analysis of Fund Condition:

Attachment 1A displays an analysis of the State Dentistry Fund's condition.

State Dental Assistant Fund - Summary of Expenditures from July 1, 2019 to May 31, 2020

The State Dental Assistant Fund’s appropriation is consistent with the Current Year Revised Budget for Fiscal Year 2019-20. The expenditures in this report are based upon the budget report released by the DCA in June 2020. This report reflects actual expenditures from July 1, 2019 to May 31, 2020. The Board spent roughly \$1.5 million or 59% of its total Dental Assistant Fund appropriation for this time period. Of that amount, approximately \$602,000 of the expenditures were for Personnel Services and \$930,000 were for OE&E for this time period.

Fund Title	Appropriation	Total Expenditures July 1, 2019-May 31, 2020
Dental Assistant Fund	\$2,599,000	\$1,532,402

Expenditure Projection:

Attachment 2 displays year-to-date expenditures for the State Dental Assistant Fund.

Analysis of Fund Condition:

Attachment 2A displays the State Dental Assistant Fund’s condition.

2020 Budget Act

The Budget Act of 2020 was signed by Governor Gavin Newsom on June 29, 2020. This law outlines the State’s budget for July 1, 2020 to June 30, 2021. The Budget Act of 2020 includes the merging of the State Dentistry Fund and the State Dental Assistant Fund, the General Fund Loan, and the appropriation for the Dental Board. Assembly Bill 1519 combined the State Dentistry Fund and the State Dental Assistant Fund beginning July 1, 2020. Moneys from the Dental Assistant Fund will still be available to pay existing expenses incurred for the purposes of administering provisions relating to dental assistants, Registered Dental Assistants, Registered Dental Assistants in Extended Functions, Dental Sedation Assistant permitholders, and Orthodontic Assistant permitholders. The Board has the ability to differentiate revenues and expenditures between the Dental Board and the Dental Assisting Program, but the funds have now merged. On July 1, 2022, the State Dental Assistant Fund shall be abolished, and any moneys held in that fund will be transferred to the State Dentistry Fund. The Dental Board’s full appropriation for Fiscal Year 2020-21 is \$18,509,000.

Fund Title	Appropriation
Dentistry Fund	\$18,509,000

Analysis of Fund Condition:

Attachment 3 displays the combined Fund Condition. The transfer of the Dental Assisting Fund balance is notated in FY 2021-22.

Budgetary loans can be authorized each year in the Budget Act or through special legislation. These loans are for defined dollar amounts to be loaned from one fund to another and generally contain a specified repayment date. Budgetary loans typically cross multiple fiscal years.

The Budget Act of 2020 authorized budgetary loans from various State entities, including the Department of Consumer Affairs (DCA), to address the budget deficit. The Governor's Office directed the Department of Finance (DOF) to determine which funds have appropriate reserves to loan funds to the General Fund. DOF identified approximately \$167 million to be borrowed from the various funds within DCA. The Budget Act of 2020 authorizes the Director of Finance to transfer a loan of \$5,000,000 from the State Dentistry Fund to the State's General Fund. The loan is scheduled to be repaid with interest in Fiscal Year 2024-25. DOF shall repay the loan sooner if it is determined the originating fund needs the money or the receiving fund no longer requires the money.

The loan to the General Fund is notated in the Fund Condition on Attachment 3. After the loan to the General Fund, the Board's fund is projected to remain solvent throughout the duration of the loan. There is a projected 6.8 months (\$9.8 million) in reserve for Fiscal Year 2020-21 and a projected 7.8 months (\$11.5 million) in reserve for Fiscal Year 2021-22.

Action Requested:

No action requested.

Attachment 1

Dental Board-Fund 0741
 Budget Report
 FY 2019-20 Expenditure Projection FM 11
 Based on 6/21 Activity Log

Object Description	FY 2016-17 Actual Expenditures (Month 13)	FY 2017-18 Actual Expenditures (Prelim 12)	FY 2018-19 Actual Expenditures (Prelim 12)	FY 2019-20 CY Revised Budget 2019-20	FY 2019-20 Current Year Expenditures (6/21 Activity Log)	FY 2019-20 Percent Spent	FY 2019-20 Projections to Year End	FY 2019-20 Unencumbered Balance
Personnel Services								
Salary & Wages (Staff)	3,508,370	3,973,427	4,066,554	5,453,000	3,624,474	66%	3,987,000	1,466,000
Temp Help	91,423	115,694	95,938	284,000	56,952	20%	68,000	216,000
Statutory Exempt (EO)	114,087	119,520	124,296	96,000	117,931	123%	128,652	(32,652)
Board Member Per Diem	19,800	14,500	16,400	105,000	10,113	10%	15,000	90,000
Overtime/Retirement Payout	14,859	12,839	147,705	25,000	55,302	221%	72,000	(47,000)
Staff Benefits	1,992,049	2,343,757	2,419,987	3,311,000	2,380,490	72%	2,622,000	689,000
Totals, Personnel SVC	5,740,588	6,579,737	6,870,880	9,274,000	6,245,262	67%	6,892,652	2,381,348
Operating Expense and Equipment								
General Expense	137,574	148,648	155,124	129,000	110,460	86%	148,000	(19,000)
Printing	84,508	112,439	143,296	58,000	94,316	163%	125,000	(67,000)
Communication	32,672	49,485	33,602	39,000	33,425	86%	40,000	(1,000)
Postage	39,697	92,580	40,903	54,000	505	1%	47,700	6,300
Insurance	11,115	37,334	33,535	2,000	8,423	421%	33,500	(31,500)
Travel In State	133,870	75,134	54,291	110,000	94,566	86%	103,000	7,000
Travel, Out-of-State	1,922	0	0	0	1,496	0%	4,000	(4,000)
Training	4,216	5,825	3,472	7,000	2,469	35%	3,300	3,700
Facilities Operations	419,804	594,880	447,096	430,000	500,446	116%	595,000	(165,000)
Utilities	0	0	0	0	1,401	0%	2,000	(2,000)
C & P Services - Interdepartmental	12,835	25,896	5,693	23,000	305	1%	6,000	17,000
Attorney General	1,090,876	846,620	1,074,111	1,778,000	1,100,679	62%	1,482,000	296,000
Office of Administrative Hearings	284,403	202,528	298,970	407,000	220,400	54%	240,000	167,000
C & P Services - External	867,055	948,813	807,794	804,000	524,520	65%	820,000	(16,000)
DCA Pro Rata								
Office of Information Serv.	1,161,403	1,082,900	1,082,000	1,080,000	990,000	92%	1,080,000	0
Administrative Services	837,743	951,583	1,069,000	1,274,000	1,167,833	92%	1,274,000	0
Communications Division	142,533	60,390	73,000	77,000	70,583	92%	77,000	0
Policy & Program Review	4,577	66,330	73,000	74,000	67,833	92%	74,000	0
Div. of Investigation-SOU	21,158	23,001	33,000	42,000	38,500	92%	42,000	0
Interagency Services	0	0	18,654	1,000	18,906	1891%	25,000	(24,000)
IA w/ OPES	0	48,360	50,798	0	126,691	0%	127,000	(127,000)
Consolidated Data Center	19,362	39,626	14,494	21,000	36,190	172%	50,000	(29,000)
Information Technology	12,211	14,355	4,018	31,000	1,010	3%	10,000	21,000
Equipment	49,949	234,593	34,011	61,000	49,611	81%	83,000	(22,000)
Other Items of Expense	12,154	9,245	7,252	0	6,859	0%	8,300	(8,300)
Vehicle Operations	48,556	41,916	48,816	5,000	223,709	4474%	270,000	(265,000)
Totals, OE&E	5,430,193	5,712,481	5,605,930	6,507,000	5,491,137	84%	6,769,800	(262,800)
Total Expense	11,170,781	12,292,218	12,476,810	15,781,000	11,736,399	74%	13,662,452	2,118,548
Scheduled Reimbursement Fingerprints	(15,365)	(16,366)	(15,541)	(53,000)	(13,769)	21%	(53,000)	0
Unscheduled Prob Monitor	(8,000)	(7,756)	(5,875)	(214,000)	(110,342)	0%	(214,000)	0
Unscheduled Reimbursement Other	(503,376)	(599,852)	(539,503)		(507,718)	0%	0	0
Net Appropriation	10,644,040	11,668,244	11,915,891	15,514,000	11,052,378	71%	13,395,452	2,118,548
							Surplus	13.7%

0741-State Dentistry Fund
Analysis of Fund Condition
(Dollars in Thousands)

Prepared 12.23.2019

Governor's Budget 2020-21

	PY 2018-19*	CY 2019-20	Governor's Budget BY 2020-21
Beginning Balance	\$5,106	\$11,358	\$10,957
Prior Year Adjustment	\$3,174	\$ -	\$ -
Adjusted Beginning Balance	\$8,280	\$11,358	\$10,957
Revenues and Transfers			
Revenues:			
4121200 Delinquent fees	\$198	\$205	\$207
4127400 Renewal fees	\$12,959	\$13,177	\$13,308
4129200 Other regulatory fees	\$157	\$162	\$164
4129400 Other regulatory licenses and permits	\$2,401	\$2,511	\$2,537
4143500 Miscellaneous services to the public	\$37	\$47	\$47
4163000 Income from surplus money investments	\$161	\$160	\$161
4171400 Escheat of unclaimed checks and warrants	\$10	\$4	\$4
4172500 Miscellaneous revenues	\$8	\$5	\$5
Total Revenues	\$15,931	\$16,271	\$16,433
Total Revenues, Transfers, and Other Adjustments	\$15,931	\$16,271	\$16,433
Total Resources	\$24,211	\$27,629	\$27,390
Expenditures			
Disbursements:			
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$11,877	\$15,514	\$15,720
8880 Financial Information System of California (State Operations)	\$1	\$-2	\$-
9892 Supplemental Pension Payments (State Operations)	\$161	\$318	\$318
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$814	\$842	\$783
Total Expenditures and Expenditure Adjustments	\$12,853	\$16,672	\$16,821
Fund Balance			
Reserve for economic uncertainties	\$11,358	\$10,957	\$10,569
Months in Reserve	8.2	7.8	7.3
Notes: *PY 2018-19 based on preliminary FM 12 reports			

Attachment 2

Dental Assistant Program-Fund 3142
 Budget Report
 FY 2019-20 Expenditure Projection FM 11
 Based on 6/21 Activity Log

Object Description	FY 2016-17 Actual Expenditures (Month 13)	FY 2017-18 Actual Expenditures (Prelim 12)	FY 2018-19 Actual Expenditures (Prelim 12)	FY 2019-20 CY Revised Budget 2019-20	FY 2019-20 Current Year Expenditures (6/21 Activity Log)	FY 2019-20 Percent Spent	FY 2019-20 Projections to Year End	FY 2019-20 Unencumbered Balance
Personnel Services								
Salary & Wages (Staff)	404,432	429,537	389,649	690,000	306,770	44%	368,124	321,876
Temp Help	33,448	38,903	80,613	0	0	0%	0	0
Board Member Per Diem	2,600	600	1,400	0	1,000	0%	2,000	(2000)
Overtime/Retirement Payout	12,255	9,508	1,912	0	6,531	0%	7,837	(7,837)
Staff Benefits	292,318	311,350	328,075	459,000	287,636	63%	346,000	113,000
Totals, Personnel SVC	745,053	789,898	801,648	1,149,000	601,937	52%	723,961	425,039
Operating Expense and Equipment								
General Expense	9,015	9,198	2,541	38,000	635	2%	800	37,200
Printing	3,893	60	0	19,000	0	0%	0	19,000
Communication	0	0	602	8,000	324	4%	400	7,600
Postage	0	1	1	17,000	0	0%	0	17,000
Insurance	11	3,274	3,866	0	29	0%	1,000	(1,000)
Travel In State	36,037	14,975	17,428	46,000	15,726	34%	19,000	27,000
Travel, Out-of-State	0	0	0	0	0	0%	0	0
Training	36	0	0	4,000	49	1%	0	4,000
Facilities Operations	45,737	72,335	108,418	133,000	76,500	58%	107,309	25,691
Utilities	0	0	0	1,000	0	0%	0	1,000
C & P Services - Interdepartmental	0	0	402	128,000	402	0%	600	127,400
Attorney General	137,406	144,981	108,493	216,000	79,346	37%	95,215	120,785
Office of Administrative Hearings	0	0	0	3,000	0	0%	0	3,000
C & P Services - External	268,372	151,925	169,401	110,000	100,017	91%	115,000	(5,000)
DCA Pro Rata	813,569	745,694	729,000	666,000	610,500	92%	666,000	0
Interagency Services	0	0	2,883	73,000	3,065	4%	4,000	69,000
IA w/ OPES	39,728	64,415	38,552	0	43,872	0%	43,872	(43,872)
Consolidated Data Center	0	0	0	3,000	0	0%	0	3,000
Information Technology	0	0	0	1,000	0	0%	0	1,000
Equipment	0	0	2,732	0	0	0%	1,000	(1,000)
Other Items of Expense	0	0	7,840	0	0	0%	1,000	(1,000)
Vehicle Operations	0	0	0	0	0	0%	0	0
Totals, OE&E	1,353,804	1,206,858	1,192,159	1,466,000	930,465	63%	1,055,196	410,804
Total Expense	2,098,857	1,996,756	1,993,807	2,615,000	1,532,402	59%	1,779,157	835,843
Scheduled Reimbursement Fingerprints	(1,323)	(622)	(296)	(13,000)	(49)	0	(49)	(12,951)
Unscheduled Prob Monitor	(705)	0	(470)	(3,000)	0	0	0	(3,000)
Unscheduled Reimbursement Other	0	0	0	0	0	0	0	0
Net Appropriation	2,096,829	1,996,134	1,993,041	2,599,000	1,532,353	59%	1,779,108	819,892
							Surplus	31.5%

3142-State Dental Assistant Fund
Analysis of Fund Condition
(Dollars in Thousands)

Prepared 12.23.2019

Governor's Budget 2020-21

	PY 2018-19*	CY 2019-20	Governor's Budget BY 2020-21
Beginning Balance	\$1,413	\$2,267	\$2,022
Prior Year Adjustment	\$535	\$ -	\$ -
Adjusted Beginning Balance	\$1,948	\$2,267	\$2,022
Revenues and Transfers			
Revenues:			
4121200 Delinquent fees	\$95	\$97	\$98
4127400 Renewal fees	\$1,827	\$1,842	\$1,860
4129200 Other regulatory fees	\$36	\$32	\$32
4129400 Other regulatory licenses and permits	\$511	\$531	\$536
4143500 Miscellaneous services to the public	\$43	\$1	\$1
4163000 Income from surplus money investments	\$32	\$31	\$28
4171400 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -
4172500 Miscellaneous revenues	\$4	\$1	\$1
Total Revenues	\$2,548	\$2,535	\$2,556
Total Revenues, Transfers, and Other Adjustments	\$2,548	\$2,535	\$2,556
Total Resources	\$4,496	\$4,802	\$4,578
Expenditures			
Disbursements:			
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$2,010	\$2,599	\$2,655
8880 Financial Information System of California (State Operations)	\$ -	\$ -	\$ -
9892 Supplemental Pension Payments (State Operations)	\$17	\$33	\$33
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$202	\$148	\$123
Total Expenditures and Expenditure Adjustments	\$2,229	\$2,780	\$2,811
Fund Balance			
Reserve for economic uncertainties	\$2,267	\$2,022	\$1,767
Months in Reserve	9.8	8.6	7.3
Notes: *PY 2018-19 based on preliminary FM 12 reports			

0741-State Dentistry Fund
Analysis of Fund Condition
(Dollars in Thousands)

Prepared 7.23.2020

2020-21 Budget Act w/ 19-20 FM 11 Projections

	PY 2019-20	Budget Act CY 2020-21	BY + 1 2021-22
Beginning Balance	\$11,280	\$12,679	\$9,847
Prior Year Adjustment		\$-	\$-
Adjusted Beginning Balance	\$11,280	\$12,679	\$9,847
Revenues and Transfers			
Revenues:			
4121200 Delinquent fees	\$198	\$305	\$305
4127400 Renewal fees	\$12,959	\$15,168	\$15,168
4129200 Other regulatory fees	\$157	\$196	\$196
4129400 Other regulatory licenses and permits	\$2,401	\$3,073	\$3,073
4143500 Miscellaneous services to the public	\$37	\$48	\$48
4163000 Income from surplus money investments	\$161	\$189	\$170
4171400 Escheat of unclaimed checks and warrants	\$10	\$4	\$4
4172500 Miscellaneous revenues	\$8	\$6	\$6
Total Revenues	\$15,931	\$18,989	\$18,970
Transfers from Other Funds			
Transfer of RDA Fund Balance	\$-	\$-	\$1,993
Transfers to Other Funds			
GF loan per Item 1111-011-0741, BA of 2020	\$-	\$-5,000	\$-
Total Revenues, Transfers, and Other Adjustments	\$15,931	\$13,989	\$18,970
Total Resources	\$27,211	\$26,668	\$28,817
Expenditures			
Disbursements:			
1111 Department of Consumer Affairs Program Expenditures (State Operations)	\$13,374	\$15,720	\$16,192
8880 Financial Information System of California (State Operations)	\$-2	\$-	\$-2
9892 Supplemental Pension Payments (State Operations)	\$318	\$318	\$318
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$842	\$783	\$783
Total Expenditures and Expenditure Adjustments	\$14,532	\$16,821	\$17,291
Fund Balance			
Reserve for economic uncertainties	\$12,679	\$9,847	\$11,526
Months in Reserve	9.0	6.8	7.8

Agenda Item 4: Budget Report
Dental Board of California Meeting
August 14, 2020

Page 8 of 8



MEMORANDUM

DATE	August 5, 2020
TO	Members of the Dental Board of California
FROM	Steve Long, Budget and Contract Analyst Dental Board of California
SUBJECT	Agenda Item 4(a): DCA Pro Rata

Background:

During a previous Board meeting, Board members have asked questions about the background and details of Pro Rata that the Dental Board pays to the Department of Consumer Affairs (DCA). In an effort to provide additional information, Board staff have added this agenda item.

We have invited a representative from the DCA Budget Office and they will provide a verbal report that includes further information.

The DCA is responsible for providing an annual Pro Rata report to the legislature that identifies distributed costs. The 2020 Pro Rata report prepared by the DCA is attached.

Action Requested:

No action requested.



June 29, 2020

The Honorable Steve M. Glazer, Chair
Senate Business, Professions, and Economic Development Committee
State Capitol, Room 2053
Sacramento, CA 95814

The Honorable Evan Low, Chair
Assembly Business and Professions Committee
1020 N St., Room 379
Sacramento, CA 95814

Re: Annual Department of Consumer Affairs Distributed Costs Report

Dear Senator Glazer and Assembly Member Low:

Business and Professions Code section 201 requires the Department of Consumer Affairs (Department) to submit a report to the Legislature by July 1 of each year of the accounting of its pro rata calculation of administrative expenses.

The Department's report includes the following attachments:

- An overview of the methodology used for allocating distributed costs.
- A summary of costs by each service area of the Department for each board and bureau.

The Department charges pro rata to recover its costs for centralized administrative services provided to the boards and bureaus. All the work the Department performs is to support the boards and bureaus. The majority of distributed costs are based on workload and approximately one-third is distributed based on the authorized positions of the board or bureau. All savings achieved by the Department are returned to respective board and bureau funds at year-end.

In the attached spreadsheet of costs, there are four boards and bureaus that have higher than average costs at 30 percent or more of their annual budget. The following provides a brief explanation of the anomalies driving the costs.

- Board of Barbering and Cosmetology: This board has a large licensee population (over 600,000 licensees) and therefore their share of the costs for the BreEZe licensing and enforcement database is higher. The Department also receives a significant amount of calls in its Consumer Information Center (CIC) unit directly related to this board.

- Medical Board of California: The Department has an entire unit (Health Quality Investigation Unit) of sworn investigators and support staff dedicated to providing this board with enforcement services that accounts for nearly 80 percent of the costs this board pays the Department.
- Board of Vocational Nursing and Psychiatric Technicians: This board has a higher than average number of cases referred to the Department's Division of Investigation and the costs of conducting those investigations accounts for more than half of the costs this board pays the Department.
- Bureau of Security & Investigative Services: Similar to the Board of Barbering and Cosmetology, this bureau has a large licensee population (over 400,000) that contributes to larger shares of BreEze and Consumer Information Center costs.

Should you have any questions regarding this report, please contact Jennifer Simoes, Deputy Director for Legislative Affairs, at (916) 574-7800 or Jennifer.Simoes@dca.ca.gov.

Sincerely,



Kimberly Kirchmeyer
Director

cc: Stuart Thompson, Chief Deputy Legislative Secretary, Office of the Governor
Lourdes Castro Ramírez, Secretary, Business, Consumer Services and Housing Agency
Clint Kellum, Assistant Program Budget Manager, Department of Finance
Helen Kerstein, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
Members of the Senate Business, Professions, and Economic Development Committee
Members of the Senate Budget Subcommittee No. 4
Members of the Assembly Business and Professions Committee
Members of the Assembly Budget Subcommittee No. 4
Department of Consumer Affairs Executive Officers and Bureau Chiefs

Attachments:

Distributed Cost Methodology for Fiscal Year 2020-21
2020-21 Department of Consumer Affairs Distributed Costs Spreadsheet

**DEPARTMENT OF CONSUMER AFFAIRS
DISTRIBUTED COST METHODOLOGY FOR FISCAL YEAR 2020-21**

CONSUMER AND CLIENT SERVICES DIVISION (CCSD)

1. ADMINISTRATIVE & INFORMATION SERVICES DIVISION (AISD):

- *AISD LESS OFFICE OF INFORMATION SERVICES* (which consists of the Executive Office, Equal Employment Opportunity Office, Internal Audits, Legal Affairs, Legislative Affairs, SOLID Training & Planning Solutions, Information Security, and the Office of Administrative Services [which consists of Fiscal Operations, Business Services Office, Office of Human Resources]): Distributed costs to all boards/bureaus/programs based on authorized position count. Costs derived from AISD positions gained through cannabis related proposals to support the Bureau of Cannabis Control are tracked separately and allocated directly to the bureau.
- *OFFICE OF PROFESSIONAL EXAMINATION SERVICES (OPES)*: Most Services are direct costs based on individual intra-agency agreements with boards/bureaus/programs. Small portion of budget distributed to boards/bureaus/programs required to report pursuant to B&P 139 based on authorized position count.
- *OFFICE OF INFORMATION SERVICES (OIS)*: Distributed costs based on service center usage. Cost centers include ATS/CAS, BreZE, telecom, PC support, LAN/WAN, and web services among others. Costs derived from OIS positions gained through cannabis related proposals to support the Bureau of Cannabis Control are tracked separately and allocated directly to the bureau.

2. COMMUNICATIONS DIVISION:

- *PUBLIC AFFAIRS*: Distributed costs based on authorized position count.
- *PUBLICATIONS, DESIGN AND EDITING*: Distributed costs based on authorized position count.
- *DIGITAL PRINT SERVICES*: Staffing costs based on authorized position count. Costs of printing and materials are direct costs based on individual service request.

3. DIVISION OF PROGRAM AND POLICY REVIEW:

- *CONSUMER INFORMATION CENTER (CIC)*: Distributed costs based on client's past year workload to determine the client's distributed costs in budget year. Non-jurisdictional call costs distributed to all boards/bureaus/programs based on authorized position count.
- *CORRESPONDENCE UNIT*: Distributed costs based on client's past year workload to determine the client's distributed costs in budget year. Non-jurisdictional correspondence costs distributed to all boards/bureaus/programs based on authorized position count.
- *POLICY REVIEW (PRP)*: Distributed costs based on authorized position count.

DIVISION OF INVESTIGATION (DOI)

- *SPECIAL OPERATIONS UNIT*: Distributed costs based on authorized position count.
- *HEALTH QUALITY INVESTIGATION UNIT (HQIU)*: Costs distributed fully to the Medical Board of California. Costs incurred by Allied Health Programs are based on an hourly rate and invoiced directly with reimbursement going to the Medical Board.
- *INVESTIGATION & ENFORCEMENT UNIT*: Fee for service: Based on two-year roll-forward methodology. This methodology uses a client's actual workload/costs in past year to determine the client's budget in budget year, which will cover the budget year estimated workload, plus any credit or debit for services already provided.

**DEPARTMENT OF CONSUMER AFFAIRS
DISTRIBUTED COST CALCULATIONS FOR FISCAL YEAR 2020-21**

AUTHORIZED POSITION COUNT

Used to distribute the budget for the Department's administrative units where costs benefit more than one Board or Bureau and a specific workload metric is not available. (examples: Fiscal Operations, Human Resources, etc.)

$$\text{Distributed Cost Rate (\%)} = \frac{\text{Program Authorized Positions}}{\text{Total of All Programs Authorized Positions}}$$

Example:

$$\text{Program A Cost Rate} = 10\% = \frac{100.0 \text{ Authorized Positions (Program A)}}{1,000.0 \text{ Authorized Positions (All Programs)}}$$

PAST YEAR WORKLOAD

Used to distribute the budget for the Department's units where costs benefit more than one Board or Bureau and workload is primarily based on a specific workload metric. (examples: Consumer Information Center, Investigation and Enforcement Unit, etc.)

$$\text{Distributed Cost Rate (\%)} = \frac{\text{Program Specific Call Volume}}{\text{Total of All Programs Call Volume}}$$

Example:

$$\text{Program A Cost Rate} = 20\% = \frac{20,000 \text{ Calls (Program A)}}{100,000 \text{ Calls (All Programs)}}$$

SERVICE CENTER USAGE

Used to distribute the budget for the Department's units where costs benefit more than one Board or Bureau, and costs are based on specific device or record count. (example: Office of Information Services)

$$\text{Distributed Cost Rate (\%)} = \frac{\text{Program Specific Widget}}{\text{Total of All Programs Widgets}}$$

Example:

$$\text{Program A Cost Rate} = 15\% = \frac{150 \text{ Workstations (Program A)}}{1,000 \text{ Total Workstations (All Programs)}}$$

DIRECT COST

Used to distribute the budget for the Department's units where costs benefit only one Board or Bureau. (example: Health Quality Investigation Unit)

2020-21 Department of Consumer Affairs Distributed Costs
Budget Act of 2020

Attachment B

Board / Bureau Name	2020-21 Authorized Positions	Consumer and Client Services Division										Division of Investigation			TOTAL	% of Budget
		Administrative & Information Services Division				Communications Division		Division of Program & Policy Review				Special Operations Unit	Health Quality Investigation Unit	Investigation & Enforcement Unit		
		AISD Less OIS	OIS (less BreEZe)	OIS (BreEZe)	OIS (Biz Mod)	Public Affairs	Publications Design & Editing	Consumer Information Center	Correspondence	Policy Review						
Accountancy	103.8	1,727,000	318,000	-	-	53,000	48,000	70,000	23,000	13,000		54,000		362,000	2,668,000	16%
Board of Architectural Examiners	24.9	410,000	277,000	-	-	12,000	11,000	16,000	6,000	3,000		12,000		92,000	839,000	20%
Landscape Arch Committee	5.5	92,000	69,000	-	-	3,000	2,000	4,000	1,000	1,000		3,000			175,000	16%
Athletic Commission	10.2	171,000	100,000	-	-	5,000	4,000	7,000	2,000	1,000		5,000		35,000	330,000	18%
Boxer's Pension	0.5	8,000	9,000	-	-	-	-	-	-	-		-		-	17,000	15%
Board of Behavioral Sciences	65.5	1,082,000	670,000	506,000	-	34,000	30,000	100,000	21,000	8,000		28,000		-	2,479,000	20%
Chiropractic Examiners	19.4	318,000	224,000	-	126,000	10,000	8,000	12,000	9,000	2,000		10,000		354,000	1,073,000	20%
Barbering & Cosmetology ¹	96.2	1,591,000	1,196,000	2,704,000	-	51,000	44,000	597,000	72,000	12,000		42,000		-	6,309,000	30%
Contractors State License Bd	432.6	6,194,000	1,006,000	-	-	196,000	172,000	291,000	116,000	48,000		193,000		52,000	8,268,000	11%
Dental Board of CA	88.8	1,467,000	917,000	433,000	-	45,000	39,000	72,000	26,000	11,000		46,000		-	3,056,000	16%
Dental Hygiene Committee	13.0	216,000	140,000	98,000	-	6,000	6,000	12,000	5,000	2,000		6,000		-	491,000	20%
Medical Board of California ²	188.5	3,047,000	843,000	869,000	-	99,000	86,000	128,000	52,000	25,000		99,000	24,415,000	-	29,663,000	39%
Acupuncture Board	14.0	228,000	151,000	-	126,000	7,000	6,000	10,000	3,000	2,000		7,000		491,000	1,031,000	21%
Physical Therapy Board	27.4	456,000	275,000	177,000	-	14,000	12,000	23,000	8,000	3,000		13,000		737,000	1,718,000	28%
Physician Assistant Board	11.0	183,000	97,000	70,000	-	5,000	5,000	7,000	3,000	1,000		5,000		-	376,000	13%
Board of Podiatric Medicine	5.2	86,000	54,000	14,000	-	3,000	2,000	4,000	2,000	1,000		3,000		-	169,000	11%
Board of Psychology	26.3	438,000	268,000	107,000	-	13,000	11,000	22,000	5,000	3,000		13,000		636,000	1,516,000	24%
Respiratory Care Board	17.4	287,000	171,000	104,000	-	9,000	7,000	13,000	4,000	2,000		9,000		-	606,000	16%
Speech-Language P.A./ Hearing Aid	11.6	189,000	159,000	-	-	6,000	5,000	8,000	8,000	1,000		6,000		35,000	417,000	18%
Occupational Therapy	17.7	292,000	178,000	93,000	-	9,000	8,000	15,000	5,000	2,000		9,000		287,000	898,000	28%
Board of Optometry	10.4	171,000	107,000	74,000	-	5,000	4,000	12,000	4,000	1,000		5,000		122,000	505,000	21%
Registered Dispensing Opticians	2.0	32,000	22,000	6,000	-	1,000	1,000	1,000	-	-		1,000		81,000	145,000	29%
Osteopathic Medical Board	13.4	222,000	126,000	54,000	-	7,000	6,000	10,000	4,000	2,000		3,000		-	434,000	14%
Naturopathic Medicine	2.0	33,000	21,000	4,000	-	1,000	1,000	1,000	1,000	-		-		-	62,000	18%
Board of Pharmacy	127.6	2,232,000	1,319,000	-	-	71,000	61,000	89,000	34,000	18,000		70,000		-	3,894,000	13%
Board of Pharmacy - Sharps	7.0	102,000	-	-	-	3,000	2,000	-	-	-		-		-	109,000	8%
Board for Prof. Engineers, Land Surveyors & Geologists	47.2	761,000	585,000	-	127,000	23,000	22,000	31,000	16,000	6,000		24,000		110,000	1,705,000	13%
Board of Registered Nursing	238.8	3,995,000	2,266,000	2,892,000	-	124,000	112,000	335,000	126,000	31,000		127,000		6,723,000	16,731,000	28%
Court Reporters Board	4.5	76,000	65,000	-	-	2,000	2,000	3,000	1,000	1,000		2,000		-	152,000	13%
Structural Pest- Support	29.9	493,000	343,000	-	-	15,000	13,000	20,000	15,000	4,000		15,000		-	918,000	15%
Veterinary Medical Board	30.3	502,000	305,000	148,000	-	15,000	13,000	28,000	11,000	4,000		15,000		330,000	1,371,000	21%
Vocational Nursing & Psychiatric Technicians ³	73.4	1,208,000	694,000	584,000	-	38,000	34,000	100,000	32,000	9,000		38,000		2,954,000	5,691,000	32%
Arbitration Certification Program	8.0	132,000	75,000	-	-	4,000	3,000	5,000	2,000	1,000		4,000		-	226,000	16%
Private Security Services ⁴	72.4	1,207,000	1,176,000	2,544,000	-	38,000	33,000	799,000	66,000	9,000		37,000		107,000	6,016,000	36%
Private Postsecondary	108.0	1,750,000	1,151,000	-	127,000	55,000	49,000	72,000	96,000	13,000		56,000		8,000	3,377,000	17%
Electronic/ Appliance Repair	20.0	328,000	225,000	-	-	10,000	9,000	14,000	12,000	2,000		10,000		-	610,000	20%
Household Furnishings	30.9	501,000	338,000	-	-	15,000	13,000	22,000	13,000	4,000		15,000		-	921,000	17%
Home Movers	11.0	184,000	109,000	-	-	5,000	5,000	7,000	2,000	1,000		5,000		-	318,000	11%
Automotive Repair (VIRF)	543.8	8,996,000	5,238,000	-	-	301,000	265,000	776,000	144,000	82,000		297,000		-	16,099,000	13%
Automotive Repair (HPRRA)	57.6	936,000	546,000	-	-	29,000	26,000	38,000	11,000	7,000		30,000		-	1,623,000	18%
Automotive Repair (EFM)	9.0	147,000	84,000	-	-	4,000	4,000	6,000	2,000	1,000		4,000		-	252,000	26%
Cemetery & Funeral	25.0	414,000	264,000	-	-	12,000	11,000	19,000	7,000	3,000		12,000		-	742,000	15%
Bureau of Real Estate Appraisers	30.8	503,000	66,000	-	-	15,000	13,000	21,000	8,000	4,000		15,000		-	645,000	11%
Professional Fiduciaries Bureau	3.0	50,000	34,000	-	-	1,000	1,000	10,000	16,000	-		1,000		-	113,000	19%
Bureau of Cannabis Control	267.0	1,572,000	1,037,000	-	-	-	-	-	-	-		-		-	2,609,000	4%
TOTAL, 1111	2,952.5	45,029,000	23,318,000	11,481,000	506,000	1,374,000	1,209,000	3,830,000	994,000	344,000		1,351,000	24,415,000	13,516,000	127,367,000	19%

¹ The Board of Barbering and Cosmetology has a large licensee population and therefore their share of the costs for the BreEZe licensing and enforcement database appear higher. The Department also receives a significant amount of calls in its Consumer Information Center (CIC) unit directly related to this board

² The Medical Board of California funds the Department's Health Quality Investigation Unit, a unit of sworn investigators and support staff dedicated to providing the board with enforcement services that accounts for nearly 80% of the cost the board pays the Department

³ The Board of Vocational Nursing and Psychiatric Technicians has a higher than average number of cases referred to the Department's Division of Investigation and the costs of conducting those investigations accounts for over half of the costs this board pays the Department

⁴ The Bureau of Security and Investigative Services has a large licensee population that contributes to larger shares of BreEZe and CIC costs, similar to the Board of Barbering and Cosmetology



MEMORANDUM

DATE	August 5, 2020
TO	Members of the Dental Board of California
FROM	Steve Long, Budget and Contract Analyst Dental Board of California
SUBJECT	Agenda Item 4(b): Savings and Reimbursements

Background:

During a previous Board meeting, Board members have asked questions about the savings and reimbursement categories of the expenditure projections on the budget report. In an effort to provide additional information, Board staff have added this agenda item.

All current year savings are rolled over to the beginning balance of the following fiscal year. This balance is then adjusted by a variety of factors such as salary rates, retirement rates, bargaining unit contracts, and projected revenues and expenditures. The reserves and adjustments, as well as adjustments from Budget Letters from the Department of Finance and the Governor's Office, are all part of creating the budget for the next fiscal year.

The Board receives various types of reimbursements. These budget line items are kept separate from revenue categories. Fingerprint reports are scheduled reimbursements. Probation monitoring and cost recovery are not scheduled reimbursements.

An applicant or licensee required to submit fingerprints to the Board that chooses to do so with a physical fingerprint Hard Card is responsible for paying a processing fee to the Department of Justice (DOJ). The Board pays this fee to the DOJ initially and the applicant or licensee pays a reimbursement fee to the Board to offset the cost.

The Board has statutory authority to collect probation monitoring fees and cost recovery fees. Probationers pay a fee to the Board to cover costs incurred for probation monitoring during their entire probation. Some licensees are also subject to pay cost recovery fees which reimburse the Board for investigation and prosecution costs as a result of disciplinary action. These two reimbursement types are considered to be unscheduled because the payment amounts and the payment dates cannot be predetermined.

The historical reimbursement amounts for the last three fiscal years are outlined below.

Historical Reimbursements			
	FY 2017-18	FY 2018-19	FY 2019-20*
Fingerprint Reports	\$16,562	\$15,541	\$13,769
Probation monitoring reimbursement	\$109,964	\$100,715	\$110,432
Cost Recovery	\$514,695	\$439,923	\$507,718
Total	\$641,221	\$556,179	\$631,919

* FY 2019-20 as of May 31, 2020

Action Requested:
No action requested.



MEMORANDUM

DATE	August 5, 2020
TO	Members of the Dental Board of California
FROM	Steve Long, Budget and Contract Analyst Dental Board of California
SUBJECT	Agenda Item 4(c): Controlled Substance Utilization Review and Evaluation System (CURES) Fee Increase

Background:

The Controlled Substance Utilization Review and Evaluation System (CURES 2.0) is a database of Schedule II, III, and IV controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement. CURES is committed to the reduction of prescription drug abuse and diversion without affecting legitimate medical/dental practice or patient care.

Mandatory CURES consultation, under Section 1165.4 of the Health and Safety Code, became effective on October 2, 2018. California licensed dentists who hold a Drug Enforcement Administration (DEA) registration must register and consult CURES prior to prescribing, ordering, administering, or furnishing a Schedule II-IV controlled substance, unless an exemption applies.

With legislation passed last year ([Assembly Bill 528](#)), the Department of Justice (DOJ) is seeking additional funding to carry out the mandates in this bill. The current CURES fee for dentists is \$6 a year. A licensed dentist pays this fee at the same time as they renew their license every two years for a total of \$12. The fee is collected by the Board and remitted to the DOJ, which oversees the CURES program.

[Assembly Bill 3330](#) proposes a CURES fee increase from \$6 a year to \$14 a year effective January 1, 2021. This would equate to a \$28 CURES fee at each biennial license renewal for dentists. If the expected fee increase takes place, then changes will need to be made to BreEze.

Action Requested:

No action requested.



MEMORANDUM

DATE	August 5, 2020
TO	Members of the Dental Board of California
FROM	Steve Long, Budget and Contract Analyst Dental Board of California
SUBJECT	Agenda Item 4(d): Diversion Program Cost

Background:

During a previous Board meeting, Board members have asked questions about the costs of the Diversion program. In an effort to provide additional information, Board staff have added this agenda item.

In 1982, Business and Professions Code 1695 mandated the Dental Board seek ways and means to identify and rehabilitate licensees whose competency may be impaired due to their abuse of dangerous drugs and/or alcohol. Given the ability to establish one or more committees to carry out this mandate, the Board established two such Diversion Evaluation Committees (DEC), one in Southern California and one in Northern California.

The Board acknowledges and recognizes that a professional's abilities may be impaired by alcoholism and other drug dependencies. In an effort to deal with this problem in a rehabilitative manner, the Board developed the Diversion Program.

The Diversion Program is a confidential program that offers an alternative to traditional disciplinary actions for dental licensees whose practice may be impaired due to chemical dependency. The goal of the Diversion Program is to protect the public by early identification of impaired dentists and dental assistants and by providing licensees access to appropriate intervention programs and treatment services. Public protection is provided by suspension of practice, when needed, and by careful monitoring of the participants.

A licensee may contact the Diversion Program as a self-referral, may be referred by enforcement staff as a result of an investigation, or may be ordered to be evaluated by the committee as a probationary condition following a disciplinary order.

The Board contracts for the diversion services from MAXIMUS, Inc. and pays a monthly fee for the service. The fee varies by month and is calculated based on the number of participants. A retention of 10% of the cost is withheld each month and paid at the end of each calendar year. Each participant enrolled in the Diversion program pays a co-payment

directly to the vendor and is responsible for paying their own testing and lab fees. If a participant is also a probationer, then monthly probation monitoring fees apply.

Diversion program expenses are established by the current Department-wide contract with MAXIMUS, Inc. The terms of the previous contract with MAXIMUS, Inc. were valid from January 1, 2015 through December 31, 2019. The terms of the current agreement with MAXIMUS, Inc. are effective from January 1, 2020 to December 31, 2024. The contract costs increase slightly each year. At present, the uniform charge per participant is \$449.75 per month. Approximately 22% of each participant cost (\$100 per month) is offset by participants. The remaining portion (\$349.75) is the Board's cost per participant to operate the program. The table below displays the Board's annual costs for the program contract (by fiscal year) as well as the cost paid by the participants.

Historical Diversion Program Costs and Reimbursement			
	FY 2017-18	FY 2018-19	FY 2019-20
Diversion program contract cost to Board	\$46,703.87	\$49,085.54	\$36,674.78
Program cost paid by participant to Maximus	\$15,050	\$14,843	\$12,000

Some additional minor expenses can be attributed to travel costs when the Board's Diversion Program Manager (DPM) must attend meetings in Southern California. The Board is responsible for reimbursable travel costs (meals, incidentals, and lodging) for the DEC members and the DPM. The cost for meeting locations and any travel and lodging expense incurred by the contractor is borne by MAXIMUS, Inc.

Action Requested:

No action requested.



MEMORANDUM

DATE	July 21, 2020
TO	Members of the Dental Board of California
FROM	Karen Fischer, Executive Officer Dental Board of California
SUBJECT	Agenda Item 5: Update Regarding Future Acceptance of WREB Mannikin and Patient-Based Examinations

On July 29, 2020 I received an email from Beth Cole, Chief Executive Officer of the Western Regional Examination Board (WREB). She indicated that WREB will be opening dental exam registrations in a few weeks; and candidates will be considering the option of selecting the simulation option (which WREB will continue to offer for states that choose to accept it) or a patient-based option. The WREB 2021 dental exam season will begin at the end of February and logistics for exams are worked out months in advance.

In her email, Ms. Cole asked if the Dental Board of California (Board) would continue to accept the alternative option (Operative Simulation and CTP in lieu of patient based periodontal treatment) and/or the patient-based examination. She asked for a response by Monday, August 3.

I contacted Ms. Cole by telephone to discuss this inquiry and indicated that the Board will accept both options, since there is no statutory or regulatory authority to do otherwise. California Business and Professions Code § 1632 (c)(2) requires that candidates pass a written and clinical examination administered by either WREB or ADEX. Simply put, the Board accepts the WREB examination in whatever format it is given.

The only statutory requirement relating to the WREB and ADEX examinations is found in California Business and Professions Code § 1630:

"the examination of applicants for a license to practice dentistry . . . shall include assessing competency in the areas of diagnosis, treatment planning, and restorative, endodontic, periodontic, and prosthetic dentistry."

No action is required on this agenda item.

Agenda Item 5: Update Regarding Future Acceptance of WREB Manikin and Patient-Based Examinations
 Dental Board of California Meeting
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MEMORANDUM

DATE	July 31, 2020
TO	Members of the Dental Board of California
FROM	Daniel Yoon, Associate Governmental Program Analyst Dental Board of California
SUBJECT	Agenda Item 6: Report on the Results of the OPES Review of Alternatives for the RDAEF Clinical and Practical Examinations

Background:

The Dental Board of California administers the Registered Dental Assistant in Extended Functions (RDAEF) clinical and practical examinations out outlined in Business and Professions Code Section 1753.4. The examination is offered approximately eight times per year; occasionally additional examinations are offered as needed. Approximately 25 candidates are tested at each examination administration. The RDAEF examination consists of a clinical and practical examination, therefore, it must be held at a dental school which also must have enough space to accommodate the increasing number of applicants. Currently, there are six dental schools in California. Board staff make every attempt to secure the sites and alternate Northern and Southern California examinations dates; however, the dental schools are also used by other testing agencies, continuing education course providers and the dental school’s own dental students.

At the November 29, 2018 meeting of the Dental Assisting Council (DAC), board staff presented their concern that the administration of the RDAEF examination was becoming increasingly difficult to sustain due to the limited pool of Board Examiners, increasing number of Board-approved RDAEF programs, increasing costs for site rentals, and limited locations to offer the examination and requested the Council’s approval to research alternative examination resources, including regional testing vendors, to assist in the administration of the RDAEF clinical and practical examinations. Once the research is complete, the findings would be presented to the Council and the Board for consideration and possible action.

On November 29, 2018, board staff received direction from the Dental Assisting Council (DAC) and the Dental Board of California (Board) to work with the Department of Consumer Affairs’ Office of Professional Examination Services (OPES) to research potential alternative examination resources to administer the RDAEF clinical and practical examinations for licensure in California.

In response to the direction from the DAC and the Board, staff requested that the OPES conduct a comprehensive review of alternatives for the RDAEF clinical and practical examinations. The request included a review of alternative available examinations that may be appropriate to meet the RDAEF statutory examination requirements. The request also included a review of alternative testing providers that may be able to assist the Board with administering its existing examinations.

OPES conducted two workshops with licensed RDAEFs, who served as subject matter experts (SMEs). The purpose of these workshops was to evaluate the feasibility of using either the Western Regional Examining Board (WREB) or Commission on Dental Competency Assessments (CDCA) clinical and practical examinations as an alternative to the existing California RDAEF examinations.

As a result of these workshops, OPES has determined that neither the WREB nor the CDCA currently provide a viable alternative to the California RDAEF clinical and practical examinations. Based on the current occupational analysis, the SMEs determined that the skills assessed on the California RDAEF examinations are critical for licensure. As such, OPES recommends that the Board continue administering the existing California RDAEF clinical and practical examinations.

Attached is the memo received from OPES stating their findings and recommendations regarding alternatives for the RDAEF clinical and practical examinations.

Action Requested:

No action requested.



MEMORANDUM

DATE	April 9, 2020
TO	Karen M. Fischer, MPA, Executive Officer Dental Board of California
FROM	Heidi Lincer, Ph.D., Chief Office of Professional Examination Services
SUBJECT	Alternatives for the Registered Dental Assistant in Extended Functions (RDAEF) Clinical and Practical Examinations

The Dental Board of California (Board) requested that the Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct a comprehensive review of alternatives for the California Registered Dental Assistant in Extended Functions (RDAEF) clinical and practical examinations. The request included a review of alternative available examinations that may be appropriate to meet the RDAEF statutory examination requirements. The request also included a review of alternative testing providers that may be able to assist the Board with administering its existing examinations.

Clinical and Practical Examinations

California Business and Professions Code section 1753 requires that candidates for licensure in the RDAEF profession pass both a written examination and a clinical or practical examination administered by the Board or a Board-approved extended functions program. Candidates are currently required to pass both a clinical and practical examination that are administered by the Board.

The RDAEF clinical examination is performed on a live patient. The clinical examination requires that candidates use a live patient to perform two procedures: (1) perform cord retraction of gingivae for an impression procedure, and (2) take a final impression for a permanent indirect restoration. The practical examination requires that candidates use a typodont to perform the following procedures: (1) place, condense, and finish a composite restoration; and (2) place, condense, and carve an amalgam restoration.

Alternative Examinations for RDAEF Clinical and Practical Examinations

OPES evaluated two alternative examinations as possible replacements for the existing RDAEF clinical and practical examinations:

- (1) The Western Regional Examining Board (WREB) Restorative examination. This examination requires that candidates use a typodont to place, carve, and finish one Class II amalgam and one Class II composite restoration. This preparation is performed on one mesioocclusal and one distocclusal maxillary and mandibular molar.
- (2) The Commission on Dental Competency Assessments (CDCA) Expanded Function Dental Auxiliary clinical examination. This examination requires candidates to restore three pre-prepared teeth, including an anterior composite, posterior amalgam, and posterior composite.

Evaluation Process

OPES conducted two workshops with licensed RDAEFs, who served as subject matter experts (SMEs). The purpose of these workshops was to evaluate the feasibility of using either the WREB or CDCA clinical and practical examinations as an alternative to the existing California RDAEF examinations.

The first workshop was held on November 15-16, 2019 and included five SMEs. During the workshop, SMEs first evaluated the criteria, content areas, and examination procedures used for the California RDAEF practical and clinical examinations. The SMEs also reviewed the criteria, content areas, and examination procedures of the WREB and the CDCA examinations. OPES then worked with the SMEs to identify similarities and differences between the California RDAEF practical and clinical examinations and those administered by WREB and CDCA.

A second workshop was held on January 10-11, 2020 with a second group of five SMEs. During this workshop, SMEs were asked to perform the same evaluations, comparing the content of the California RDAEF clinical and practical examinations with those administered by WREB and CDCA.

During both of these workshops, SMEs agreed that cord retraction is a critical competency for practice as an RDAEF, and that it must be performed on a live patient. They further agreed that taking a final impression is a critical competency for practice and must also be performed on a live patient.

Summary of WREB Evaluation

SMEs found that the WREB examination does not evaluate a candidate's ability regarding cord retraction or final impression. Further, while the WREB does evaluate a candidate's ability to place, condense, and finish restorations, it includes two posterior restorations and no anterior restoration. One of the required posterior restorations is amalgam. As such, SMEs determined that the WREB does not sufficiently evaluate the critical competencies required for RDAEF practice.

Summary of CDCA Evaluation

SMEs found that the CDCA examination also does not evaluate cord retraction or final impression. The CDCA does assess a candidate's ability to place, condense, and finish a composite restoration. It also assesses a candidate's ability to place, condense, and carve an amalgam restoration. These assessments include both anterior and posterior restorations. SMEs indicated that if the CDCA included cord retraction and impression on the examination, it would be comparable to the California RDAEF clinical examination.

Other Comments from SMEs

While SMEs agreed that placing of restorations is a critical competency required for practice, they recommended changing the requirements from "condense" to "contour" or "adjust." They further indicated that this competency can be demonstrated using a typodont rather than a live patient.

SMEs indicated that the current industry standard primarily includes the use of composite restorations, and that amalgam restorations are infrequently used in practice. They further indicated concerns about mercury exposure associated with amalgam restorations. They acknowledged that it is important that RDAEFs understand the use of amalgam restorations; however, they recommended that this be addressed in education programs. They recommended that examination content focus on health and safety related to mercury handling and be limited to addressing Class II amalgam restorations.

Conclusions and Recommendations

As a result of these workshops, OPES has determined that neither the WREB nor the CDCA currently provide a viable alternative to the California RDAEF clinical and practical examinations. Based on the current occupational analysis, the SMEs determined that the skills assessed on the California RDAEF examinations are critical for licensure. As such, OPES recommends that the Board continue administering the existing California RDAEF clinical and practical examinations.

Based on SME feedback, OPES recommends that the Board consider using composite restorations rather than amalgam on examinations, or potentially including both types.

OPES understands that administering the RDAEF practical and clinical examinations is time and labor intensive for the Board. OPES will continue to assist the Board regarding using DCA proctors. OPES will also assist the Board to contract with the DCA computer-based testing provider, if feasible, to help reduce test administration burdens.

cc: Tracy Montez, Chief
Division of Programs and Policy Review



MEMORANDUM

DATE	August 4, 2020
TO	Members of the Dental Board of California
FROM	Sarah Wallace, Assistant Executive Officer Dental Board of California
SUBJECT	Agenda Item 7: Discussion and Possible Action Regarding Submission of a Waiver Request to the Director of DCA to Waive Business and Professions Code Sections 1753(a)(4) and 1753.4 and California Code of Regulations, Title 16, Section 1081.2 Pursuant to the Governor’s Executive Order N-39-20 Relating to Waiving the Registered Dental Assistant in Extended Functions (RDAEF) Clinical and Practical Examinations

Background:

The Dental Board of California (Board) administers the Registered Dental Assistant in Extended Functions (RDAEF) clinical and practical examinations as outlined in Business and Professions Code Section 1753.4. The examination is offered approximately eight (8) times per year at California dental schools. Approximately 25 to 30 candidates are tested at each examination administration. There are currently eleven (11) Board-approved RDAEF programs.

Applicants for RDAEF licensure are required to graduate from a Board-approved RDAEF educational program and successfully pass a RDAEF general written examination, and a clinical and practical examination. A Board-approved educational program consists of a minimum of 410 hours of instruction. Of this, at least 100 hours must be of didactic instruction, at least 206 hours of laboratory instruction and at least 104 hours of clinical instruction. All clinical instruction is provided under the direct supervision of a licensed dentist. The written examination is a comprehensive examination that assesses the candidate’s knowledge of patient treatment and care, dental procedures, and dental specialty procedures. The procedures tested in the clinical and practical examinations are specified in statute, Business and Professions Code Section 1753.4. The clinical examination consists of two (2) evaluated procedures (cord retraction and final impression) requiring the candidate to secure a sponsoring Dentist (DDS), who is most often their employer, and a patient. The practical examination consists of two (2) evaluated procedures (amalgam and composite restorations) performed on a typodont (mannikin). These examinations are administered in dental clinics and dental laboratories at the designated California dental schools.

Agenda Item 7: Discussion and Possible Action Regarding Submission of a Waiver Request to the DCA to Waive BCP Section 1753(a)(4) and 1753.4 and CCR, Title 16, Section 1081.2 Pursuant to the Governor’s Executive Order N-39-20, Relating to Waiving the RDAEF Clinical and Practical Examinations
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The RDAEF clinical and practical examinations are currently offered at the University of California, Los Angeles (UCLA) School of Dentistry, and the University of California, San Francisco (UCSF) School of Dentistry and are administered by Board staff. These schools have been used for the clinical and practical examinations administration due to their size and ability to accommodate the number of candidates testing. The Board attempts to reserve the sites and alternate Northern and Southern California examinations dates; however, the dental schools are also utilized by other testing agencies, continuing education course providers and the dental school's own dental students.

In May, staff received notification that UCLA and UCSF would not be able to host the Board's RDAEF clinical and practical examinations due to the Governor's stay at home order and concerns surrounding COVID-19. In response, the Board cancelled the two practical and clinical examinations that were scheduled for June 2020. In July, Board staff again received notification from UCLA and UCSF that they will not be able to host the RDAEF examinations scheduled for August 2020, due to COVID-19 concerns. Additionally, both schools are uncertain if they will be able to accommodate our examinations for the duration of 2020.

Action Requested:

The Board has already established by working with OPES that due to ethical and practical considerations, dental licensure examinations are moving away from patient-based assessments and this trend has been accelerated by the COVID-19 pandemic.

Given the challenges the Board is experiencing with the administration of the RDAEF clinical and practical examinations, the fact that RDAEFs are a supervised profession requiring supervising dentists to determine when a RDAEF is ready to practice and perform the duties of their licensure, the fact the Board has not received consumer complaints relating to RDAEFs performing these tested procedures, and the fact the Board has already suspended and then eliminated the Registered Dental Assistant (RDA) practical examination for similar issues, staff recommend the Board take the following actions:

1. Direct staff to submit a waiver request to the Director of the Department of Consumer Affairs that would suspend the requirement for a specified amount of time for RDAEFs to successfully pass the clinical and practical examinations;
2. Direct staff to work with OPES to immediately begin written examination development for the RDAEF general written examination to ensure skills identified in the June 2016 RDAEF Validation Report, currently assessed in the clinical and practical examinations, are measured as application of those knowledges on the written examination;
3. Direct staff to work with OPES to develop a RDAEF licensing model that includes a combination of dentist verification and certified course work; and,
4. Direct staff to seek an author to carry legislation to repeal the requirements of the RDAEF clinical and written examinations permanently.



MEMORANDUM

DATE	July 21, 2020
TO	Members of the Dental Board of California
FROM	Jessica Olney, Associate Governmental Program Analyst Dental Board of California
SUBJECT	Agenda Item 8: Discussion and Possible Action Regarding Submission of a Waiver Request to the Director of DCA to Waive Business and Professions Code Sections 1646.4, 1646.9, 1647.7 and California Code of Regulations, Title 16, Sections 1043.3 to 1043.7, inclusive, Pursuant to the Governor’s Executive Order N-39-20 Relating to Postponing the Requirement for On-site Inspection and Evaluations for General Anesthesia and Conscious Sedation Permits

Background

Prior to the issuance or renewal of a General Anesthesia (GA) Permit or a Concious Sedation (CS) permit, the Board may require an onsite inspection and evaluation of the licensee, facility, equipment, personnel, and procedures utilized in the administration of sedation and anesthesia in dental offices. The Board shall conduct a re-evaluation of the GA permit every five (5) years, and shall conduct a re-evaluation of the CS permit every six (6) years. Each onsite inspection and evaluation is conducted by subject matter experts (SME) who are contracted by the Board and are specialists in the administration of sedation and anesthesia in California. The permit holder is required to demonstrate the administration of sedation or anesthesia on a live patient during a dental procedure and with staff demonstrate that they are knowledgeable in the treatment and maintenance of 13 simulated emergency scenarios.

On March 4, 2020, the Governor proclaimed a State of Emergency in California as a result of the impacts of COVID-19. Due to the proclaimed State of Emergency, dental offices have suspended routine and preventative dental care. Since then, the Board has had to cancel the onsite inspections and evaluations which were scheduled from March 2020 through May 2020. Board staff have been attempting to schedule evaluations for June 2020 through August 2020, but many permit holders have not been able to resume routine and preventative care due to California Department of Public Health (CDPH) guidelines and local health department orders regarding treatment and shelter in place. There are approximately 150 GA and 90 CS permit holders who are due or will be due in the next few months for their onsite inspection and evaluation.

Agenda Item 8: Discussion and Possible Action Regarding Submission of a Waiver Request to the DCA to Waive BCP Sections 1646.4 1646.9, 1647.7 and CCR, Title 16, Sections 1043.3 to 1043.7, inclusive, Pursuant to the Governor’s Executive Order N-39-20, Relating to Postponing the Requirement for On-site Inspection and Evaluations for General Anesthesia and Conscious Sedation Permits

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According to Occupational Safety and Health Administration's (OSHA) guidelines, dental health care professionals are in a high-risk category for exposure to COVID-19. Permit holders, as well as SME's are also facing difficulties in acquiring personal protective equipment (PPE) and sanitation supplies required for dental procedures.

Board staff begin scheduling the on-site inspection and evaluation 90 days in advance in order to allow sufficient time to locate two SME's and update or issue new contracts. The date that licensees will be able to return to the practice of dentistry for routine and preventative care remains unclear.

Pursuant to the Governor's Executive Order N-39-20, during the State of Emergency, the Director of California Department of Consumer Affairs (DCA) may waive any statutory or regulatory renewal requirements pertaining to individuals licensed pursuant to Division 2 of the Business and Professions Code. Staff recommends the Board submit a request to the Director of the Department of Consumer Affairs to issue a temporary waiver of the Conscious Sedation and General Anesthesia On-site Inspection and Evaluation Requirement of at least one (1) year to permit holders who are due for their on-site inspection and evaluations during the State of Emergency beginning on March 1, 2020. If the temporary waiver is granted, this will allow permit holders to continue to follow CDPH guidelines, and resume dental treatment in a safe manner.

Action Requested:

Direct staff to submit a waiver request to the Director of the Department of Consumer Affairs to waive Business and Professions Code Sections 1646.4, 1646.9, 1647.7 and California Code of Regulations, Title 16, Sections 1043.3 to 1043.7, inclusive, pursuant to the Governor's Executive Order N-39-20 relating to postponing the requirement for on-site inspection and evaluations for GA and CS permits for one year.

Agenda Item 8: Discussion and Possible Action Regarding Submission of a Waiver Request to the DCA to Waive BCP Sections 1646.4 1646.9, 1647.7 and CCR, Title 16, Sections 1043.3 to 1043.7, inclusive, Pursuant to the Governor's Executive Order N-39-20, Relating to Postponing the Requirement for On-site Inspection and Evaluations for General Anesthesia and Conscious Sedation Permits

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MEMORANDUM

DATE	July 21, 2020
TO	Members of the Dental Board of California
FROM	Gabriel Nevin, Associate Governmental Program Analyst Dental Board of California
SUBJECT	Agenda Item 9: Discussion and Possible Action to Reinitiate a Rulemaking to Amend California Code of Regulations, Title 16, Sections 1031 Relating to the Passing Score for the Dentistry Law and Ethics Examination

Background:

At its February 2019 meeting, the Board voted to initiate a rulemaking to amend the provision contained in California Code of Regulations, Title 16, Section 1031 that required a score of at least 75% to pass the Dentistry Law and Ethics examination. These amendments were intended to allow for criterion-referenced passing scores to be used at the recommendation of the Department of Consumer Affairs' (DCA) Office of Professional Examination Services (OPES).

Pursuant to Business & Professions Code Section 1632, applicants for dental licensure in California are required to successfully complete an examination in California law and ethics developed and administered by the Board. The OPES works with the Board to ensure the California Dentistry Law and Ethics examination is psychometrically valid and legally defensible in compliance with Business and Professions Code Section 139. Through its continued review, the OPES recommended that the Board not specify a passing score in regulation. Alternatively, the OPES recommended a criterion-referenced passing score, which applies standards for competent practice to all candidates regardless of the form of the examination administered. A criterion-referenced passing score increases the likelihood that candidates who pass the licensure examination have sufficient knowledge and experience to practice safely and competently.

The OPES follows a criterion-referenced methodology called the "modified Angoff technique" for determining licensure examination passing scores. Standard setting is a group process. The group is composed of licensed practitioners representing all aspects of practice or profession and a test development specialist. The process should always include a number of newly licensed practitioners to ensure participation from entry-level licensees.

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Criterion-referenced standard setting begins with the establishment of a minimally acceptable level of competence for safe practice that candidates must possess in order to pass the examination. The group develops common definitions of different levels of candidate performance by identifying critical work behaviors that contrast the highly competent, the minimally competent, and the incompetent candidate.

Because licensing examinations are known to vary in difficulty from one examination form to another, a fixed passing score or percentage such as 70% does not represent the minimally acceptable competence for all administrations of an examination. Therefore, arbitrary passing scores are not considered legally defensible. By applying a criterion-referenced methodology, a passing score is lowered for an examination containing a large number of difficult items (questions) and raised for an examination containing a small number of difficult items. Candidates who take a more difficult test would be placed at a disadvantage unless a criterion-referenced passing score is established. Thus, the passing score provides safeguards to both the candidate and the consumer affected by the particular profession. The passing score is independent of the performance of other candidates who take the examination at the same time; it is not based on performance with respect to the group, as a traditional curved grading method would be. Rather, the passing score is based upon the difficulty of the items within the examination.

At the February 2019 meeting the Board approved proposed regulatory language to amend Section 1031. Specifically, the Board deleted the provision which required applicants to 'successfully complete' the Law and Ethics examination and changed this to a requirement that applicants 'achieve a passing score' on the examination. This amendment was made to address concerns that merely requiring successful completion was insufficiently clear and could lead a candidate who merely finished the test to claim that they had 'successfully completed' the test and were eligible for licensure despite failing the test. The Board also deleted subdivision (c) which set the passing score for the Law and Ethics examination at 75%. The Board removed this provision because it is incompatible with a criterion-referenced scoring system.

On October 17, 2019 Board staff submitted the initial rulemaking documents to the DCA for review, beginning with the Regulatory Unit within the Legal Affairs Division. Board Regulatory Counsel reviewed this language and found clarity issues with the current construction. Specifically, the current proposed language does not define a "passing score", making the regulation ambiguous. Staff have worked with Board Regulatory Counsel and the OPES to develop the attached proposed language for Section 1031 which proposes changes in yellow highlight that clarify the regulation but do not overly-restrict the Board. The proposed amended construction should be sufficiently specific and clearly defined to be acceptable regulatory language.

Action Requested:

Consider and possibly approve the proposed regulatory language relative to passing scores for the Dentistry Law and Ethics Examination, and direct staff to take all steps necessary to re-initiate the formal rulemaking process, including noticing the proposed

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language for 45-day public comment, setting the proposed language for a public hearing, and delegating authority to the Executive Officer to make any technical or non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, delegate authority to the Executive Officer to make any technical or non-substantive changes to the proposed regulations before completing the rulemaking process and adopt the proposed amendments to California Code of Regulations, Title 16, Section 1031 as noticed in the proposed text.

**TITLE 16. DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

PROPOSED LANGUAGE

Amend Section 1031 of Article 3 of Chapter 2 of Division 10 of Title 16 of the California Code of Regulations to read as follows:

Section 1031. Supplemental Examinations in California Law and Ethics.

Prior to issuance of a license, an applicant shall achieve a **critierion referenced** passing score on the ~~successfully complete~~ supplemental written examinations in California law and ethics.

(a) The examination on California law shall test the applicant's knowledge of California law as it relates to the practice of dentistry.

(b) The examination on ethics shall test the applicant's ability to recognize and apply ethical principles as they relate to the practice of dentistry.

~~(c) A candidate shall be deemed to have passed the examinations if his/her score is at least 75% in each examination.~~ (c) As used in this section, "**critierion-referenced passing score**" is a specified point in a distribution of scores at or above which candidates have achieved entry level competence.

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 139, 1630, 1632 and 1634.1, Business and Professions Code.



MEMORANDUM

DATE	August 4, 2020
TO	Members of the Dental Board of California
FROM	Gabriel Nevin, Associate Governmental Program Analyst Dental Board of California
SUBJECT	Agenda Item 10(a): Discussion and Possible Action Regarding Acceptance of Academy of General Dentistry (AGD) Transcripts for Continuing Education

Background:

During the Dental Board (Board) Meeting on March 4, 2016, Eric Wong, DDS provided comments during the Public Comment segment of the meeting on behalf of the Academy of General Dentistry (AGD), asking the Board to consider accepting the AGD State Licensure Transcript as evidence of continuing education (CE) compliance.

According to Dr. Wong's testimony, since June 2005, the AGD transcript has been a service provided by the AGD and is unique to each state. Respective state transcripts alert AGD members to what continuing education (CE) they would need to take in order to renew their licenses. The AGD requires verification of all CE course credits before inclusion on the transcript; this requires submission of the certificate of completion issued by the course providers.

The AGD Program Approval for Continuing Education (PACE) program, approves continuing dental education organizations, not speakers or individual course content. The organizations or approved PACE providers typically submit the attendance verification directly to the AGD on behalf of the AGD member who attends a course offered. If the course provider is not approved through the PACE program, the AGD member can submit a copy of the certificate of completion received from the course provider. This copy is then attached to the member's AGD CE transcript and can be printed from the member's online profile.

The requirements for CE providers are found at Title 16, Cal. Code of Regulations (CCR) section 1016 (Section 1016). Subsection (h), outlines the requirement for CE providers to provide a written certificate of completion, certifying that the licensee has met the attendance requirements of the course. It further explains the certificate of completion must contain the licensee's, name and license or permit number, the provider's name, the 11-digit course registration number in the upper left-hand corner of the certificate, date or

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dates attended, the number of units earned, and a place for the licensee to sign and date verifying attendance. 16 CCR 1016(h)(1)(A).

Additionally, the certificate of completion must have an authorizing signature of the provider or the providing entity and a statement that reads: "All of the information contained on this certificate is truthful and accurate." 16 CCR 1016(h)(1)(B)

Staff have been asked to again consider AGD transcripts as additional evidence of completion of the required CE credits for license renewal.

There is concern that the AGD transcripts do not provide enough evidence that the licensee attended a CE course. If the provider is not an approved PACE provider, they merely collect the certificates of completion sent in by the members and attach an electronic copy to the licensee members' online AGD profile. Therefore, there is concern that the AGD cannot certify that the licensee met the attendance requirement, that the provider was approved at the time of attendance by a provider approved by the Board. The AGD can only truly confirm, on their own knowledge, that a certificate of completion has been received. AGD PACE providers send these certificates to AGD directly.

Furthermore, the AGD is not the course provider entity. Therefore, the AGD cannot meet the requirement outlined at 16 CCR 1016(h)(1)(B) that the certificate of completion must contain an affirmation by the provider or provider entity that all the information on the certificate is truthful and accurate. Again, this is because AGD is not a provider or provider entity. They are a CE provider approval entity, not a CE provider themselves.

Board staff currently do consider AGD transcripts as additional evidence of completion of required CE credits, when auditing licensees. However, the current regulatory structure requires a certificate of completion which certifies that the licensee attended the CE class in question. The AGD transcript is unable to make the required certification, and therefore would be a lower standard for proof of attendance by the licensee. Staff do not recommend a change to the current regulatory framework for demonstrating required CE credits which lowers the Board's requirements for demonstrating required attendance.

Action Requested:

This item is on the agenda for informational purposes only; no action is requested at this time.



MEMORANDUM

DATE	August 5, 2020
TO	Members of the Dental Board of California
FROM	Gabriel Nevin, Associate Governmental Program Analyst Dental Board of California
SUBJECT	Agenda Item 10(b): Discussion and Possible Action Regarding Continuing Education Providers and Conflict of Interest

Background:

At the March 5, 2019 Sunset Review Oversight Hearing, the Dental Board of California (Board) provided an overview of its functions and addressed specific issues identified by the Committees. Senator Pan had comments and questions regarding the Board's continuing education program.

Specifically, the Board was asked by Senator Pan if there is an entity responsible for reviewing continuing education providers for conflict of interest, if there is a conflict of interest policy in place to ensure approved providers are offering relevant continuing education courses and not marketing sessions, and what percentage of providers the Board audits for conflict of interest.

Senator Pan was provided a written response in May 2019. At that time the Board pointed out that the Board retained the right and authority to audit or monitor courses given by any provider. The Board may randomly audit a provider for any course submitted for credit by a licensee in addition to any course for which a complaint is received. If an audit is conducted, the provider is required to submit to the Board the following information and documentation:

- Speaker curriculum vitae;
- Course content outline;
- Educational objectives or outcomes;
- Teaching methods utilized;
- Evidence of registration numbers and units issued to each course; and
- Attendance records and rosters.

Board-approved continuing education providers are required to retain their records for a period of no less than three provider renewal periods. The Board may withdraw or place

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restrictions on a provider's registration if the provider has disseminated any false or misleading information in connection with the continuing education program, fails to comply with regulations, misrepresents the course offered, makes any false statement on its application or otherwise violates any provision of the Dental Practice Act or the regulations adopted thereunder.

Ultimately, the Board is responsible for reviewing continuing education providers accepted for the purpose of dental licensure in California. There is not another entity or organization available for reviewing continuing education providers for conflict of interest and the Board does not currently have a "conflict of interest" policy or requirement for Board-approved continuing education providers other than what is currently required in California Code of Regulations, Title 16, Sections 1016-1017. The Board does not currently conduct audits of providers for conflict of interest. However, providers approved by the American Dental Association (ADA) Continuing Education Recognition Program (CERP) or the Academy of General Dentistry (AGD) Program Approval for Continuing Education (PACE) are required to comply with standards or criteria specifically relating to commercial or promotional conflict of interest requirements.

The ADA CERP has established standards and criteria designed to ensure separation of promotional activities from continuing dental education activities in the following ways: 1) providers must demonstrate that all educational activities offered are independent of commercial influence, either direct or indirect, and 2) providers must ensure that all financial relationships between the provider and commercial entities, as well as all financial relationships between course planners and faculty and commercial entities are fully disclosed to participants.

Additionally, the AGD PACE-approved providers are required to document how they ensure that all educational activities offered are independent of commercial influence, either direct or indirect, and that all financial relationships between the provider and commercial entities, as well as all financial relationships between course planners and faculty and commercial entities, are fully disclosed to participants.

Furthermore, in 1997 the U.S. Food and Drug Administration (FDA) issued a policy statement that states activities designed to market or promote the products of a commercial company (staffed exhibits, live presentations, advertisements, sales activities) are subject to FDA regulation under the labeling and advertising provisions of the Federal Food, Drug and Cosmetic Act. Activities that are independent of commercial influence and nonpromotional are not subject to FDA regulation. Therefore although the Board does not currently have standards or criteria specifically relating to commercial or promotional conflict of interest requirements for its approved providers, such providers are still subject to the requirements of the Federal Food, Drug and Cosmetic Act.

The Board has not received any complaints regarding conflict of interests of continuing education providers. At the May 15, 2019 meeting the Board considered Senator Pan's questions and staff's response. The Board considered whether to established standards and criteria designed to ensure separation of promotional activities from continuing dental education activities, but found that there was not enough information to support a robust

discussion. The Board asked staff to present the private provider CE conflict of interest statements at a later date.

Attached to this memo for consideration are copies of the conflict of interest disclosures which are required for CERP providers and PACE providers. Also included for consideration are the Chiropractic Board's conflict of interest rules which are found at Sec 362(d)(4) of its rules and regulations. That conflict of interest statement is brief, stating that CE providers are required to:

"Disclose to prospective participants the names of the individuals or organizations, if any, who have underwritten or subsidized the course. Providers may not advertise, market, or display materials or items for sale inside the room while the actual instruction is taking place. Nothing in this section shall be interpreted to prohibit a provider from mentioning a specific product or service solely for educational purposes."

In addition, attached to this memo are the Naturopathic Medical Committee's conflict of interest provisions which are in statute at Business and Professions Code section 3635.2. These provisions are specific and contain remediation requirements.

The Board does not currently have standards or criteria specifically relating to commercial or promotional conflict of interest requirements for its approved CE providers. However such providers are still subject to the requirements of the Federal Food, Drug and Cosmetic Act, and their provider approval organization. Due to the lack of complaints regarding conflicts of interests in CE courses staff believe that it is not necessary at this time to update the regulatory framework for CE providers.

Action Requested:

The Board may choose to direct staff to draft proposed language for a conflict of interest requirements for CE providers for the Board to consider and approve at a later date. The Board may direct staff to pursue a legislative proposal to add a statutory conflict of interest provision to the Dental Practice Act. The Board may conclude that because the Board has not received any complaints about conflicts of interest in CE provider courses, that the existing system is sufficient, and no other action is required.

STANDARD V. COMMERCIAL OR PROMOTIONAL CONFLICT OF INTEREST _____

In 1997 the U.S. Food and Drug Administration (FDA) issued a policy statement entitled “Guidance for Industry: Industry Supported Scientific and Educational Activities.” This policy states that activities designed to market or promote the products of a commercial company (staffed exhibits, live presentations, advertisements, sales activities) are subject to FDA regulation under the labeling and advertising provisions of the Federal Food, Drug and Cosmetic Act.

Activities that are independent of commercial influence and non-promotional are not subject to FDA regulation. In this context, the ADA CERP standards and criteria are designed to ensure separation of promotional activities from continuing dental education (CDE) activities in the following ways: 1) CDE providers must demonstrate that all educational activities offered are independent of commercial influence, either direct or indirect, and 2) CDE providers must ensure that all financial relationships between the provider and commercial entities, as well as all financial relationships between course planners and faculty and commercial entities are fully disclosed to participants.

CRITERIA

1. CDE providers must assume responsibility for ensuring the content quality and scientific integrity of all continuing dental education activities. Educational objectives, content development, and selection of educational methods and instructors must be conducted independent of commercial interest.
2. CDE providers must ensure that continuing dental education activities promote improvements in oral healthcare and not a specific drug, device, service or technique of a commercial interest.*
3. Product-promotion material or product-specific advertisement of any type is prohibited in or during continuing dental education activities. Live promotional activities (staffed exhibits, presentations) or enduring promotional activities (print or electronic advertisements) must be kept separate from CDE. The juxtaposition of editorial and advertising material on the same products or subjects must be avoided during CDE activities.*
 - a. For live, face-to-face CDE, advertisements and promotional materials cannot be displayed or distributed in the educational space immediately before, during, or after a CDE activity. Providers cannot allow representatives of commercial interests to engage in sales or promotional activities while in the space or place of the CDE activity.
 - b. For print CDE activities, advertisements and promotional materials will not be interleaved within the pages of the CDE content. Advertisements and promotional materials may face the first or last pages of printed CDE content as long as these materials are not related to the CDE content they face and are not paid for by the commercial supporters of the CDE activity.
 - c. For electronically mediated/computer based CDE activities, advertisements and promotional materials will not be visible on the screen at the same time as the CDE content and not interleaved between computer ‘windows’ or screens of the CDE content
 - d. For audio and video-based CDE activities, advertisements and promotional materials will not be included within the CDE. There will be no ‘commercial breaks.’
 - e. Educational materials that are part of a CDE activity, such as slides, abstracts and handouts, cannot contain any advertising, trade name or a product-group message.
 - f. Print or electronic information distributed about the non- CDE elements of a CDE activity that are not directly related to the transfer of education to the learner, such as schedules and content descriptions, may include product promotion material or product-specific advertisement.
4. CDE providers that also offer activities designed to promote drugs, devices, services or techniques must clearly disclose the promotional nature of the activity in publicity materials and in the activity itself. Promotional activities must not be designated for CDE credit. The CDE hours awarded must not include the promotional hours.

* Adapted from the Accreditation Council for Continuing Medical Education Standards for Commercial Support.

5. CDE providers must operate in accordance with written guidelines and policies that clearly place the responsibility for program content and instructor/author selection on the provider. These guidelines must not conflict with ADA CERP standards and criteria for recognition. Each CDE learning experience offered must conform to this policy.
6. The ultimate decision regarding funding arrangements for continuing dental education activities must be the responsibility of the CDE provider. Continuing dental education activities may be supported by funds received from external sources if such funds are unrestricted. External funding must be disclosed to participants in announcements, brochures or other educational materials, and in the presentation itself.
7. CDE providers receiving commercial support must develop and apply a written statement or letter of agreement outlining the terms and conditions of the arrangement and/or relationship between the provider and the commercial supporter.
8. Arrangements for commercial exhibits or advertisements must not influence planning or interfere with the presentation, nor can they be a condition of the provision of commercial support for CDE activities.*
9. CDE providers must disclose to participants any monetary or other special interest the provider may have with any company whose products are discussed in its CDE activities. Disclosure must be made in publicity materials and at the beginning of the educational activity.
10. CDE providers must ensure that a balanced view of all therapeutic options is presented in CDE activities. Whenever possible, generic names must be used to contribute to the impartiality of the program presented.
11. CDE providers must assume responsibility for the specific content and use of instructional materials that are prepared with outside financial support.
12. CDE providers must assume responsibility for taking steps to protect against and/or disclose any conflict of interest of the advisory committee, CDE activity planners, course directors and instructors/authors involved in planning or presenting courses. Signed conflict of interest statements must be obtained from all advisory committee members, CDE activity planners, course directors and instructors/authors.
13. The advisory committee must be involved in evaluating and taking steps to protect against conflicts of interest that CDE activity planners, course directors and instructors/authors may have.
14. Providers must disclose to participants in CDE activities any relevant financial relationships that the planners and instructors/authors of a continuing education activity may have that may create conflicts of interest. Disclosure must include the name of the individual, the name of the commercial interest, and the nature of the relationship the individual has with each commercial interest. Disclosure must not include the use of a trade name or product message. For individuals that have no relevant financial relationships, the provider must disclose to participants that no relevant relationships exist. Disclosure must be made before the start of the continuing education activity and must be made in writing, either in publicity materials, course materials, or audiovisual materials.

RECOMMENDATIONS

- A. The following are examples of outside or commercial support that is customary and proper:
 - Payment of reasonable honoraria
 - Reimbursement of out-of-pocket expenses for instructors/authors
 - Modest meals or social events held as part of the educational activity
- B. The CDE provider and the commercial supporter or other relevant parties should each report to the other on the expenditure of funds each has provided, following each subsidized continuing dental education activity.

** Adapted from the Accreditation Council for Continuing Medical Education Standards for Commercial Support.*

Sample Instructor Conflict of Interest Declaration

Providers must make sure that educational objectives, course content, teaching methods, and instructors or advisors are selected independent of commercial interest. Note that this does not mean instructors/advisors cannot have a commercial affiliation, but rather that providers must not let a commercial affiliation influence their decision when selecting instructors, setting educational objectives, or selecting the most appropriate teaching method.

Related PACE Standard:

XII Commercial or Promotional Conflict of Interest, Criteria E and J:

- E. CE program providers and instructors must disclose to participants any monetary or other special interest the program provider may have with any company whose products are discussed in its CE activities. Disclosure must be made in publicity materials and at the beginning of the presentation itself.
- J. CE program providers must assume responsibility for taking steps to protect against and/or disclose any conflict of interest of the advisory committee, CE activity planners, course directors, and lecturer/author/ instructors presenting courses. Signed conflict of interest statements must be obtained from all advisory committee members, CDE activity planners, course directors, and lecturers/authors.

Expectations:

All Academy of General Dentistry (AGD) Program Approval for Continuing Education (PACE)-approved continuing education (CE) providers are expected to document that they asked all instructors to declare any potential conflicts of interest they have so that they may be disclosed to potential attendees prior to course attendance. It also is acceptable to include language regarding this issue in an overall speaker agreement.

Example:

Having an interest in or an affiliation with a corporate organization does not prevent one from presenting educational information, but the relationship must be made known to the audience. Failure to disclose or a false disclosure shall result in an instructor's removal from the program.

Check one:

I, the undersigned, declare that neither I nor any member of my family have a financial arrangement with any corporate organization offering financial support or grant monies in regards to my continuing dental education presentation at the _____.

I, the undersigned (or an immediate family member), **have** a financial interest/arrangement or affiliation with a corporate organization offering financial support or grant monies for or related to the content of my continuing dental education presentation at the _____ as follows (there is no need to disclose the actual financial value of any affiliation):

<i>Affiliation/Financial Interest</i>	<i>Corporate Organizations</i>
<input type="checkbox"/> Employee, full- or part-time	_____
<input type="checkbox"/> Grant/Research support	_____
<input type="checkbox"/> Consultant	_____
<input type="checkbox"/> Stock shareholder	_____
<input type="checkbox"/> Honorarium	_____
<input type="checkbox"/> Other financial or material support	_____
<input type="checkbox"/> Owner/Part owner (<i>please specify</i>)	_____

I understand that this form will be available for review by program participants.

Instructor/Advisor Signature

Date

CONFLICT OF INTEREST POLICY: It is the policy of PROVIDER NAME that all speakers at any program offered by PROVIDER NAME, who have a personal interest or financial investment in a company or product, abide by the following:

- While it is permissible to mention a product or company in an educational course, the speaker shall avoid distributing any handout material that includes a company name, address, and phone number, or any material that could be construed as pushing or actively attempting to sell a particular product or company.
- The speaker is prohibited from displaying their products anywhere except in the exhibit hall, but the speaker may make reference to such an exhibit.
- No salesperson representing a company or product may take an active role in the presentation of a course without written approval of PROVIDER NAME. Such requests must be submitted to PROVIDER NAME _____ months prior to the course date.

State of California

BUSINESS AND PROFESSIONS CODE

Section 3635.2

3635.2. In addition to complying with subdivision (b) of Section 3635, the following shall apply to providers of continuing education:

(a) The content of continuing education courses and related materials shall provide balance, independence, objectivity, and scientific rigor. All patient care recommendations from continuing education courses involving clinical medicine shall be based on evidence accepted by naturopathic doctors. All scientific research used to support patient care recommendations shall conform to generally accepted standards of experimental design, data collection, and analysis.

(b) A conflict of interest is created when an individual in a position to control the content of a continuing education course, or his or her spouse or partner, has a relevant personal financial relationship within the past 12 months with a commercial entity that produces, markets, resells, or distributes health care goods or services consumed by, or used on patients that benefits the individual in any financial amount and therefore, may bias his or her opinions and teachings with respect to the content of continuing education courses. This may include receiving a salary, royalty, intellectual property rights, consulting fee, honoraria, ownership interest such as stocks, stock options or other ownership interest, excluding diversified mutual funds, or other financial benefit. Financial benefits are generally associated with roles such as employment, a management position, or an independent contractor position, including contracted research and clinical trials, consulting, speaking and teaching, membership on advisory committees or review panels, board membership, and other activities for which remuneration is received or expected.

(c) Prior to a course being presented, continuing education providers shall identify, disclose, and resolve all conflicts of interest. Individuals who fail or refuse to disclose relevant financial relationships shall not be approved as a provider of continuing education as described in subdivision (b) of Section 3635.

(d) Conflicts of interests shall be resolved by one of the following mechanisms:

(1) Altering financial relationships. Individuals may change their relationships with commercial interests, such as discontinuance of contracted services, thereby eliminating any conflict of interest related to the continuing education content.

(2) Altering control over content. An individual's control of continuing education content may be altered in several ways to remove the opportunity to affect content related to the products and services of a commercial interest. These include the following:

(A) Choose someone else to control that part of the content. If a proposed presenter or planner has a conflict of interest related to the content, someone else who does not

have a relationship to the commercial interests related to the content may present or plan that part of the content.

(B) Change the focus of the continuing education activity so that the content is not about products or services of the commercial interest that is the basis of the conflict of interest.

(C) Change the content of the individual's assignment so that it is no longer about products or services of the commercial interest. For example, an individual with a conflict of interest regarding products for treatment of a condition could address the pathophysiology or diagnosis of the condition, rather than therapeutics.

(D) Limit the content to a report without recommendations. If an individual has been funded by a commercial entity to perform research, the individual's presentation may be limited to the data and results of the research. Someone else may be assigned to address broader implications and recommendations.

(E) Limit the sources for recommendations. Rather than having a person with a conflict of interest present personal recommendations or personally select the evidence to be presented, limit the role of the person to reporting recommendations based on formal structured reviews of the literature with the inclusion and exclusion criteria stated "evidence-based."

(3) Conflict of interest may be resolved if the continuing education material is peer reviewed and both of the following are met:

(A) All the recommendations involving clinical medicine are based on evidence that is accepted within the profession of naturopathic medicine as adequate justification for indications and contraindications in the care of patients.

(B) All scientific research referred to, reported, or used in the continuing education activity in support or justification of patient care recommendations conforms to the generally accepted standards of experimental design, data collection, and analysis.

(Added by Stats. 2017, Ch. 600, Sec. 8. (SB 796) Effective January 1, 2018. Repealed as of January 1, 2022, pursuant to Section 3686.)



MEMORANDUM

DATE	August 4, 2020
TO	Members of the Dental Board of California
FROM	Gabriel Nevin, Associate Governmental Program Analyst Dental Board of California
SUBJECT	Agenda Item 10(c): Discussion and Possible Action to Reinitiate a Rulemaking to Amend California Code of Regulations, Title 16, Sections 1016 and 1017 Relating to Continuing Education

Background:

At its February 2019 Board meeting, the Board voted to accept proposed changes to the Board’s continuing education requirements contained in California Code of Regulations, Title 16, Sections 1016 and 1017. The proposed language requires a mandatory course related to the risks of addiction associated with the use of Schedule II drugs and makes various other updates to the continuing education requirements. One of the provisions in the proposed language provides continuing education unit credit to licensees who provide unpaid volunteer dental services as part of a free public health care event or community health clinic

Upon review, Board Regulatory Counsel determined there is a clarity issue with the proposed language in Section 1017(j). Specifically, the proposed language as drafted provides that up to three credits of required continuing education units may be earned by providing unpaid volunteer dental services as part of a free public health care event or community health clinic. However, the draft language does not make clear how much time spent providing free services is required to earn the three continuing education units. Because this language is insufficiently clear, staff and Board regulatory counsel developed clarifying language which will add specificity to the proposed language. Normally continuing education units translate to one unit for one hour receiving contact instruction in a continuing education course. However, in the volunteer context the licensee is providing services, not receiving instruction, and this defined ratio is therefore inapplicable.

Staff recommends assuming a 1:1 ratio of hours of providing unpaid volunteer dental services to patients to units of continuing education, up to three total hours. Staff recommended amendments are shown in yellow highlights in the attached proposed language to be added to this rulemaking.

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Action Requested:

Consider and possibly approve the proposed regulatory language relative to Continuing Education requirements, and direct staff to take all steps necessary to re-initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and delegating authority to the Executive Officer to make any technical or non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, delegate authority to the Executive Officer to make any technical or non-substantive changes to the proposed regulations before completing the rulemaking process and adopt the proposed amendments to California Code of Regulations, Title 16, Sections 1016 and 1017 as noticed in the attached proposed text.

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

PROPOSED LANGUAGE

Amend Sections 1016 and 1017 of Article 4 of Chapter 1 of Division 10 of Title 16 of the California Code of Regulations to read as follows:

**Chapter 1. General Provisions Applicable to All Licensees
Article 4. Continuing Education**

§ 1016. Continuing Education Courses and Providers

(a) Definition of Terms:

(1) Course of Study Defined. "Course of study" means an orderly learning experience in an area of study pertaining to dental and medical health, preventive dental services, diagnosis and treatment planning, clinical procedures, basic health sciences, dental practice management and administration, communication, ethics, patient management or the Dental Practice Act and other laws specifically related to dental practice.

(2) Coursework Defined. The term "Coursework" used herein refers to materials presented or used for continuing education and shall be designed and delivered in a manner that serves to directly enhance the licensee's knowledge, skill and competence in the provision of service to patients or the community.

(b) Courses of study for continuing education credit shall include:

(1) Mandatory courses required by the Board for license renewal to include a Board-approved course in Infection Control, a Board-approved course in the California Dental Practice Act, ~~and~~ completion of certification in Basic Life Support, and a Board-approved course on the responsibilities and requirements of prescribing Schedule II opioids.

(A) At a minimum, course content for a Board-approved course in Infection Control shall include all content of Section 1005 and the application of the regulations in the dental environment.

(B) At a minimum, course content for the Dental Practice Act [Division 2, Chapter 4 of the Code (beginning with §1600)] shall instruct on acts in violation of the Dental Practice Act and attending regulations, and other statutory mandates relating to the dental practice. This includes utilization and scope of practice for auxiliaries and dentists; laws governing the prescribing of drugs; professional ethics, citations, fines, revocation and

suspension of a license, and license renewal; and the mandatory reporter obligations set forth in the Child Abuse and Neglect Reporting Act (Penal Code Section 11164 et seq.) and the Elder Abuse and Dependent Adult Civil Protection Act (Welfare and Institutions Code Section 15600 et seq.) and the clinical signs to look for in identifying abuse.

(C) The mandatory requirement for certification in Basic Life Support shall be met by completion of either:

(i) An American Heart Association (AHA) or American Red Cross (ARC) course in Basic Life Support (BLS) or,

(ii) A BLS course taught by a provider approved by the American Dental Association's Continuing Education Recognition Program (CERP) or the Academy of General Dentistry's Program Approval for Continuing Education (PACE).

For the purposes of this section, a Basic Life Support course shall include all of the following:

1. Instruction in both adult and pediatric CPR, including 2-rescuer scenarios;
2. Instruction in foreign-body airway obstruction;
3. Instruction in relief of choking for adults, child and infant;
4. Instruction in the use of automated external defibrillation with CPR; and;
5. A live, in-person skills practice session, a skills test and a written examination;

The course provider shall ensure that the course meets the required criteria.

(D) 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.

(2) Courses in the actual delivery of dental services to the patient or the community, such as:

(A) Courses in preventive services, diagnostic protocols and procedures (including physical evaluation, radiography, dental photography) comprehensive

treatment planning, charting of the oral conditions, informed consent protocols and recordkeeping.

(B) Courses dealing primarily with nutrition and nutrition counseling of the patient.

(C) Courses in esthetic, corrective and restorative oral health diagnosis and treatment.

(D) Courses in dentistry's role in individual and community health emergencies, disasters, and disaster recovery.

(E) Courses that pertain to the legal requirement governing the licensee in the areas of auxiliary employment and delegation of responsibilities; the Health Insurance Portability and Accountability Act (HIPAA); actual delivery of care.

(F) Courses pertaining to federal, state and local regulations, guidelines or statutes regarding workplace safety, fire and emergency, environmental safety, waste disposal and management, general office safety, sexual harassment prevention, and all training requirements set forth by the California Division of Occupational Safety and Health (Cal-DOSH) including the Bloodborne Pathogens Standard.

(G) Courses pertaining to the administration of general anesthesia, conscious sedation, oral conscious sedation or medical emergencies.

(H) Courses pertaining to the evaluation, selection, use and care of dental instruments, sterilization equipment, operatory equipment, and personal protective attire.

(I) Courses in dependency issues and substance abuse such as alcohol and drug use as it relates to patient safety, professional misconduct, ethical considerations or malpractice.

(J) Courses in behavioral sciences, behavior guidance, and patient management in the delivery of care to all populations including special needs, pediatric and sedation patients when oriented specifically to the clinical care of the patient.

(K) Courses in the selection, incorporation, and use of current and emerging technologies.

(L) Courses in cultural competencies such as bilingual dental terminology, cross-cultural communication, provision of public health dentistry, and the dental professional's role in provision of care in non-traditional settings when oriented

specifically to the needs of the dental patient and will serve to enhance the patient experience.

(M) Courses in dentistry's role in individual and community health programs.

(N) Courses pertaining to the legal and ethical aspects of the insurance industry, to include management of third party payer issues, dental billing practices, patient and provider appeals of payment disputes and patient management of billing matters.

(3) Courses in the following areas are considered to be primarily of benefit to the licensee and shall be limited to a maximum of 20% of a licensee's total required course unit credits for each license or permit renewal period:

(A) Courses to improve recall and scheduling systems, production flow, communication systems and data management.

(B) Courses in organization and management of the dental practice including business planning and operations, office computerization and design, ergonomics, and the improvement of practice administration and office operations.

(C) Courses in leadership development and team development.

(D) Coursework in teaching methodology and curricula development.

(E) Coursework in peer evaluation and case studies that include reviewing clinical evaluation procedures, reviewing diagnostic methods, studying radiographic data, study models and treatment planning procedures.

(F) Courses in human resource management and employee benefits.

(4) Courses considered to be of direct benefit to the licensee or outside the scope of dental practice in California include the following, and shall not be recognized for continuing education credit:

(A) Courses in money management, the licensee's personal finances or personal ~~business~~ matters such as financial ~~planning~~, or estate planning, and personal investments.

(B) Courses in general physical fitness, weight management or the licensee's personal health.

(C) Presentations by political or public figures or other persons that do not deal primarily with dental practice or issues impacting the dental profession

(D) Courses designed to make the licensee a better business person or designed to improve licensee personal profitability, including motivation and marketing.

(E) Courses pertaining to the purchase or sale of a dental practice, business or office; courses in transfer of practice ownership, acquisition of partners and associates, practice valuation, practice transitions, or retirement.

(F) Courses pertaining to the provision of elective facial cosmetic surgery as defined by the Dental Practice Act in Section 1638.1, unless the licensee has a special permit obtained from the Board to perform such procedures pursuant to Section 1638.1 of the Code.

(5) Completion of a course does not constitute authorization for the attendee to perform any services that he or she is not legally authorized to perform based on his or her license or permit type.

(c) Registered Provider Application and Renewal

(1) An applicant for registration as a provider shall submit an "Application for Continuing Education Provider (Rev. 05/09)" that is hereby incorporated by reference. The application shall be accompanied by the fee required by section 1021. The applicant or, if the applicant is not an individual but acting on behalf of a business entity, the individual authorized by the business to act on its behalf shall certify that he or she will only offer courses and issue certificates for courses that meet the requirements in this section.

(2) To renew its registration, a provider shall submit a "Continuing Education Registered Provider Permit Renewal Application (12/15/08)" that is hereby incorporated by reference. The application shall be accompanied by the fee required by section 1021 and a biennial report listing each of the course titles offered, the 11-digit registration number issued to each course, the number of units issued for each course, the dates of all courses offered, the name and qualifications of each instructor, a summary of the content of each course of study, and a sample of the provider's written certification issued to participants during the last renewal period.

(d) Standards for Registration as an Approved Provider

(1) Each course of study shall be conducted on the same educational standards of scholarship and teaching as that required of a true university discipline and shall be supported by those facilities and educational resources necessary to comply with this requirement. Every instructor or presenter of a continuing education course shall possess education or experience for at least two years in

the subject area being taught. Each course of study shall clearly state educational objectives that can realistically be accomplished within the framework of the course. Teaching methods for each course of study shall be described (e.g., lecture, seminar, audiovisual, clinical, simulation, etc.) on all provider reports.

(2) The topic of instruction and course content shall conform to this section.

(3) An opportunity to enroll in such courses of study shall be made available to all dental licensees.

(e) Enforcement, Provider Records Retention and Availability of Provider Records

(1) (A) The board may not grant prior approval to individual courses unless a course is required as a mandatory license renewal course. The minimum course content of all mandatory continuing education courses for all registered providers is set out in subsections (b)(1)(A-~~CD~~). Providers shall be expected to adhere to these minimum course content requirements or risk registered provider status.

(B) ~~Beginning January 1, 2006, all~~ All registered providers shall submit their course content outlines for Infection Control and California Dental Practice Act to the board staff for review and approval. If a provider wishes to make any significant changes to the content of a previously approved ~~mandatory~~ course, the provider shall submit a new course content outline to the Board. A provider may not offer the ~~mandatory~~ course until the Board approves the new course outline. All new applicants for provider status shall submit course content outlines for ~~mandatory education~~ courses in Infection Control and California Dental Practice Act to the board staff for review and approval at the time of application and prior to instruction of ~~mandatory education courses~~.

(2) Providers must possess and maintain the following:

- (A) Speaker curriculum vitae;
- (B) Course content outline;
- (C) Educational objectives or outcomes;
- (D) Teaching methods utilized;
- (E) Evidence of registration numbers and units issued to each course;
- (F) Attendance records and rosters

(3) The board may randomly audit a provider for any course submitted for credit by a licensee in addition to any course for which a complaint is received. If an audit is conducted, the provider shall submit to the Board the following information and documentation:

- (A) Speaker curriculum vitae;
- (B) Course content outline;
- (C) Educational objectives or outcomes;
- (D) Teaching methods utilized;
- (E) Evidence of registration numbers and units issued to each course; and
- (F) Attendance records and rosters.

(4) All provider records described in this article shall be retained for a period of no less than three provider renewal periods.

(f) Withdrawal of Provider Registration

(1) The board retains the right and authority to audit or monitor courses given by any provider. The board may withdraw or place restrictions on a provider's registration if the provider has disseminated any false or misleading information in connection with the continuing education program, fails to comply with regulations, misrepresents the course offered, makes any false statement on its application or otherwise violates any provision of the Dental Practice Act or the regulations adopted thereunder.

(2) Any provider whose registration is withdrawn or restricted shall be granted a hearing before the executive officer or his or her designee prior to the effective date of such action. The provider shall be given at least ten days notice of the grounds for the proposed action and the time and place of such hearing.

(g) Provider Issuance of Units of Credit for Attendance

One unit of credit shall be granted for every hour of contact instruction and may be issued in half-hour increments. Such increments shall be represented by the use of a decimal point in between the first two numbers of the 11-digit registration number of the course. This credit shall apply to either academic or clinical instruction. Eight units shall be the maximum continuing education credits granted in one day.

(h) Additional Provider Responsibilities

(1) A provider shall furnish a written certification of course completion to each licensee certifying that the licensee has met the attendance requirements of the course. Such certification shall not be issued until completion of the course and shall contain the following:

(A) The licensee's, name and license or permit number, the provider's name, the 11-digit course registration number in the upper left hand corner of the certificate, date or dates attended, the number of units earned, and a place for the licensee to sign and date verifying attendance.

(B) An authorizing signature of the provider or the providing entity and a statement that reads: "All of the information contained on this certificate is truthful and accurate."

(C) A statement on each certification that reads: "Completion of this course does not constitute authorization for the attendee to perform any services that he or she is not legally authorized to perform based on his or her license or permit type."

(2) If an individual whose license or permit has been cancelled, revoked, or voluntarily surrendered attends and completes a continuing education course, the provider or attendee may document on the certificate of course completion the license or permit number the individual held before the license or permit was cancelled, revoked, or voluntarily surrendered.

(3) When two or more registered providers co-sponsor a course, only one provider number shall be used for that course and that provider must assume full responsibility for compliance with the requirements of this article.

(4) Only Board-approved providers whose course content outlines for Infection Control and California Dental Practice Act have been submitted and approved by the Board may issue continuing education certifications to participants of these courses.

(5) The instructor of a course who holds a current and active license or permit to practice issued by the Board may receive continuing education credit for up to 20% of their total required units per renewal period for the course or courses they teach for a provider other than themselves.

(6) Upon request, a provider shall issue a duplicate certification to a licensee whose name appears on the provider's original roster of course attendees. A provider may not issue a duplicate certification to a licensee whose name is not

on the original roster of course attendees. The provider, not the licensee shall clearly mark on the certificate the word "duplicate."

(7) Providers shall place the following statement on all certifications, course advertisements, brochures and other publications relating to all course offerings: "This course meets the Dental Board of California's requirements for _(number of)_units of continuing education."

(i) Out of State Courses and Courses Offered by Other Authorized and Non-Authorized Providers

(1) Notwithstanding subdivision (b) of Section 1016, licensees who attend continuing education courses given by providers approved by the American Dental Association's Continuing Education Recognition Program (CERP) or the Academy of General Dentistry's Program Approval for Continuing Education (PACE) and who obtain a certification of attendance from the provider or sponsor shall be given credit towards his or her total continuing education requirement for renewal of his or her license with the exception of mandatory continuing education courses, if the course meets the requirements of continuing education set forth in this section.

(b) A licensee who attends a course or program that meets all content requirements for continuing education pursuant to these regulations, but was presented outside California by a provider not approved by the Board, may petition the Board for consideration of the course by submitting information on course content, course duration and evidence from the provider of course completion.

When the necessary requirements have been fulfilled, the board may issue a written certificate of course completion for the approved number of units, which the licensee may then use for documentation of continuing education credits.

Note: Authority cited: Sections 1614 and 1645, Business and Professions Code.
Reference: Section 1645, Business and Professions Code.

§ 1017. Continuing Education Units Required for Renewal of License or Permit.

(a) As a condition of renewal, all licensees are required to complete continuing education as follows:

(1) Two units of continuing education in Infection Control specific to California regulations as defined in section 1016(b)(1)(A).

(2) Two units of continuing education in the California Dental Practice Act and its related regulations as defined in section 1016(b)(1)(B).

(3) A maximum of four units of a course in Basic Life Support as specified in section 1016(b)(1)(C).

(4) Only dentists shall be required to complete two units of continuing education on pain management, the identification of addiction, risks of addiction, or in the practices of prescribing or dispensing opioids.

(b) Mandatory continuing education units count toward the total units required to renew a license or permit; however, failure to complete the mandatory courses will result in non-renewal of a license or permit. Any continuing education units accumulated before April 8, 2010 that meet the requirements in effect on the date the units were accumulated will be accepted by the Board for license or permit renewals taking place on or after April 8, 2010.

(c) All licensees shall accumulate the continuing education units equal to the number of units indicated below during the biennial license or permit renewal period assigned by the Board on each license or permit. All licensees shall verify to the Board that he or she who has been issued a license or permit to practice for a period less than two years shall begin accumulating continuing education credits within the next biennial renewal period occurring after the issuance of a new license or permit to practice.

(1) Dentists: 50 units.

(2) Registered dental hygienists: 25 units.

(3) Registered dental assistants: 25 units.

(4) Dental Sedation Assistant Permit Holders: 25 units.

(5) Orthodontic Assistant Permit Holders: 25 units.

(6) Registered dental hygienists in extended functions: 25 units.

(7) Registered dental assistants in extended functions: 25 units.

(8) Registered dental hygienists in alternative practice: 35 units.

(d) Each dentist licensee who holds a general anesthesia permit shall complete, as a condition of permit renewal, continuing education requirements pursuant to Section 1646.5 of the Business and Professions Code at least once every two years, and either (1) an advanced cardiac life support course which is approved by the American Heart Association and which includes an examination on the materials presented in the course or (2) any other advanced cardiac life support course which is identical in all respects, except for the omission of materials that relate solely to hospital emergencies

or neonatology, to the course entitled “2005 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care” published by the American Heart Association December 13, 2005 which is incorporated herein by reference.

(e) Each dentist licensee who holds a conscious sedation permit shall complete at least once every two years a minimum of 15 total units of coursework related to the administration of conscious sedation and to medical emergencies, as a condition of permit renewal, in continuing education requirements pursuant to Section 1647.5 of the of the Business and Professions Code. Refusal to execute the required assurance shall result in non-renewal of the permit.

(f) Each dentist licensee who holds an oral conscious sedation permit for minors, as a condition of permit renewal, shall complete at least once every two years a minimum of 7 total units of coursework related to the subject area in continuing education requirements pursuant to Section 1647.13 of the Business and Professions Code.

(g) Each dentist licensee who holds an oral conscious sedation permit for adults, as a condition of permit renewal, shall complete at least once every two years a minimum of 7 total units of coursework related to the subject area in continuing education requirements pursuant to Section 1647.21 of the of the Business and Professions Code.

(h) Notwithstanding any other provisions of this code, tape recorded courses, home study materials, video courses, and computer courses are considered correspondence courses, and will be accepted for credit up to, but not exceeding, 50% of the licensee's total required units.

(i) In the event that a portion of a licensee's units have been obtained through non-live instruction, as described in Section (h) above, all remaining units shall be obtained through live interactive course study with the option to obtain 100% of the total required units by way of interactive instruction courses. Such courses are defined as live lecture, live telephone conferencing, live video conferencing, live workshop demonstration, or live classroom study.

(j) Licensees who provide direct patient care as an unpaid volunteer at a free public health care event or non-profit community health clinic shall be issued continuing education credit of one unit per hour of providing unpaid volunteer dental services to patients, for up to three units of their total continuing education unit requirements for license renewal. Units of credit may be issued in half hour increments.

(jk) Licensees who participate in the following activities shall be issued continuing education credit for up to 20% of their total continuing education unit requirements for license renewal:

(1) Participation in any Dental Board of California or Western Regional Examination Board (WREB) administered examination including attendance at calibration training, examiner orientation sessions, and examinations.

(2) Participation in any site visit or evaluation relating to issuance and maintenance of a general anesthesia, conscious sedation or oral conscious sedation permit.

(3) Participation in any calibration training and site evaluation training session relating to general anesthesia, conscious sedation or oral conscious sedation permits.

(4) Participation in any site visit or evaluation of an approved dental auxiliary program or dental auxiliary course.

~~(k)~~ The Board shall issue to participants in the activities listed in subdivision (j) a certificate that contains the date, time, location, authorizing signature, 11-digit course registration number, and number of units conferred for each activity consistent with all certificate requirements herein required for the purposes of records retention and auditing.

~~(l)~~ The license or permit of any person who fails to accumulate the continuing education units set forth in this section or to assure the board that he or she will accumulate such units, shall not be renewed until such time as the licensee complies with those requirements.

~~(m)~~ A licensee who has not practiced in California for more than one year because the licensee is disabled need not comply with the continuing education requirements of this article during the renewal period within which such disability falls. Such licensee shall certify in writing that he or she is eligible for waiver of the continuing education requirements. A licensee who ceases to be eligible for such waiver shall notify the Board of such and shall comply with the continuing education requirements for subsequent renewal periods.

~~(n)~~ A licensee shall retain, for a period of three renewal periods, the certificates of course completion issued to him or her at the time he or she attended a continuing education course and shall forward such certifications to the Board only upon request by the Board for audit purposes. A licensee who fails to retain a certification shall contact the provider and obtain a duplicate certification.

~~(o)~~ Any licensee who furnishes false or misleading information to the Board regarding his or her continuing education units may be subject to disciplinary action. The Board

may audit a licensee continuing education records as it deems necessary to ensure that the continuing education requirements are met.

(~~pg~~) A licensee who also holds a special permit for general anesthesia, conscious sedation, oral conscious sedation of a minor or of an adult, may apply the continuing education units required in the specific subject areas to their dental license renewal requirements.

(~~qr~~) A registered dental assistant or registered dental assistant in extended functions who holds a permit as an orthodontic assistant or a dental sedation assistant shall not be required to complete additional continuing education requirements beyond that which is required for licensure renewal in order to renew either permit.

(~~rs~~) Pertaining to licensees holding more than one license or permit, the license or permit that requires the largest number of continuing education units for renewal shall equal the licensee's full renewal requirement. Dual licensure, or licensure with permit, shall not require duplication of continuing education requirements.

(~~st~~) Current and active licensees enrolled in a full-time educational program in the field of dentistry, including dental school program, residency program, postdoctoral specialty program, dental hygiene school program, dental hygiene in alternative practice program, or registered dental assisting in extended functions program approved by the Board or the ADA Commission on Dental Accreditation shall be granted continuing education credits for completed curriculum during that renewal period. In the event of audit, licensees shall be required to present school transcripts to the Board as evidence of enrollment and course completion.

(~~tu~~) Current and active dental sedation assistant and orthodontic assistant permit holders enrolled in a full-time dental hygiene school program, dental assisting program, or registered dental assisting in extended functions program approved by the Board or the ADA Commission on Dental Accreditation shall be granted continuing education credits for completed curriculum during that renewal period. In the event of audit, assisting permit holders shall be required to present school transcripts to the committee or Board as evidence of enrollment and course completion.

(v) Continuing education for retired dentists in uncompensated practice shall include mandatory courses and courses directly related to the delivery of dental services to patients and shall be no less than 30 units.

Note: Authority cited: Sections 1614 and 1645, Business and Professions Code.
Reference: Sections 1645, 1646.5 and 1647.5, Business and Professions Code.



MEMORANDUM

DATE	August 4, 2020
TO	Members of the Dental Board of California
FROM	Gabriel Nevin, Legislative and Regulatory Analyst Dental Board of California
SUBJECT	Agenda Item 11(a): Discussion and Possible Action on Legislation

Background:

The Dental Board of California (Board) has been tracking the following bills relating to professions and vocations that impact the Board, the Department of Consumer Affairs (DCA), healing arts boards and their respective licensees, and licensing boards. The following bills were discussed at the July 24, 2020 Board Meeting, and the Board had an opportunity to consider and take a position on each piece of legislation.

1) [AB 613](#) (Low) Dentists: clinical laboratories: license examinations.

The Board did not take a position on this bill. Many of the provisions were moved to SB 1474.

Status: June 29, 2020: Re-referred to Committee on Business Professions and Economic Development with author's amendments.

2) [AB 1998](#) (Low) Dental Practice Act: unprofessional conduct.

The Board took a Watch position on this bill.

Status: Set for Hearing August 8, 2020 at 10AM in Senate Business, Professions and Economic Development Committee.

3) [AB 2028](#) (Aguiar-Curry; Coauthor Gonzalez) State agencies: meetings.

The Board took an Oppose position on this bill.

Status: July 28, 2020: Re-referred to Senate Committee on Governmental Organization with author's amendments.

4) [AB 2113](#) (Low; Coauthors: Carillo, Chiu, Medina, Blanca Rubio, and Gonzalez) Refugees, asylees, and special immigrant visa holders: professional licensing: initial licensure process.

The Board took a Support position on this bill.

Status: Set for Hearing August 8, 2020 at 10AM in Senate Business, Professions and Economic Development Committee.

5) [AB 2520](#) (Chiu; Coauthor: Senator Leyva) Access to medical records.

The Board took a Support position on this bill.

Status: August 1, 2020: Re-referred to Senate Committee on Appropriations.

6) [AB 2549](#) (Salas; Coauthor: Gonzalez) Department of Consumer Affairs: temporary licenses.

The Board took an Oppose position on this bill.

Status: July 1, 2020: To Senate Committee on Business, Professions and Economic Development.

7) [AB 3045](#) (Gray and Patterson; Coauthors: Gallagher, Fong, Gipson, Grayson, and Obernolte) Department of Consumer Affairs: boards: veterans: military spouses: licenses. The Board took an Oppose position on this bill.

Status: July 1, 2020: To Senate Committee on Business, Professions and Economic Development.

8) [SB 878](#) (Jones) Department of Consumer Affairs: license: application: processing timeframes.

The Board took a Watch position on this bill.

Status: Set for Hearing August 10, 2020 in the Assembly Business and Professions Committee.

9) [SB 1168](#) (Morrell) State Agencies licensing services.

The Board took a Watch position on this bill.

Status: June 18, 2020: Held in Senate Appropriations Committee.

10) [SB 1474](#) (Senators Glazer (Chair), Archuleta, Chang, Dodd, Galgiani, Hill, Leyva, Pan, and Wilk; Principal coauthor: Assembly Member Low) Business and professions.

The Board took an Oppose position on this bill.

Status: Set for Hearing August 10, 2020 in the Assembly Business and Professions Committee.

At this time, staff will present AB 2028.

[AB 2028](#) (Aguiar-Curry) State agencies: meetings.

Introduced: January 30, 2020

Last Amended: July 28, 2020

Disposition: Pending

Location: Senate

Status: July 28, 2020: Re-referred to Senate Committee on Governmental Organization with author's amendments.

Summary: Existing law, the Bagley-Keene Open Meeting Act, requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of the state body, that are in connection with a matter subject to discussion or consideration at the meeting.

The bill purports to require these writings and materials to be made available on the internet at least 48 hours in advance of the meeting, or on the first business day after the day that the materials are distributed to the Board members, whichever comes earlier, and require that the materials be provided immediately upon written request. If the writings or materials are provided to the members of the state body by another state body after this 48-hour deadline, the bill would require that they be posted on the body's internet website no later than the first business day, but prior to the meeting of the state body, following the dissemination of the writings and materials to the members of the state body, and made available immediately upon written request. The Bill provides that the materials may be amended as they relate to active legislation and changing financial market conditions after the deadline. The bill would provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements, and must provide immediately upon written request.

The bill as drafted fails to achieve its stated purpose. Section 2 of the bill amends Govt Code Sec (GC) 11125. At GC 11125 subsection (a), the notice of the meeting is required to be placed on the website 10 days prior to the meeting.

Subsection (c)(1) requires that the notice from subsection (a) include all the materials that are given to Board members.

Finally subsection (c)(2)(A) also requires that the materials be placed on the website at least 48 hours before the meeting or one day after dissemination to the public.

However because of the way it is drafted the 10 day requirement for the notice also requires the materials and effectively swallows the 48 hour requirement at GC sec 11125(c)(2)(A). The author's office has indicated that they are aware of the issues with the current draft of the legislation and are working to clarify the effect of the bill.

Board Impact: The Board has taken oppose positions on two different versions of this bill. The Board opposed this bill at the May 2020 meeting when the bill had a 10 day requirement for posting the agenda and meeting materials. The Board also took an oppose position at the July 2020 meeting when the bill had a 48 hour requirement for posting the agenda and meeting materials. The reasons for taking those oppose positions are still valid. This bill would limit the Dental Board's ability to provide accurate and updated information at Board meetings regarding legislation, to discuss new materials sent from stakeholders and the public and limit the Board's ability to work with outside presenters.

In addition, once the Board's meeting is posted, stakeholders will review the topics to be discussed and request to send a statement or relevant information to be included in the discussion at the Board meeting. Under this proposal, it appears this practice would no longer be allowed.

At times the Board invites subject matter experts to present on their area of expertise. Often this includes a PowerPoint presentation or other written handouts. Under the proposal, it appears that this material would need to be submitted and posted at least 10 days prior to the meeting, which could hinder the ability of the Board to find experts willing to present.

As a general practice the Dental Board already posts this information to the website 14 day in advance of meetings. However the issues being discussed at the Board meeting are not static. If the Board is limited to discussing materials which are 10 days old, the Board may not be able to give timely feedback on important issues that affect the Board and its duty to protect the public. The impact of this bill is difficult to quantify but it will be a limitation on the Board's ability to provide accurate and update materials for discussion at meetings and limit the Board's ability to receive input from outside experts and stakeholders. The fiscal impact is anticipated to be minor and absorbable. Staff will continue to monitor this bill as it is expected to be amended again.

Board Position: Oppose: May 2020; July 2020.

AMENDED IN SENATE JULY 28, 2020

AMENDED IN SENATE JULY 8, 2020

AMENDED IN ASSEMBLY JUNE 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2028

**Introduced by Assembly Member Aguiar-Curry
(Coauthor: Assembly Member Gonzalez)**

January 30, 2020

~~An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.~~ *An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2028, as amended, Aguiar-Curry. State agencies: meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would prescribe requirements to be satisfied in order for these

writings or materials to be distributed or discussed. The bill would generally require that these writings and materials be made available on the body's internet website no later than the first business day after they are provided to members of the state body or at least 48 hours in advance of the meeting, whichever is earlier, and to be provided immediately upon written request. If the writings or materials are provided to the members of the state body by another state body after this 48-hour deadline, the bill would require that they be posted on the body's internet website no later than the first business day, but prior to the meeting of the state body, following the dissemination of the writings and materials to the members of the state body, and made available immediately upon written request. The bill would except writings or materials relating to matters to be discussed in a closed session and state financial materials, as defined, that put the Treasurer, or specified entities for which the Treasurer serves as chairperson, at a competitive disadvantage in financial transactions from its requirements. The bill would authorize a state body to post and provide additional time-sensitive materials related to certain active legislation, as specified, and changing financial market conditions as they become available, as specified. Upon receipt of a written request, the bill would require that these writings or materials be provided immediately.

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item. Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.

~~Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.~~

~~This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would prescribe requirements to be satisfied in order for these writings or materials to be distributed or discussed. The bill would generally require that these writings and materials be made available on the body's internet website no later than the first business day after they are provided to members of the state body or at least 48 hours in advance of the meeting, whichever is earlier, and to be provided immediately upon written request. If the writings or materials are provided to the members of the state body by another state body after this 48-hour deadline, the bill would require that they be posted on the body's internet website no later than the first business day, but prior to the meeting of the state body, following the dissemination of the writings and materials to the members of the state body, and made available immediately upon written request. The bill would except writings or materials relating to matters to be discussed in a closed session and state financial materials, as defined, that put the Treasurer at a competitive disadvantage in financial transactions from its requirements. The bill would authorize a state body to post and provide additional time-sensitive materials related to certain active legislation, as specified, and changing financial market conditions as they become available, as specified. Upon receipt of a written request, the bill would require that these writings or materials be provided immediately.~~

~~Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item. Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.~~

~~This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares the following:*

2 *(a) The Bagley-Keene Open Meeting Act (Article 9 (commencing*
3 *with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title*
4 *2 of the Government Code) (hereafter “Bagley-Keene”) was*
5 *intended to implement Section 3 of Article I of the California*
6 *Constitution, which states in part, “The people have the right of*
7 *access to information concerning the conduct of the people’s*
8 *business, and, therefore, the meetings of public bodies and the*
9 *writings of public officials and agencies shall be open to public*
10 *scrutiny.”*

11 *(b) Bagley-Keene was written to protect public meetings and*
12 *public notice and to ensure the transparency of actions taken by*
13 *state agencies, boards, and commissions.*

14 *(c) Californians have the right to participate in state body*
15 *deliberations. This includes the public’s ability to comment on all*
16 *agenda items discussed at a meeting of the state body, regardless*
17 *of whether an item has been discussed previously in a committee*
18 *of the state body.*

19 *(d) The purpose of public notice is so that state bodies give the*
20 *public adequate time for review of the substance of a state body*
21 *meeting and for comment.*

22 *(e) Public notice must also include any writings or materials*
23 *provided by a state body’s staff or by a member of the state body*
24 *to other members of the state body for a noticed meeting of the*
25 *body.*

26 *(f) Bagley-Keene affirms these rights by stating in Section 11120*
27 *of the Government Code, “The people of this state do not yield*
28 *their sovereignty to the agencies which serve them. The people, in*
29 *delegating authority, do not give their public servants the right to*
30 *decide what is good for the people to know and what is not good*
31 *for them to know. The people insist on remaining informed so that*
32 *they may retain control over the instruments they have created.”*

33 *SEC. 2. Section 11125 of the Government Code is amended to*
34 *read:*

35 11125. (a) The state body shall provide notice of its meeting
36 to any person who requests that notice in writing. Notice shall be
37 given and also made available on the ~~Internet~~ internet website at
38 least 10 days in advance of the meeting, and shall include the name,

1 address, and telephone number of any person who can provide
2 further information prior to the meeting, but need not include a
3 list of witnesses expected to appear at the meeting. The written
4 notice shall additionally include the address of the ~~Internet site~~
5 *internet website* where notices required by this article are made
6 available.

7 (b) The notice of a meeting of a body that is a state body shall
8 include a specific agenda for the meeting, containing a brief
9 description of the items of business to be transacted or discussed
10 in either open or closed session. A brief general description of an
11 item generally need not exceed 20 words. A description of an item
12 to be transacted or discussed in closed session shall include a
13 citation of the specific statutory authority under which a closed
14 session is being held. No item shall be added to the agenda
15 subsequent to the provision of this notice, unless otherwise
16 permitted by this article.

17 (c) (1) *Any notice provided pursuant to subdivision (a) shall*
18 *include all writings or materials provided for the noticed meeting*
19 *to a member of the state body by the staff of that state agency,*
20 *board, or commission, or another member of the state body, that*
21 *are in connection with a matter subject to discussion or*
22 *consideration at the meeting. A state body may distribute or discuss*
23 *writings or materials only to the extent that it has complied with*
24 *the applicable requirements of this subdivision.*

25 (2) (A) *The writings or materials to be considered at a noticed*
26 *meeting and provided to members of the state body in advance of*
27 *the meeting shall be made available on the body's internet website*
28 *no later than the first business day following the dissemination of*
29 *the writings and materials to members of the state body or at least*
30 *48 hours in advance of the meeting, whichever is earlier. Upon*
31 *receipt of a written request for writings or materials provided to*
32 *members of the state body in advance of the meeting, a state body*
33 *shall provide them immediately.*

34 (B) *Any writings or materials provided to the members of the*
35 *state body by another state body after the time periods described*
36 *in subparagraph (A) have passed shall be posted on the body's*
37 *internet website no later than the first business day, but prior to*
38 *the meeting of the state body, following the dissemination of the*
39 *writings and materials to the members of the state body. Upon*
40 *receipt of a written request, these writings or materials shall be*

1 *provided immediately. A state body that satisfies the requirements*
2 *of this subparagraph may discuss these writings and materials at*
3 *an otherwise properly noticed meeting.*

4 (3) (A) *This subdivision does not apply to writings or materials*
5 *prepared for a matter to be discussed in a closed session of the*
6 *state body or to state financial materials that put the Treasurer,*
7 *or any of the boards, authorities, commissions, committees, and*
8 *councils for which the Treasurer serves as chairperson, at a*
9 *competitive disadvantage in financial transactions.*

10 (B) *For purposes of this paragraph, “financial materials” mean*
11 *documents related to bonds, loans, and grants.*

12 (4) *If the writings or materials described in paragraph (1) on*
13 *an agenda for discussion at a meeting of the state body are related*
14 *to legislation that is before the Legislature in a current legislative*
15 *session or are related to changing financial market conditions, a*
16 *state body shall satisfy the requirements of this subdivision by*
17 *posting on its internet website the writings and materials related*
18 *to the legislation or the changing market conditions as they become*
19 *available after the time periods described in paragraph (2). Upon*
20 *receipt of a written request, these writings or materials shall be*
21 *provided immediately. The state body shall make clear what date*
22 *the new or changed writings or materials are posted and, when*
23 *applicable, what changes have been made in the writings or*
24 *materials.*

25 (c)

26 (d) *Notice of a meeting of a state body that complies with this*
27 *section shall also constitute notice of a meeting of an advisory*
28 *body of that state body, provided that the business to be discussed*
29 *by the advisory body is covered by the notice of the meeting of*
30 *the state body, provided that the specific time and place of the*
31 *advisory body’s meeting is announced during the open and public*
32 *state body’s meeting, and provided that the advisory body’s*
33 *meeting is conducted within a reasonable time of, and nearby, the*
34 *meeting of the state body.*

35 (d)

36 (e) *A person may request, and shall be provided, notice pursuant*
37 *to subdivision (a) for all meetings of a state body or for a specific*
38 *meeting or meetings. In addition, at the state body’s discretion, a*
39 *person may request, and may be provided, notice of only those*

1 meetings of a state body at which a particular subject or subjects
2 specified in the request will be discussed.

3 (e)

4 (f) A request for notice of more than one meeting of a state body
5 shall be subject to the provisions of Section 14911.

6 (f)

7 (g) The notice shall be made available in appropriate alternative
8 formats, as required by Section 202 of the Americans with
9 Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal
10 rules and regulations adopted in implementation thereof, upon
11 request by any person with a disability. The notice shall include
12 information regarding how, to whom, and by when a request for
13 any disability-related modification or accommodation, including
14 auxiliary aids or services may be made by a person with a disability
15 who requires these aids or services in order to participate in the
16 public meeting.

17 *SEC. 3. Section 11125.7 of the Government Code is amended*
18 *to read:*

19 11125.7. (a) Except as otherwise provided in this section, the
20 state body shall provide an opportunity for members of the public
21 to directly address the state body on each agenda item before or
22 during the state body’s discussion or consideration of the item.
23 ~~This section is not applicable if the agenda item has already been~~
24 ~~considered by a committee composed exclusively of members of~~
25 ~~the state body at a public meeting where interested members of~~
26 ~~the public were afforded the opportunity to address the committee~~
27 ~~on the item, before or during the committee’s consideration of the~~
28 ~~item, unless the item has been substantially changed since the~~
29 ~~committee heard the item, as determined by the state body.~~ Every
30 notice for a special meeting at which action is proposed to be taken
31 on an item shall provide an opportunity for members of the public
32 to directly address the state body concerning that item prior to
33 action on the item. In addition, the notice requirement of Section
34 11125 shall not preclude the acceptance of testimony at meetings,
35 other than emergency meetings, from members of the public if no
36 action is taken by the state body at the same meeting on matters
37 brought before the body by members of the public.

38 (b) The state body may adopt reasonable regulations to ensure
39 that the intent of subdivision (a) is carried out, including, but not
40 limited to, regulations limiting the total amount of time allocated

1 for public comment on particular issues and for each individual
2 speaker.

3 (c) (1) Notwithstanding subdivision (b), when a state body
4 limits time for public comment the state body shall provide at least
5 twice the allotted time to a member of the public who utilizes a
6 translator to ensure that non-English speakers receive the same
7 opportunity to directly address the state body.

8 (2) Paragraph (1) shall not apply if the state body utilizes
9 simultaneous translation equipment in a manner that allows the
10 state body to hear the translated public testimony simultaneously.

11 (d) The state body shall not prohibit public criticism of the
12 policies, programs, or services of the state body, or of the acts or
13 omissions of the state body. Nothing in this subdivision shall confer
14 any privilege or protection for expression beyond that otherwise
15 provided by law.

16 (e) This section is not applicable to ~~closed sessions held pursuant~~
17 ~~to Section 11126. any of the following:~~

18 (1) ~~Closed sessions held pursuant to Section 11126.~~

19 (f) ~~This section is not applicable to decisions~~

20 (2) ~~Decisions~~ regarding proceedings held pursuant to Chapter
21 5 (commencing with Section 11500), relating to administrative
22 adjudication, or to the conduct of those proceedings.

23 (g) ~~This section is not applicable to hearings~~

24 (3) ~~Hearings~~ conducted by the California Victim Compensation
25 Board pursuant to Sections 13963 and 13963.1.

26 (h) ~~This section is not applicable to agenda~~

27 (4) ~~Agenda~~ items that involve decisions of the Public Utilities
28 Commission regarding adjudicatory hearings held pursuant to
29 Chapter 9 (commencing with Section 1701) of Part 1 of Division
30 1 of the Public Utilities Code. For all other agenda items, the
31 commission shall provide members of the public, other than those
32 who have already participated in the proceedings underlying the
33 agenda item, an opportunity to directly address the commission
34 before or during the commission’s consideration of the item.

35 SECTION 1. ~~The Legislature finds and declares the following:~~

36 (a) ~~The Bagley-Keene Open Meeting Act (Article 9~~
37 ~~(commencing with Section 11120) of Chapter 1 of Part 1 of~~
38 ~~Division 3 of Title 2 of the Government Code) (hereafter~~
39 ~~“Bagley-Keene”) was intended to implement Section 3 of Article~~
40 ~~I of the California Constitution, which states in part, “The people~~

1 have the right of access to information concerning the conduct of
2 the people's business, and, therefore, the meetings of public bodies
3 and the writings of public officials and agencies shall be open to
4 public scrutiny."

5 (b) Bagley-Keene was written to protect public meetings and
6 public notice and to ensure the transparency of actions taken by
7 state agencies, boards, and commissions.

8 (c) Californians have the right to participate in state body
9 deliberations. This includes the public's ability to comment on all
10 agenda items discussed at a meeting of the state body, regardless
11 of whether an item has been discussed previously in a committee
12 of the state body.

13 (d) The purpose of public notice is so that state bodies give the
14 public adequate time for review of the substance of a state body
15 meeting and for comment.

16 (e) Public notice must also include any writings or materials
17 provided by a state body's staff or by a member of the state body
18 to other members of the state body for a noticed meeting of the
19 body.

20 (f) Bagley-Keene affirms these rights by stating in Section 11120
21 of the Government Code, "The people of this state do not yield
22 their sovereignty to the agencies which serve them. The people,
23 in delegating authority, do not give their public servants the right
24 to decide what is good for the people to know and what is not good
25 for them to know. The people insist on remaining informed so that
26 they may retain control over the instruments they have created."

27 SEC. 2. Section 11125 of the Government Code is amended
28 to read:

29 11125. (a) The state body shall provide notice of its meeting
30 to any person who requests that notice in writing. Notice shall be
31 given and also made available on the internet website at least 10
32 days in advance of the meeting, and shall include the name,
33 address, and telephone number of any person who can provide
34 further information prior to the meeting, but need not include a
35 list of witnesses expected to appear at the meeting. The written
36 notice shall additionally include the address of the internet website
37 where notices required by this article are made available.

38 (b) The notice of a meeting of a body that is a state body shall
39 include a specific agenda for the meeting, containing a brief
40 description of the items of business to be transacted or discussed

1 in either open or closed session. A brief general description of an
 2 item generally need not exceed 20 words. A description of an item
 3 to be transacted or discussed in closed session shall include a
 4 citation of the specific statutory authority under which a closed
 5 session is being held. No item shall be added to the agenda
 6 subsequent to the provision of this notice, unless otherwise
 7 permitted by this article.

8 (e) (1) Any notice provided pursuant to subdivision (a) shall
 9 include all writings or materials provided for the noticed meeting
 10 to a member of the state body by the staff of that state agency,
 11 board, or commission, or another member of the state body, that
 12 are in connection with a matter subject to discussion or
 13 consideration at the meeting. A state body may distribute or discuss
 14 writings or materials only to the extent that it has complied with
 15 the applicable requirements of this subdivision.

16 (2) (A) The writings or materials to be considered at a noticed
 17 meeting and provided to members of the state body in advance of
 18 the meeting shall be made available on the body's internet website
 19 no later than the first business day following the dissemination of
 20 the writings and materials to members of the state body or at least
 21 48 hours in advance of the meeting, whichever is earlier. Upon
 22 receipt of a written request for writings or materials provided to
 23 members of the state body in advance of the meeting, a state body
 24 shall provide them immediately.

25 (B) Any writings or materials provided to the members of the
 26 state body by another state body after the time periods described
 27 in subparagraph (A) have passed shall be posted on the body's
 28 internet website no later than the first business day, but prior to
 29 the meeting of the state body, following the dissemination of the
 30 writings and materials to the members of the state body. Upon
 31 receipt of a written request, these writings or materials shall be
 32 provided immediately. A state body that satisfies the requirements
 33 of this subparagraph may discuss these writings and materials at
 34 an otherwise properly noticed meeting.

35 (3) (A) This subdivision does not apply to writings or materials
 36 prepared for a matter to be discussed in a closed session of the
 37 state body or state financial materials that put the Treasurer at a
 38 competitive disadvantage in financial transactions.

39 (B) For purposes of this paragraph, "financial materials" mean
 40 documents related to bonds, loans, and grants.

1 ~~(4) If the writings or materials described in paragraph (1) on an~~
2 ~~agenda for discussion at a meeting of the state body are related to~~
3 ~~legislation that is before the Legislature in a current legislative~~
4 ~~session or are related to changing financial market conditions, a~~
5 ~~state body shall satisfy the requirements of this subdivision by~~
6 ~~posting on its internet website the writings and materials related~~
7 ~~to the legislation or the changing market conditions as they become~~
8 ~~available after the time periods described in paragraph (2). Upon~~
9 ~~receipt of a written request, these writings or materials shall be~~
10 ~~provided immediately. The state body shall make clear what date~~
11 ~~the new or changed writings or materials are posted and, when~~
12 ~~applicable, what changes have been made in the writings or~~
13 ~~materials.~~

14 ~~(d) Notice of a meeting of a state body that complies with this~~
15 ~~section shall also constitute notice of a meeting of an advisory~~
16 ~~body of that state body, provided that the business to be discussed~~
17 ~~by the advisory body is covered by the notice of the meeting of~~
18 ~~the state body, provided that the specific time and place of the~~
19 ~~advisory body's meeting is announced during the open and public~~
20 ~~state body's meeting, and provided that the advisory body's~~
21 ~~meeting is conducted within a reasonable time of, and nearby, the~~
22 ~~meeting of the state body.~~

23 ~~(e) A person may request, and shall be provided, notice pursuant~~
24 ~~to subdivision (a) for all meetings of a state body or for a specific~~
25 ~~meeting or meetings. In addition, at the state body's discretion, a~~
26 ~~person may request, and may be provided, notice of only those~~
27 ~~meetings of a state body at which a particular subject or subjects~~
28 ~~specified in the request will be discussed.~~

29 ~~(f) A request for notice of more than one meeting of a state body~~
30 ~~shall be subject to the provisions of Section 14911.~~

31 ~~(g) The notice shall be made available in appropriate alternative~~
32 ~~formats, as required by Section 202 of the Americans with~~
33 ~~Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal~~
34 ~~rules and regulations adopted in implementation thereof, upon~~
35 ~~request by any person with a disability. The notice shall include~~
36 ~~information regarding how, to whom, and by when a request for~~
37 ~~any disability-related modification or accommodation, including~~
38 ~~auxiliary aids or services may be made by a person with a disability~~
39 ~~who requires these aids or services in order to participate in the~~
40 ~~public meeting.~~

1 SEC. 3.— Section 11125.7 of the Government Code is amended
2 to read:

3 11125.7.— (a) Except as otherwise provided in this section, the
4 state body shall provide an opportunity for members of the public
5 to directly address the state body on each agenda item before or
6 during the state body's discussion or consideration of the item.
7 Every notice for a special meeting at which action is proposed to
8 be taken on an item shall provide an opportunity for members of
9 the public to directly address the state body concerning that item
10 prior to action on the item. In addition, the notice requirement of
11 Section 11125 shall not preclude the acceptance of testimony at
12 meetings, other than emergency meetings, from members of the
13 public if no action is taken by the state body at the same meeting
14 on matters brought before the body by members of the public.

15 (b) The state body may adopt reasonable regulations to ensure
16 that the intent of subdivision (a) is carried out, including, but not
17 limited to, regulations limiting the total amount of time allocated
18 for public comment on particular issues and for each individual
19 speaker.

20 (c) (1) Notwithstanding subdivision (b), when a state body
21 limits time for public comment the state body shall provide at least
22 twice the allotted time to a member of the public who utilizes a
23 translator to ensure that non-English speakers receive the same
24 opportunity to directly address the state body.

25 (2) Paragraph (1) shall not apply if the state body utilizes
26 simultaneous translation equipment in a manner that allows the
27 state body to hear the translated public testimony simultaneously.

28 (d) The state body shall not prohibit public criticism of the
29 policies, programs, or services of the state body, or of the acts or
30 omissions of the state body. Nothing in this subdivision shall confer
31 any privilege or protection for expression beyond that otherwise
32 provided by law.

33 (e) This section is not applicable to any of the following:

34 (1) Closed sessions held pursuant to Section 11126.

35 (2) Decisions regarding proceedings held pursuant to Chapter
36 5 (commencing with Section 11500), relating to administrative
37 adjudication, or to the conduct of those proceedings.

38 (3) Hearings conducted by the California Victim Compensation
39 Board pursuant to Sections 13963 and 13963.1.

1 ~~(4) Agenda items that involve decisions of the Public Utilities~~
2 ~~Commission regarding adjudicatory hearings held pursuant to~~
3 ~~Chapter 9 (commencing with Section 1701) of Part 1 of Division~~
4 ~~1 of the Public Utilities Code. For all other agenda items, the~~
5 ~~commission shall provide members of the public, other than those~~
6 ~~who have already participated in the proceedings underlying the~~
7 ~~agenda item, an opportunity to directly address the commission~~
8 ~~before or during the commission's consideration of the item.~~

O