



NOTICE OF PUBLIC MEETING – Notice is hereby given that a public meeting of the Dental Board of California will be held as follows:

Friday, August 12, 2011
Department of Consumer Affairs
1625 North Market Blvd, 1st Floor Hearing Room, S-102
Sacramento, CA 95834

Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. Time limitations for discussion and comment will be determined by the President. For verification of the meeting, call (916) 263-2300 or access the Board's Web Site at www.dbc.ca.gov. This Board meeting is open to the public and is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Richard DeCuir, 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

Friday, August 12, 2011

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.

8:00 a.m. DENTAL BOARD OF CALIFORNIA – FULL BOARD

- ROLL CALL Establishment of a Quorum
- AGENDA ITEM 10 Approval of the Amended Full Board Meeting Minutes from February 24-25, 2011
- AGENDA ITEM 11 Approval of the Full Board Meeting Minutes from May 19-20, 2011
- AGENDA ITEM 12 President's Report
- AGENDA ITEM 13 Executive Officer's Report
- AGENDA ITEM 14 Update on Dental Hygiene Committee of California (DHCC) Activities
- AGENDA ITEM 15 Budget Reports: Dental Fund & Dental Assisting Fund
- AGENDA ITEM 16 Presentation by the California Dental Association (CDA) regarding Access to Care
- AGENDA ITEM 17 Examination Committee Report
The Board may take action on any items listed on the attached Examination Committee agenda
- AGENDA ITEM 18 Examination Appeals Committee Report
Recommendations to the Board to grant/deny appeals of exam candidates
- AGENDA ITEM 19 Licensing, Certification & Permits Committee Report
(a) The Board may take action on any items listed on the attached Licensing, Certification & Permits Committee agenda. (b) Recommendations to the Board regarding issuance of new licenses to replace cancelled licenses
- AGENDA ITEM 20 Dental Assisting Committee Report
The Board may take action on any items listed on the attached Dental Assisting Committee agenda

AGENDA ITEM 21 Legislative and Regulatory Committee Report
The Board may take action on any items listed on the attached Legislative and Regulatory Committee agenda

AGENDA ITEM 22 Enforcement Committee Report
The Board may take action on any items listed on the attached Enforcement Committee agenda.

AGENDA ITEM 23 Update on Portfolio Licensure Examination for Dentistry (AB 1524, Stats 2010 ch 446)

AGENDA ITEM 24 Discussion of Prospective Legislative Proposals:
Stakeholders Are Encouraged to Submit Proposals in Writing to the Board Before or During the Meeting for Possible Consideration by the Board at a Future Meeting

AGENDA ITEM 25 Discussion and Possible Action Regarding Regulatory Priorities for the 2011/2012 Fiscal Year.

AGENDA ITEM 26 Discussion and Possible Action Regarding the Update of the Board's Strategic Plan

PUBLIC COMMENT

ADJOURNMENT

Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. Time limitations for discussion and comment will be determined by the President. For verification of the meeting, call (916) 263-2300 or access the Board's web site at www.dbc.ca.gov. The meeting facilities are accessible to individuals with physical disabilities. Please make any request for accommodations to Richard DeCuir at 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815, or by calling (916) 263-2300 no later than one week prior to the day of the meeting



DENTAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
P (916) 263-2300 F (916) 263-2140 www.dbc.ca.gov

Dental Board of California Meeting
Friday, February 25, 2011
San Diego
AMENDED

Members Present:

John Bettinger, DDS, President
Bruce Witcher, DDS, Vice President
Luis Dominicis, DDS, Secretary
Steven Afriat, Public Member
Fran Burton, Public Member
Stephen Casagrande, DDS
Rebecca Downing, Public Member
Judith Forsythe, RDA
Huong Le, DDS
Suzanne McCormick, DDS
Steven Morrow, DDS, MS
Thomas Olinger, DDS

Members Absent:

Staff Present:

Richard DeCuir, Executive Officer
Kim A. Trefry, Enforcement Chief
Jocelyn Campos, Enforcement Coordinator
Donna Kantner, Licensing & Examination Unit Manager
Karen Fischer, Administrative Analyst
Sarah Wallace, Legislative/Regulatory Analyst
Linda Byers, Executive Assistant
Kristy Shellans, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Friday, February 25, 2011

8:00 a.m. DENTAL BOARD OF CALIFORNIA – FULL BOARD

ROLL CALL: Establishment of a Quorum

President Bettinger called the meeting to order at 8:08 a.m. Secretary Dominicis called the roll and established a quorum. Dr. Bettinger thanked all the Board Members for taking time away from their families and work to be a part of this Board for the purpose of public protection.

AGENDA ITEM 1: Approval of the Full Board Meeting Minutes from November 4-5, 2010 and December 14, 2010.

Karen Fischer, Administrative Analyst stated that there was a correction to the Thursday November 4, 2010 minutes. In the first paragraph it should be stated that "Dr. Bettinger thanked all Board Members for taking time away from their families and work to be a part of this Board for the purpose of public protection." The next correction was to Friday November 5, 2010, on page 2, Agenda item 2 to delete that whole section and put under the first paragraph on page 1 that Dr. Bettinger recognized Dr. William Langstaff, President of the California Academy of General Dentistry and under Agenda item 2 the President's report, insert that "Dr. Bettinger stated that this was the first Dental Board Meeting in California to be webcast live. Future meetings should be retrievable from archive on our website.

Openness allows the public to see how we work on the many issues before us. Statute created last minute without collaboration can result in increased costs and more time required to formulate regulations. Ideally, private groups, foundations, professional associations and organizations that influence public policy would function with equal transparency. Our Dental Board welcomes stakeholder opinions on policy issues and we thank those who come to our meeting to give their opinions. Thank you to all who collaborated to make the new Portfolio Pathway to Licensure in California a reality. Recognition goes to the Dental Schools in California, Dental Board members, staff and the California Dental Association.” Additionally, any reference to Kristy Schieldge was changed to Kristy Shellans. M/S/C (Afriat/Whitcher) to approve the November 4-5, 2010 minutes as amended. The motion passed unanimously. M/S/C (Olinger/McCormick) to approve the December 14, 2010 Teleconference minutes as amended. The motion passed unanimously.

AGENDA ITEM 2: President’s Report

Dr. John Bettinger reported that our enforcement committee Chair, Rebecca Downing’s work has been noticed by DCA and has reflected positively on our board. Rebecca Downing will be participating in the Sunset Review hearing March 14. Also participating will be Fran Burton, Legislative Chair. It is Fran’s committee that has empowered the Board to better comply with our Vision, to be the leader in public protection, promotion of oral health and access to quality care. Dr. Casagrande and Dr. Bettinger traveled to Chicago to discuss Portfolio pathway to licensure with ADEX. Dr. Dominicis and Dr. Bettinger met with the Panjabi International Dental Association along with Greg Salute and Teresa Lane to discuss infection control and California law and enforcement. Dr. Le, Richard DeCuir and Dr. Bettinger met with the Dean and head of the international dental program of De La Salle Bajio at Pomona College for the purpose of establishing direct contact between the school and the Dental Board. Dr. Le, Richard DeCuir and Dr. Bettinger met with the Dean of the Western Sciences College of Dentistry in Pomona to discuss mobile dentistry/portable dentistry. Dr. Bruce Whitcher has been very active in numerous board regulatory packages and the GA/CS calibration issues. Dr. McCormick has been active with the Elective facial plastic surgery committee and GA/CS calibration issues. Dr. Steve Morrow plans to present portfolio to the AADS in Anaheim in a panel with Carrie Gordon from CDA. Dr’s. Olinger and Morrow worked on the Dental Fact Sheet renewal project subcommittee. Judy Forsythe and Dr. Whitcher have been very active with the Dental Assistant Forum and Dental Assistant issues. Dr. Casagrande and Dr. Morrow have been active on the Portfolio issue. Dr. Dominicis has been active as the WREB liaison and as a long time liaison to De La Salle. Now that direct communication has opened up between the school and Richard DeCuir and staff, more direct communication with the school will continue for mutual benefit. Dr. John Bettinger participated in the recent CODA site visit to UCLA as a Dental Board Representative as part of the Dental School accreditation process. The position was to fully participate in the visit but not to vote on the outcome. An initial study of the School’s Self Study was done which contained extensive documentation about the school. The Site visit began with an orientation session followed by 2 full days at the school. The benefit of this task was to learn the accreditation process first hand by fully participating in the process at a California School. Insight gained will enable the Board Subcommittee to better analyze the documentation submitted by De La Salle and in assembling a site visit team for De La Salle. We will need to develop guidelines for the site visit team based in part on the results of review of the documentation that is returned with their application. But this is a future topic. Please forgive me if any of your efforts have not been recognized today. The future newsletters will be available on the internet. Expanding interest in visiting our website will be an important outreach goal. Collecting and expanding our e-mail contact list should be incorporated into mailings so that we eventually can reach all our license holders by e-mail. Thanks again to all the Board members and Staff for working together harmoniously in the conduct of our business.

AGENDA ITEM 3: Executive Officer’s Report

Richard DeCuir, Executive Officer reported that the Newsletter and the Strategic Plan are done thanks to Karen Fischer. The 2011 Dental Practice Act should be out by the end of this month. Due to the new Administration and the new Governor, there were many changes made including a 50% reduction in the number of cell phones provided to the Dental Board. Mr. DeCuir reported that staff made him aware of the need for more Expert Consultants due to the growing number of investigations. An email blast was sent out via our website asking interested parties to contact the office as well as letters to specialty

organizations seeking applicants. April Alameda's new Investigative Analysis Unit has relieved the Investigators of over 160 cases that they are now taking over and working which otherwise would have been put off for more egregious cases. Mr. DeCuir reported that most agencies work on 1-2 regulations per year, our Legislative and Regulatory Analyst, Sarah Wallace, is now working on 8. This is a huge workload. Dr. Bettinger recognized from CDA, Bill Lewis, Fred Noteware, and Alan Felsenfeld and welcomed them back. Dr. Bettinger asked for a moment of silence in remembrance of Dr. Jean Savage-Adams, the first female President of the Dental Board.

AGENDA ITEM 4: DCA Director's Report: (A) Update on Department of Consumer Affairs Substance Abuse Coordination Committee's Recommendations for the Board's Diversion and Probation Monitoring Programs, Pursuant to SB 1441

LaVonne Powell, former Legal Counsel for the Dental Board spoke on behalf of the Director of Consumer Affairs. She reported that the new hiring freeze implemented by Governor Brown does not seem to be as strict as the former one. She asked that Boards request exemptions and they will advocate on our behalf. She reported that there was a 50% cut in cell phones throughout DCA and they are looking at reducing the number of state vehicles again. She stated that boards were told that they needed to enter a more formal contract for their Expert Consultants. DCA is trying to find a way to streamline this process so that Enforcement processes are not held up. Ms. Powell stated that now that our Disciplinary Guidelines are done we need to reopen them and insert SB 1441, Uniform Standards for Drug Abusing Practitioners. Ms. Powell stated that the new "Breeze" computer system that will integrate our existing applicant tracking system and the CAS system which is the Enforcement system. Ms. Powell then read a statement regarding tax withholding. Ms. Powell thanked the Board for webcasting their meeting. She stated that more and more people are watching the webcast, not necessarily live but the archived version at their own convenience. Dr. Bettinger asked if there was any way to track how many are watching or have watched the webcast. Mr. DeCuir stated that there is a tracking system and that he will report those numbers at the next meeting in his Executive Officer's report.

AGENDA ITEM 5: Update on Dental Hygiene Committee of California (DHCC) Activities

Rhona Lee, President of DHCC, reported that Lori Hubble and Tom Jurach were with her to help put on a PowerPoint Presentation. Ms. Lee stated that Dr. William Langstaff is now a member of the Committee. At the last DHCC meeting in December 2010, the majority of the time was spent reviewing, revising and then adopting statutes and then promulgating regulations specifically focused on enforcement, licensing and education. Ms. Lee stated that they intend to focus their efforts this year on that as well in order to establish an infrastructure. Ms. Lee reported that during the past year, 682 candidates took the DHCC examination with only a 19% failure rate. This statistic correlates with the past four years when failure rates ranged from 14% - 21%. Western Regional Examination Board (WREB) tested about 117 California candidates who were also granted licensure. All of these statistics and others are available on their website: dhcc.ca.gov. Lori Hubble, Executive Officer of DHCC, reported that they have had an incredible year as evidenced by the video shown.

AGENDA ITEM 6: Update Regarding Dental Board of California's Sunset Review

Richard DeCuir stated that generally speaking Sunset Reviews are done every 4-6 years. The last time this Board went through the Sunset Review process was in 2001. The Board has been Sunset twice since then but not for reasons of performance and not for performance review. We submitted the initial document to the staff of the Business and Professions' and Economic Development Committee on October 1, 2010. We began answering questions from the staff in January. The majority of questions centered on the need for fee increases, the Enforcement program, specifically case aging. Mr. DeCuir suspects that the Diversion program will come into question especially regarding SB 1441 and possibly some Dental Assisting issues. Mr. DeCuir stated that he has been told that the staff report will be sent to Senator Price the chair of the Committee the week of 2/21/11 - 2/25/11. Our hearing was scheduled for March 14, 2011. Mr. DeCuir, Board Members, and all of the managers have devoted an extensive amount of time to this Sunset Review process. Dr. Casagrande asked how far back the Committee looks at this Sunset Review. Mr. DeCuir answered that we won't know until we get their report back. Dr. Casagrande stated that if they look back far enough, they will see that there was a time when there was such disinterest that they couldn't even gather a quorum of Board Members for a Meeting. Since then

there have been many changes especially in the composition of the Board Members and now they are accomplishing many, many good things. Dr. Casagrande wanted to send the message to the Committee that the Board is a constantly improving entity on a steady climb up to do bigger and better things. Dr. Morrow asked Mr. DeCuir what the reasons were for the last two Sunsets of the Board. Mr. DeCuir stated that the first time it was surrounding the Dental Materials Fact Sheet and a bill introduced by Senator Figueroa. The second time the Board was Sunset and became a Bureau involved a Dental Hygiene Bill. There was a Bill that was introduced to make Hygiene a separate Board which was vetoed by the Governor. There was a second Bill that was introduced the next year, again to make the Hygiene Board independent but there was a spin on that Bill that said if the Governor vetoed the Bill then the Dental Board would no longer be in existence. The Governor vetoed the Bill and the Board became a Bureau for about 6 months until it was reconstituted into a Board again. Dr. Morrow stated that we should look at Sunset Review as a positive experience of self evaluation to insure that we are achieving the goals and standards that we set out to achieve. Mr. Afriat stated that as a Legislative appointee he will stay in regular communication with the Speaker's office to keep us informed of potential changes that could have an impact on the Board. Mr. DeCuir stated that he sees this as an opportunity to investigate what avenues other Board's are using, for example, in their Enforcement units that may be useful, more efficient tools that the Dental Board may want to incorporate. Dr. Bettinger stated that Dr. Morrow's comment was very insightful because as the Dental Board went through the process of Sunset Review staff did see areas where they could improve so it was a learning experience for all of us. LaVonne Powell stated that obviously the focus of this Sunset Review is Enforcement, how far the Board has gotten with SB 1441 Substance Abuse developing regulations and implementing those standards and the Diversion Program. We know that these are the areas that they are focusing on. She urges the Board to be prepared to answer questions on these subjects.

AGENDA ITEM 7: Budget Reports: Dental Fund & Dental Assisting Fund

Richard DeCuir reported that originally part of the Governor's Budget was the repayment of \$3 million of the \$4.4 million still owed to the Board from prior loans. The Legislative hearings have reduced the repayment amount this year to \$1.2 million. Our Revenues and Expenditures have been nearly the same amount around \$7.8 million per year indicating that we have been operating within our yearly revenue base. With the implementation of the Consumer Protection Enforcement Initiative (CPEI) this balance will be thrown off. We will not be taking in as much as we will have to spend. Mr. DeCuir reported that the Dental Assisting Fund is running pretty much even as far as revenues and expenditures go.

AGENDA ITEM 8: Discussion and Possible Action to Consider:

(A)Comments Received During the 15-Day Third Modified Text Notice Comment Period Relative to Amendments to Title 16, CCR, Sections 1070, 1070.1, 1070.2, 1071, and Proposed Additions to Title 16, CCR, Section 1070.6, 1070.7, 1070.8 for Dental Assisting Educational Programs and Courses, and

Sarah Wallace, Legislative and Regulatory Analyst, stated that at the December teleconference the board decided to modify the text. The notice of modified text went out on December 24, 2010. The comment period began on December 27, 2010 and ended on January 11, 2011. During that comment period the board received a comment of support from the California Association of Dental Assisting Teachers (CADAT) and we received an adverse comment from the Dental Assisting Alliance. After the comment period closed, we received an email from Karen Wyant from the Dental Assisting Alliance wishing to withdraw their comment. Ms. Wallace stated that the request to withdraw came after the comment period closed so she consulted with the Office of Administrative Law who informed her that there are no provisions in the Administrative Procedure Act dealing with the withdrawal of public comment. They suggested that it would be in the best interest of the board to be sure there was a clear record in the rulemaking about how the board dealt with it. Staff requests that the board either grant or deny the request to withdraw the comment. Dr. Olinger asked if it would be best to reject the comment on the grounds that the comment was withdrawn. Ms. Wallace agreed that that was an option as well. Dr. Olinger stated that to him that seems procedurally cleaner than to try to withdraw. M/S/C (Afriat/Morrow) to reject the comment on the grounds that the maker of the comment asked that the comment be withdrawn. The motion passed unanimously.

(B) Adoption of Amendments to Title 16, CCR, Sections 1070, 1070.1, 1070.2, 1071, and Proposed Additions to Title 16, CCR, Section 1070.6, 1070.7, 1070.8 for Dental Assisting Educational Programs and Courses

Ms. Wallace stated that the final step in this rulemaking process would be for the board to adopt the third modified text as its regulatory language to file with administrative law as the final rulemaking. Kristy Shellans stated that the only modification she would suggest making to the motion is that at the very end she would add “as noticed in the third modified text notice” so that the Office of Administrative Law knows which notice you’re adopting as your final text version. M/S/C (Forsythe/Burton) to adopt the final text as noticed and direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law and authorize the Executive Officer to make any none substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed amendments to Title 16, CCR, Sections 1070, 1070.1, 1070.2, 1071, and proposed additions to Title 16, CCR, Section 1070.6, 1070.7, 1070.8 as noticed in the third modified text. The motion passed unanimously.

Public Comment: Dr. Lori Gagliardi wanted to thank the staff and board for all their hard work. Bill Lewis also wanted to thank everyone involved.

AGENDA ITEM 9: Discussion and Possible Action to Consider:

(A) A Policy Decision to Extend Licensure Exemption for Out-of-State Licensed Dentists and Registered Dental Assistants to Provide Healthcare Services at Sponsored Free Health Care Events Pursuant to Business and Professions Code Section 901

Ms. Wallace stated that this policy deals with the regulations related to AB 2699 that was enacted into law last year. This bill provides for an out-of-state licensed practitioner to come in to California as an exemption and practice, for a sponsored event, on a voluntary basis to uninsured or under-insured populations in California. It is an “access to care” bill. The department has strongly encouraged the healing arts boards to pursue regulatory language as soon as possible due to the time constraints and especially due to Sunset hearings. Ms. Wallace stated that some language has been drafted. The first part of this language deals with regulations and forms for dentists. Licensing requirements and scope of practice for out-of-state dentists are similar from state to state. Staff was unable to come up with language for out-of-state dental auxiliaries as the licensing and scope of practice varies widely from state to state. Staff requested that the board discuss the necessity of authorizing out-of-state auxiliaries and if they find it necessary, help staff come up with the language. Dr. Olinger asked why we would bring in out-of-state Dental Assistants when we have local people available. Dr. Bettinger asked if CDA had a stand on this issue. Bill Lewis, CDA, stated that they don’t have a stand on this particular issue. Dr. McCormick asked if on a similar vein, this would be an opportunity to do outreach with our Dental Hygiene community to make it one package. Kristy Shellans stated that DHCC would have the authority to do their own package. We don’t have the authority to combine regulatory packages. Mr. Afriat stated that for his own clarification are we trying to decide whether or not to establish policy to allow registered dental assistants from out of state to come in and do voluntary clinical work for these special events as opposed to unlicensed dental assistants. He doesn’t understand why it would be better to use unlicensed California assistants as opposed to licensed out-of-state assistants. Mr. Afriat stated that he feels that a licensed assistant from any other state is a better option than an unlicensed dental assistant from California. Judith Forsythe stated that the scope of duties varies widely from state to state. Most states don’t even have RDA’s so to have these people come in to California, we don’t really know what they are qualified to do so her recommendation would be to have them come in to function as a DA. Dr. Olinger stated that we really haven’t established that there is even a need for dental assistants since many of the programs have local RDA’s who volunteer and in the interest of regulatory expediency we can bring in a non-licensed person without any regulations much quicker plus, if there is a need for RDA duties they’re available locally. Dr. Dominicis stated that he had participated in the 2 events down south along with Judy Forsythe and they could see that the need was dentists. Dr. Morrow stated that hearing that there really doesn’t seem to be a need for assistants, let’s expedite the process and go forward with just dentists. M/S/C (Morrow/Afriat) to move ahead with the process to initiate a rulemaking to extend licensure exemption to out-of-state licensed dentists to provide healthcare services at sponsored free health care events pursuant to Business and Professions Code 901 and, if in the future there is a demonstrated need, consider extending it to out-of-state dental auxiliaries. The motion passed unanimously.

Lori Gagliardi, CADAT, stated to keep in mind that most states do not have an RDA license; they have a certification program which is not a license.

(B) Initiation of a Rulemaking to Add Title 16, CCR, Sections 1023.15, 1023.16, 1023.17, 1023.18 and 1023.19 Relevant to Licensure Exemption for Out of State Licensed Practitioners to Provide Healthcare Services at Sponsored Free Health Care Events.

Sarah Wallace, Legislative and Regulatory Analyst, stated that this is the actual language we have drafted pertaining to dentistry exemptions for out-of-state dentists. We've modeled this language after the licensure by credential requirements. This language includes information regarding the sponsoring entity registering with the board to notify the board that there will be a sponsored event. There is an application tied to this regulation and that form is included in this language. This language also pertains to the out-of-state practitioner authorization to participate in the sponsored event. That participant would need to meet specified requirements. There is a form included in this language for acceptance as well. The language also outlines the requirements for termination of the authorization and finally there is a notice to patients regarding the practitioners' background information. There is a \$100 processing fee for the out-of-state practitioner to pay the board for the authorization processing. Another key part of this language is that participation is limited to a maximum of 3 events per year with each event being no more than 10 days. M/S/C (Burton/Afriat) to accept the proposed regulatory language based on the provisions of AB 2699 and direct staff to take all the necessary steps to initiate the formal rulemaking process, authorize the Executive Officer to make any non-substantive changes to the rulemaking package, and set the proposed regulations for a public hearing. The motion passed unanimously.

AGENDA ITEM 10: Discussion and Possible Action to Consider the Initiation of a Rulemaking to Amend Title 16, CCR, Section 1018 and 1020.5 Regarding Uniform Standards for Substance Abusing Healing Arts Licensees and Disciplinary Guidelines

Ms. Wallace stated that SB 1441 was signed into law in 2008 and established the Substance Abuse Coordination Committee comprised of all the executive officers of the healing arts boards of DCA. That committee created the 16 uniform standards for substance abusing licensees. The department is encouraging those boards to incorporate those standards into their disciplinary guidelines. There was lengthy discussion about the process. M/S/C (Afriat/McCormick) to initiate a rulemaking of the proposed regulatory amendments to the Dental Board's Disciplinary Guidelines to incorporate the Uniform Standards Related to Substance Abuse as established by the Department of Consumer Affairs Substance Abuse Coordination Committee, April 2010 and direct staff to take all steps necessary to initiate the formal rulemaking process, authorize the Executive Officer to make any non-substantive changes to the rulemaking package, and set the proposed regulations for a public hearing. The motion passed unanimously.

AGENDA ITEM 11: Discussion and Possible Action Regarding Proposals for Legislation to Exempt from Public Contracts Code Personal Services – Subject Matter Experts.

LaVonne Powell from DCA stated that she just came from a meeting at B & P where they are working hard to exempt most of the Boards and Bureau's from many parts of this contract. M/S/C (Casagrande/Le) to support a legislative proposal to allow the board to exempt subject matter experts it uses for administrative cases and exam development from the Public Contracts Code and authorize the Executive Officer and the Board President to pursue such a proposal on behalf of the Board. The motion passed unanimously.

AGENDA ITEM 12: Discussion and Possible Action Regarding Participation in the Office of Statewide Health Planning and Development's Phase 1 of the Clearinghouse Test Data Collection and the Impact on the Board's Staff Workload

Senita Robinson, Chief of OSHPD's Research Policy and Planning Section gave a report regarding this program that would serve as the central source of health care workforce and educational data in the state.

AGENDA ITEM 13: Examination Committee Report

Dr. Casagrande reported that roll was called and a quorum was established. The minutes from the November 4, 2010 meeting were approved. The calendar of upcoming Dental and Registered Dental Assisting Examinations was reviewed and there was a comment that we would like to see more RDA exams in the south because there seem to be none scheduled at this time. Dr. Dominicis gave an update on WREB activities. Dr. Bettinger asked if staff could provide several years of data on the trends in the PTY1 pathway to licensure. M/S/C (Bettinger/Burton) to accept the Examination Committee report. The motion passed unanimously.

AGENDA ITEM 14: Licensing, Certification & Permits Committee Report

Dr. Whitcher reported that roll was called and a quorum was established. The minutes from the November 4, 2010 meeting were approved. Dr. Whitcher reviewed licensing statistics and talked about trends. General Anesthesia and Conscious Sedation evaluations and permit statistics were discussed. Dr. Whitcher stated that the GA/CS program is current and seems to be functioning well however, they are experiencing a shortage of Conscious Sedation evaluators. Outreach is being done in an attempt to address that issue. The LCP committee then moved into Closed Session. They had 3 RDA applications to replace cancelled licenses. Those 3 RDA applications were reviewed, all met the criteria and 3 RDA licenses to replace cancelled licenses were issued. M/S/C (Dominicis/ Olinger) to accept the committee's recommendation to approve the 3 applications for replacement of cancelled license. The motion passed unanimously. M/S/C (Afriat/McCormick) to accept the Licensing, Certification and Permits Committee report. The motion passed unanimously.

AGENDA ITEM 15: Dental Assisting Committee Report

Judy Forsythe reported that roll was called and a quorum was established. The minutes from the November 4, 2010 meeting were approved. Board action was requested to accept, reject or table the Dental Assisting Forum's recommendation to consider changes to the examination outline to include infection control, dental radiation safety and preventative procedures after the current examination review is complete. The committee passed a motion to accept the DAF's recommendation to consider changes to the examination outline to include infection control, dental radiation safety and preventative procedures and to have staff incorporate this recommendation into the annual review of the examination. Ms. Forsythe stated that staff is working hard to secure a contract for a southern testing site for the RDA practical exam. Ms. Forsythe stated that there was a 3 part CADAT request, first, to allow RDA programs seeking to use a CPR provider who may not meet the Board's approval, to submit a request for approval as an equivalent provider. The second part is to consider for approval an RDA program to use CPR providers recognized by the Dental Assisting National Board (DANB). The committee passed a motion to have staff develop equivalency standards relating to CPR providers and bring them back to the committee at a future meeting. The third part of CADAT's request was to consider allowing clinical hours required for certification in coronal polishing, radiation safety and sealant education within the RDA programs to be performed within the school setting and still allow for those hours to be considered clinical in light of the new regulations requiring extramural facilities for all clinical training hours. The committee passed a motion to not reopen the regulatory comment period, which would be required to make these changes. Dr. Casagrande asked that alternative pathways to RDA licensure be put on the next agenda. Dr. Bettinger asked that the Board take action on each issue individually. M/S/C (Morrow/Afriat) to accept DAF's recommendation to consider changes to the examination outline to include infection control, dental radiation safety and preventative procedures after the current examination review is complete. The motion passed unanimously. M/S/C (Afriat/McCormick) to have staff develop equivalency standards relating to CPR providers and bring them back to the committee at a future meeting. The motion passed unanimously. M/S (Dominicis/Forsythe) to not reopen the regulatory comment period. Dr. Whitcher stated that he thought the intent was to include the hours but as written was confusing. Kristy Shellans stated that she would review the proposed regulations and see if it's possible to interpret them as intended. Dr. Whitcher asked to amend the motion. M/S/C (Whitcher/Afriat) to amend the previous motion to: move ahead with the regulatory process and direct staff to further look at the issue of extramural settings and how clinical instruction might be done and to report back to the Board at the next meeting. The motion passed unanimously. M/S/C (Dominicis/Casagrande) to accept the Dental Assisting Committee's report. The motion passed unanimously.

AGENDA ITEM 16: Legislative and Regulatory Committee Report

Fran Burton reported that roll was called and a quorum was established. The minutes from the November 4, 2010 meeting were approved. Ms. Burton went down the list of positions the Committee recommended taking on each of the Bills. A "Watch" position was recommended for: AB 28, AB, SB 100, SB 103, AB 536, AB 675, AB 958, AB 1207, AB 1328, SB 227, SB233, SB 399 and SB 544. A "Neutral" position was recommended for SB 540 and an "Oppose" position was recommended for AB 127. M/S/C (Afriat/Olinger) to accept the Committee's recommended positions on the Bills. The motion passed unanimously. Ms. Burton gave an update on pending legislation. Ms. Wallace reported on the prospective legislative proposal regarding Advertising of Specialty Licensure. Ms. Burton reported that the Committee voted unanimously to recommend that the language be forwarded to the full Board for approval and direct the Executive Officer to incorporate the language into Sunset Review or seek an author to introduce this language as an urgency measure during the 2011-2012 Legislative session to repeal Business and Professions Code Sections 651(h)(5)(A)(i) through Section 651(h)(5)(A)(iii). M/S/C (Olinger/Casagrande) to accept the committee's recommendation. The motion passed unanimously. M/S/C (Downing/Forsythe) to accept the committee's report. The motion passed unanimously.

AGENDA ITEM 17: Enforcement Committee Report

Rebecca Downing reported that roll was called and a quorum was established. The minutes from the November 4, 2010 meeting were approved. Ms. Downing reported that the Investigator Activity Reporting (IAR) system was up and running on a limited basis beginning in December 2010. This new system will assist the managers and chief in tracking how the investigators are spending their time as well as an efficiency and quality measure. Ms. Downing reported that the complaint unit is continuing to show a favorable downward trend in the amount of days it takes to close their cases. The Investigation unit is also showing a downward trend in its unassigned and pending cases equaling 36%. This decrease is largely due to the new non-sworn unit picking up some of the less egregious cases. Ms. Downing reported that the new contract, now in place, with Phamatech relieves staff from the duty of specimen collection. There was discussion regarding the Cite and Fine program and the fact that investigators are reluctant to use it because of the perception that licensee's will challenge them, resulting in a very time consuming hearing process. Ms. Downing is working with staff to come up with more streamlined reporting that would be more of a single page snapshot of the pathway of complaints and investigations. Ms. Downing again recognized Kim Trefry and Richard DeCuir and thanked them for encouraging staff to work harder, better and faster to do more to make improvements and to be proactive. M/S/C (Burton/Whitcher) to accept the committee's report. The motion passed unanimously.

AGENDA ITEM 18: Discussion and Possible Action regarding the Dental Board of California's Public Records Act Policy

Richard DeCuir, Executive Officer, requested that this item be deferred to the next Board Meeting. M/S/C (Afriat/McCormick) to defer the discussion and possible action regarding the Dental Board of California's Public Records Act Policy to the next Board Meeting in May. The motion passed unanimously.

AGENDA ITEM 19: Update from Subcommittee Regarding Portfolio Licensure Examination for Dentistry (AB 1524, Stats 2010 ch 446)

Dr. Casagrande reported that Portfolio became law on January 1, 2011. Dr. Casagrande recognized Bill Lewis and Dr. Alan Felsenfeld of CDA who contributed immensely to this project along with Dr. Suzanne McCormick and Dr. Steven Morrow. Dr. Casagrande reported that the all day marathon meeting with Drs. Morrow and Casagrande, Kristy Shellans, Sarah Wallace, and Donna Kantner produced 3 things. The first was that they were able to provide staff with the information that they needed about Portfolio. The second was that in going over the draft regulations, Ms. Shellans and Ms. Wallace helped everyone to understand the requirements for inclusion with the regulations. The third part was the readying of the Comira contract for signature in preparation of their implementation of Portfolio. Dr. Morrow also expressed his appreciation to staff, legal, and Dr. Casagrande for the long day spent finalizing some of the important details. Dr. Morrow reported that we are getting some notoriety around the country regarding the Portfolio process. Many other states and licensing authorities are looking at what we have developed. Dr. Bettinger and Dr. Casagrande have been to at least 2 out-of-state meetings to present

this concept and the American Student Dental Association has invited them to its annual meeting in March. Dr. Casagrande also thanked Georgetta Coleman for her invaluable contribution to this project. Dr. Felsenfeld, CDA - Speaker of the House of Delegates, stated that the work that the Dental Board has done on Portfolio is a very high profile examination process. We understand that the process will be long and we must be very careful to do everything right. Dr. Felsenfeld stated that we collectively have put together a very fine piece of legislation that is the first of its kind in the nation. He believes it will have long term implications that the rest of the nation will follow. Dr. Bettinger stated that this is a fine example of what collaboration can do.

AGENDA ITEM 20: Report on the January 19, 2011 meeting of the Elective Facial Cosmetic Surgery Permit Credentialing Committee, Discussion and Possible Action to Accept Committee Recommendations for Issuance of Permits, and Appointments of Credentialing Committee Member(s)

Dr. McCormick reported that the Elective Facial Cosmetic Surgery (EFCS) Permit Credentialing Committee met in January, 2011. She reported that this is the first meeting in over a year. Dr. McCormick thanked Karen Fischer for her eloquent summary of the committee's duties and oversight. The committee essentially reviews applications for Elective Facial Cosmetic Surgery Permits and brings recommendations back to the Board. On January 19, 2011, the committee met and reviewed three applications during closed session. The committee tabled one application (Applicant #1 – Dr. JPD) and is asking the applicant for additional information. The committee deemed another applicant ineligible (Applicant #2 – Dr. JAB) because he is only licensed by the Medical Board and therefore ineligible for the permit according to Business & Professions Code, Section 1638.1. Applicant #3 – Dr. Erik Feider's application was reviewed and the committee recommends issuance of an EFCS permit without limitation. The Credentialing Committee recommends approval of Category I and Category II permit issuance without limitation. M/S/C (Whitcher/Afriat) to accept the committee's recommendation to approve and issue a permit for Elective Facial Cosmetic Surgery in Categories I and II to Dr. Feider. The motion passed unanimously. Dr. McCormick reported that Dr. Karas tendered his resignation from the Committee on January 19, 2011 creating a vacancy. Staff asked that a 2 person subcommittee be appointed to review resumes which will then be taken to the Board. Ms. Fischer stated that the letters were mailed on February 22, 2011 and recipients were asked to respond by April 15, 2011 in order to give the subcommittee, if appointed, time to review and interview candidates to bring back a recommendation to the Board at the May Meeting. Dr. McCormick states that additionally the Committee is working on drafting regulations. M/S/C (Olinger/Afriat) to accept the subcommittee's report. The motion passed unanimously. Dr. Bettinger appointed Dr. McCormick and Dr. Whitcher to the subcommittee to review the applications and bring back recommendations to the Board at the May Board Meeting.

AGENDA ITEM 21: Discussion and Possible Action Regarding Length of Time for Retention of Inactive Patient Records

Dr. Casagrande reported that when this subject was brought up 2 years ago, it was found that 7 years seems to be the consistent number with many of the healing arts Boards. Kristy Shellans stated that she believes that the Board has Regulatory authority to set retention timeframes. Our standards would only apply to us. CDA, IRS, managed care and Medicare all have their own standards that must be adhered to. Dr. Dominicis stated that he thinks we should explore what we should do. He stated that Denti-Cal has one standard while Delta Dental requires another. Maybe start with 7 years and go from there. Dr. Le stated that community clinics require 7 years past 18 years of age. However, now, with electronic medical records, maybe we're supposed to keep them forever. Dr. Morrow stated that he questions the advisability of the Dental Board going on record as requiring a retention timeframe. He suggests that we make a recommendation as to how long to retain the records rather than making it a regulation. Kristy Shellans stated that record retention does protect the public. Ms. Shellans recommends setting a standard. Dr. Bettinger appointed a subcommittee of Dr. Morrow and Dr. Olinger to look into this matter and bring a recommendation back to the Board at the next Board meeting.

PUBLIC COMMENT

Dr. Earl Johnson, California Association of Orthodontists, stated that he was starting his ninth year coming to these meetings. He's seen the agenda all kinds of different ways. He stated that he'd like to

vote to have the Board arrange their schedules so that the Closed Session is the first thing on the first day so that the public who can't go to the Closed Session can use that time to travel. The second thing Dr. Johnson stated was that in all these 8 years he's always had access to one of the books that had all the paperwork for the meeting. He received a letter stating that the materials would be available on the website but the materials would not be mailed out. He printed out the 160 pages from the website but finds them useless. He stated that he was under the impression that no one would get the book but he stated that he thinks everyone in the room got a book except him. He says he talked to the President who will take care of this issue. The third thing Dr. Johnson wanted to say was that he is personally really impressed with Dr. Morrow and what he's done and how he's gotten involved with this Board and has produced good thoughts and good works in a very short period of time.

The meeting adjourned at 12:20 p.m.



Dental Board of California Meeting Minutes

Thursday, May 19, 2011

Embassy Suites SFO, 150 Anza Blvd.

Burlingame, CA 94010

DRAFT

Members Present:

John Bettinger, DDS, President
Bruce Whitcher, DDS, Vice President
Luis Dominicis, DDS, Secretary
Steven Afriat, Public Member
Fran Burton, Public Member
Stephen Casagrande, DDS
Rebecca Downing, Public Member
Judith Forsythe, RDA
Huong Le, DDS
Suzanne McCormick, DDS
Steven Morrow, DDS, MS
Thomas Olinger, DDS

Members Absent:

Staff Present:

Richard DeCuir, Executive Officer
Kim A. Trefry, Enforcement Chief
Jocelyn Campos, Enforcement Coordinator
Karen Fischer, Administrative Analyst
Sarah Wallace, Legislative/Regulatory Analyst
Linda Byers, Executive Assistant
Kristy Shellans, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

ROLL CALL: Establishment of a Quorum

Dr. Whitcher called the meeting to order at 8:35 a.m. per Dr. Bettinger's request. Secretary Dominicis called the roll and established a quorum. Mr. Afriat was absent.

The Board immediately went into closed session to discuss disciplinary matters and litigation.

Mr. Afriat arrived at 9:18 a.m.

The Board returned to open session at 11:35 a.m.

AGENDA ITEM 1: Presentation by The Children's Partnership

Ms. Jenny Kattlove, Director of Strategic Health Initiatives for The Children's Partnership, gave a verbal presentation outlining the goals of The Children's Partnership and highlighting the ways in which the Dental Board of California could be a valuable asset to

their project to increase access to dental care for children. Dr. Guy Atcheson provided literature to be distributed to the Board members regarding special “mid-level” providers. He suggested utilizing our Registered Dental Assistant in Extended Functions (RDAEF) and Registered Dental Hygienist in Alternative Practice (RDHAP) licensees as an alternative to creating another new category of “mid-level” provider. Ms. Kattlove responded saying that The Children’s Partnership believes that there are multiple solutions that need to work together. Dr. Alan Felsenfeld, on behalf of California Dental Association (CDA) remarked that 3 years ago CDA was tasked by their House of Delegates to look into the problem of access to care. As a result of this study two task forces were formed. One task force studied barriers to care and the other looked at workforce models. The response to CDA from these task forces is due this year. They anticipate the final response to be ready by the fall at which time CDA would be delighted to present it to the Dental Board. Dr. Bettinger stated that the Board would welcome that.

Recess - Lunch Break

The Board recessed at 12:06 p.m. for lunch and reconvened at 1:23 p.m. Dr. Dominicis called the roll and established a quorum.

The Board immediately went into Committee Meetings.

The Full Board reconvened at 6:10 p.m.

AGENDA ITEM 2: Discussion and Possible Action Regarding the Renewal Application of the Universidad De La Salle

Dr. Dominicis recused himself for this item. In December 2004, the Dental Board notified the Universidad De La Salle Bajio that its dental curriculum had been granted full approval according to the provisions of Section 1636.4 of the Business and Professions Code, which sets out the requirements for the evaluation, approval and renewal of foreign dental schools by the Board. Section 1636.4(g) requires that each approved institution submit a renewal application every seven years.

On January 31, 2011, the Board transmitted via overnight mail a renewal application and copies of the applicable statutes and regulations, requesting that the renewal application be returned no later than May 1, 2011 to conform to regulatory timelines.

Staff had submitted a request for out-of-state travel for four members of a site visit team to perform an evaluation of the school. All such requests must be approved by the Director of the Department of Consumer Affairs, the Agency Secretary, and the Governor’s Office. The request was in the Executive Office awaiting the Director’s approval however, Governor Brown issued Executive Order B-06-11 eliminating all state travel except non-discretionary and mission critical travel.

At its February 24, 2011 meeting, the Board voted that a subcommittee be created to review the renewal application and documents when submitted by the school. President Bettinger appointed Dr. Huong Le and Dr. Steven Morrow to perform the review.

The renewal package was received by staff at the Board office on Friday, April 29, 2011 and copies of it were forwarded to the subcommittee for review on Monday, May 2, 2011. The renewal application is currently under review.

On April 29, 2011, Drs. Le and Morrow met via teleconference with the Board's Legal counsel Kristy Shellans and her supervisor Don Chang and Richard DeCuir, Executive Officer. The consensus at the meeting was that the Board has the option to extend the review and approval process.

On May 3, 2011, the sub-committee received the renewal application and supporting documents from the University De La Salle School of Dentistry.

The sub-committee is currently in the process of reviewing the application and supporting documentation. The sub-committee is waiting to receive additional documents in English since some of the original documents submitted were in Spanish. The school has been advised.

The sub-committee is asking the Board for consideration of the following:

That legal counsel provide the Board with formal legal opinion and guidance regarding the following issues, by the Board's next meeting:

- Do the Board's laws authorize the Dental Board to approve a specified curriculum within a school of dentistry or only approve a school of dentistry?
- If the sub-committee or the Board is unable to complete its review of the school's completed application before the school's current approval is set to expire, does the Board have legal authority to extend the school's current approval for a reasonable period of time to complete its review and assessment of the school and its application?

The sub-committee feels that the Board needs formal legal clarification and guidance on these issues in order to know how to proceed in the review and processing of this application.

Title 16, CCR §1024.11 renewal of foreign Dental School states that; "The Board may, in its discretion, conduct a site inspection to ascertain continued compliance with the requirements of these regulations".

The subcommittee requests that the Dental Board authorize the Sub-committee to act as their designee to take necessary steps to move the process of renewal forward and report back to the board periodically. Specifically, to authorize the subcommittee to appoint the site team and technical advisory group (TAG) as it deems necessary to process the review and evaluation of this school's application.

M/S/C (Afriat/Olinger) that legal counsel provide the Board with a formal legal opinion and guidance regarding the following issues: Do the Board's laws authorize the Dental Board to approve a specified curriculum within a school of dentistry or only approve a school of dentistry? If the sub-committee or the Board is unable to complete its review of the school's completed application before the school's current approval is set to expire, does the Board have legal authority to extend the school's current approval for a reasonable period of time to complete its review and assessment of the school and its application? The motion carried unanimously. M/S/C (Afriat/McCormick) to authorize the Sub-

committee to act as their designee to take necessary steps to move the process of renewal forward and report back to the Board periodically. Specifically, the Board authorizes the Sub-committee to appoint a site team and technical advisory group as it deems necessary to process the review and evaluation of this school's application. The motion passed unanimously.

Agenda Item 3(A): Discussion and Possible Action to Consider Comments Received During the 45-Day Public Comment Period Relative to the Proposed Addition of Title 16, CCR, Section 1018.05 and the Proposed Amendment to Title 16, CCR, Section 1020 for the Consumer Protection Enforcement Initiative

Ms. Wallace reported that the Board approved the proposed addition of section 1018.05 and the proposed amendment of section 1020 of Title 16 of the California Code of Regulations relative to the Consumer Protection Enforcement Initiative and directed staff to initiate a rulemaking at the November 5, 2010 meeting.

The initial rulemaking documents were filed with the Office of Administrative Law on February 7, 2011. The 45-day public comment period began on February 18, 2011 and ended on April 4, 2011. The regulatory hearing was held on April 4, 2011. The California Dental Association (CDA) submitted comments in response to the proposed text.

CDA expressed concern regarding the subjective nature of the examination of an applicant for a mental or physical illness whenever the applicant "appears" to be unable to safely practice. Staff recommended rejection of this comment. Staff believes the commonly understood meaning of "appears" is sufficiently clear. Appears means "to have the appearance of being; seem; look" (Random House Dictionary, © Random House, Inc. 2011.) Therefore, if the Board has factual evidence in a specific case that a person seems like they may have a physical or mental condition affecting competency, the Board may refer for an examination. The applicant's rights are protected by the confidentiality of the process and double-checked by an independent expert evaluating the facts presented to him or her. At the same time, the Board ensures that the public is protected by the Board's further investigation into competency before a license is issued. The applicant bears the burden of proof of their fitness for competency to practice. The proposed regulatory language is derived from existing law, Business and Professions Code Section 820, and licensing agencies within the Department of Consumer Affairs have used this provision without issue. Additionally, the examination would be performed on a case-by-case basis by a professional expert trained to perform examinations for mental or physical competency. M/S/C (Burton/Afriat) to reject CDA's comment regarding the subjective nature of the examination of an applicant for a mental or physical illness whenever the applicant "appears" to be unable to safely practice. The motion passed unanimously.

Additionally, CDA was concerned that the proposed regulatory language appeared to only allow the Board the option of outright denial of the application for licensure if the requested examination leads to concerns. Staff recommended modifying the text to address these concerns, maintain consistency with the "Dental Board of California Disciplinary Guidelines With Model Language", revised 8/30/2010, and provide a higher level of due process for the applicant, while still maintaining protection of the public. Staff recommended modifying the last sentence of section 1020(a) to read as follows: "If after receiving the report of evaluation, the Board determines that the applicant is unable to safely practice, the Board may deny the application, or may issue the applicant a license that is placed on probation with terms and conditions. If the Board issues a license on

probation, the probationary order shall include an order that the license be revoked, stayed and placed on probation for the entire term of probation. In issuing a license on probation, the Board may consider any or all of the following terms and conditions: (i) Requiring the licensee to obtain additional training or pass an examination upon completion of training, or both. The examination may be written, oral, or both, and may be a practical or clinical examination or both, at the option of the Board; (ii) Requiring the licensee to submit to a mental or physical examination, or psychotherapy during the term of probation under the terms and conditions provided for in the "Dental Board of California Disciplinary Guidelines With Model Language" revised 08/30/2010, incorporated by reference at Section 1018; or, (iii) Restricting or limiting the extent, scope or type of practice of the licensee." M/S/C (Whitcher/Afriat) to accept staff's recommended modifications to the text in response to CDA's concern that the proposed regulatory language appeared to only allow the Board the option of outright denial of the application for licensure if the requested examination leads to concerns. The motion passed unanimously.

In addition to the proposed modifications to address CDA's concerns, staff recommended adding language to Section 1020(a) to provide for the confidentiality of examination records if there is insufficient evidence to bring an action against the applicant. Staff recommended maintaining the records for a period of five years from the date of determination. If no further proceedings are conducted to determine the licensee's fitness to practice within the five years, staff recommended the records be purged and destroyed. However, if new proceedings are conducted during the five year period, staff recommends authorizing the Board to utilize the records of the examination in the proceedings. These provisions regarding confidentiality of the examination and the destruction of insufficient evidence are consistent with those privacy protections provided to licensees in Section 828 of the Business and Professions Code. Staff recommended the addition of Section 1020(a)(2) as follows: "If the Board determines, pursuant to proceedings conducted under this subdivision, that there is insufficient evidence to bring an action against the applicant, then all Board records of the proceedings, including the order for the examination, investigative reports, if any, and the report of the physicians and surgeons or psychologists, shall be kept confidential. If no further proceedings are conducted to determine the applicant's fitness to practice during a period of five years from the date of the determination by the Board of the proceeding pursuant to this subdivision, then the Board shall purge and destroy all records pertaining to the proceedings. If new proceedings are instituted during the five-year period against the applicant by the Board, the records, including the report of the physicians and surgeons or psychologists, may be used in the proceedings and shall be available to the Respondent pursuant to the provisions of Section 11507.6 of the Government Code." M/S/C (Casagrande/Olinger) to accept staff's recommended modifications to the text. The motion passed unanimously.

Agenda Item 3(B): Discussion and Possible Action to Consider Adoption of the Proposed Addition of Title 16, CCR, Section 1018.05 and the Proposed Amendment to Title 16, CCR, Section 1020 for the Consumer Protection Enforcement Initiative

M/S/C (McCormick/Afriat) to modify the text in response to the comment 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 amendments to Title 16, CCR, Sections 1018.05 and 1020 as noticed in the modified text.

Agenda Item 4(A): Discussion and Possible Action Regarding Status and Comments Received During the 45-Day Public Comment Period for the Board's Proposed Rulemaking to Amend Title 16, CCR, Sections 1018 and 1020.5 Regarding Uniform Standards for Substance Abusing Licensees and Disciplinary Guidelines:

Ms. Wallace reported that the Board approved proposed amendments to Sections 1018 and 1020.5 of Title 16 of the California Code of Regulations relative to the Uniform Standards for Substance Abusing Licensees and Disciplinary Guidelines at its February 25, 2011 meeting. The initial rulemaking documents were filed with the Office of Administrative Law on March 11, 2011. The 45-day public comment period began on March 25, 2011 and ended on May 9, 2011. The regulatory hearing was held on May 10, 2011 in the Hearing Room located at 2005 Evergreen Street, Sacramento, CA 95815. The Substance Abuse Coordination Committee (SACC) met on April 11, 2011 and revised requirements contained in the *Uniform Standards Relating to Substance-Abusing Healing Arts Licensees*. Due to the close proximity of the regulatory hearing and the scheduled Board meeting, staff did not have sufficient time to thoroughly evaluate the comments received in response to the proposed regulation as well as develop proposed modified text to use the SACC's revised *Uniform Standards Relating to Substance-Abusing Healing Arts Licensees*. No Board action was taken.

Agenda Item 4(B): Discussion and Possible Action Regarding Adoption of Proposed Amendments to Title 16, CCR, Sections 1018 and 1020.5 Regarding Uniform Standards for Substance Abusing Licensees and Disciplinary Guidelines:

Due to the close proximity of the regulatory hearing and the scheduled Board meeting, staff did not have sufficient time to thoroughly evaluate the comments received in response to the proposed regulation as well as develop proposed modified text to use the SACC's revised *Uniform Standards Relating to Substance-Abusing Healing Arts Licensees*. No Board action was taken.

Public Comment

There was no public comment

The Board recessed at 6:45 p.m.



Dental Board of California Meeting Minutes **Friday, May 20, 2011**

Embassy Suites SFO, 150 Anza Blvd.

Burlingame, CA 94010

DRAFT

Members Present:

John Bettinger, DDS, President
Bruce Whitcher, DDS, Vice President
Luis Dominicis, DDS, Secretary
Steven Afriat, Public Member
Fran Burton, Public Member
Stephen Casagrande, DDS
Rebecca Downing, Public Member
Judith Forsythe, RDA
Huong Le, DDS
Suzanne McCormick, DDS
Steven Morrow, DDS, MS
Thomas Olinger, DDS

Members Absent:

Staff Present:

Richard DeCuir, Executive Officer
Kim A. Trefry, Enforcement Chief
Karen Fischer, Administrative Analyst
Sarah Wallace, Legislative/Regulatory Analyst
Kristy Shellans, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Friday, May 20, 2011

8:00 a.m. DENTAL BOARD OF CALIFORNIA – FULL BOARD

ROLL CALL: Establishment of a Quorum

President Bettinger called the meeting to order at 8:08 a.m. Secretary Dominicis called the roll and established a quorum.

AGENDA ITEM 5: Approval of the Full Board Meeting Minutes from February 24-25, 2011

M/S/C (Afriat/Whitcher) to approve the minutes from the February 24-25, 2011 Dental Board Meeting. The motion passed unanimously.

AGENDA ITEM 6: President's Report

Dr. Bettinger thanked all the Board Members for taking time away from their families and work to be a part of this Board for the purpose of public protection and for all the hard work that they due on behalf of the Board in between the Board Meetings. Dr. Bettinger reported that he attended the California Dental Association (CDA) Convention earlier this month. He stated that he met with CDA and the deans and representatives from the 6 dental schools to discuss the Faculty Special Permits that the Board issues. These permits are issued to international specialty faculty members who teach and practice at the school helping to generate revenue. At the present time each school is limited to 5 of these specialty licenses. The schools are asking for unlimited permits to help meet budgetary constraints. CDA has asked to work with staff to get clarification from Senator Emmerson on what the intent of the

bill was so that in August we can look at possibly changing the limitations on the number of permits allowed per school and number of days allowed to practice. Dr. Bettinger stated that the Board would be using the new forms formulated by the Department of Consumer Affairs (DCA) to conduct the Executive Officer's Performance Evaluation at the August Board meeting.

AGENDA ITEM 7: Executive Officer's Report

Richard DeCuir, Executive Officer, reported on the travel restrictions and the hiring freeze. He stated that there are funds to establish webcasting in the Sacramento and Orange offices.

AGENDA ITEM 8: DCA Director's Report

Lavonne Powell, representing the Director of the Department of Consumer Affairs stated that Agency had approved the requested hiring exemptions and they are now in the hands of the Finance Department for approval. She reported on the travel restrictions but stated that no specific details will be available until after the budget letter comes out. Ms. Powell reported that there was 1 bid for the BREEZE project that came in higher than anticipated so they are negotiating with the bidder and hope that a final contract will be in place by August. She stated that DCA is collecting empirical data to support raising some of the Executive Officer's salary caps.

AGENDA ITEM 9: Update on Dental Hygiene Committee of California (DHCC) Activities

There was no report from the DHCC as they were unable to obtain travel authorizations in time. Dr. Whitcher suggested we ask for a written report in the future. Katie Dawson requested a reciprocal report from the Dental Board for the DHCC meetings.

AGENDA ITEM 10: Budget Reports: Dental Fund & Dental Assisting Fund

Richard DeCuir, Executive Officer, gave an overview of the budget report.

AGENDA ITEM 11: Update on Dental Board of California's Sunset Review Process and Discussion and Possible Action Regarding SB 540 (Price)

Dr. Bettinger reported that he had asked Dr. Whitcher and Fran Burton to work as a subcommittee to represent the Board at the hearings. Karen Fischer, Project Manager for the Sunset Review Process, gave an overview of what had occurred since February, the specifics of the legislation, and highlights of a couple of issues that the Board might want to focus on.

There was considerable discussion regarding the composition of the Board. M/S (Afriat/Olinger) that the Dental Board take a position of opposition to the removal of the Dental Assistants from the Dental Board, and instead recommend to the Legislature that the Board be made up of 8 Dentists, 5 Public members, and 2 Dental Assistants. There was more discussion regarding the composition of the Board. Mr. Afriat withdrew his first motion; Dr. Olinger withdrew his second on that motion. M/S/C (Afriat/Olinger) that the Dental Board oppose the removal of Dental Assistants from the Board and recommend that either the Legislature reduce the current recommended number of Public Members to 5 and maintain 2 Dental Assistants or increase the number of Dental Board Members to 17 and have 8 Dentists, 7 Public Members and 2 Dental Assistants. The motion passed unanimously with 2 abstentions. Earl Johnson, California Association of Orthodontists, stated that he is very much in favor keeping the Dental Assistant members on the Board. Bill Lewis with California Dental Association (CDA) reported that CDA has not issued a formal position on SB 540. However, CDA would not support the second part of the motion which would put Dentists in an overall minority on the Board. Mr. Lewis stated that CDA advocated to the Senate B & P staff for: 8 Dentists, 5 Public Members, 1 Dental Hygienist and 1 Registered Dental Assistant. Katie Dawson, California Dental Hygienists Association (CDHA) stated that CDHA has not taken a formal position on the make-up of the Dental Board. She mentioned that the Dental Hygiene Committee of California (DHCC) consists of 4 Dental Hygienists, 4 Public Members and 1 Dentist and it is working very well for them. Tamara McNeely, CADAT, commented that they would support if amended. They were concerned about having their voice taken away. Karen Wyant, Dental Assisting Alliance, commented that the Dental Assisting Alliance doesn't have a position on the Board's composition but is very supportive of the proposed Dental Assisting Council. Alan Felsenfeld, DDS, commented that he does not support a composition of Board Members where the Dentists are not the majority of the voting body. He would like the Board to reconsider their motion. Dr. Casagrande asked Karen Wyant who the Dental Assisting Alliance was. She stated that the

Dental Assisting Alliance is a coalition of the California Dental Assistants Association (CDAA) and the Expanded Functions Dental Assistants Association (EFDA). She stated that she represents a coalition of the two on issues of mutual interest. She stated that she is a consultant to the Dental Assisting Alliance. M/S/C (Olinger/Dominicis) to reconsider the last motion. The motion passed unanimously with 3 abstentions. There was more discussion regarding the composition of the Board. M/S/C (Afriat/Olinger) to oppose the removal of the Dental Assistant position from the Board and to offer a recommendation that the author consider the re-composition of the Board to include; 8 Dentists, 5 Public Members, and 2 Dental Assistants. Bill Lewis, CDA, commented that he would suggest simply taking a position of opposition against removing the Dental Assistant representation from the Board rather than getting into a numbers debate. The motion passed unanimously.

There was discussion regarding the formation of a Dental Assisting Council. Kristy Shellans, Legal Counsel, explained that the Dental Assisting Council would be a standing Committee of the Dental Board and replace the Dental Assisting Forum and the Dental Assisting Committee. M/S (Downing/McCormick) to take a neutral position on the Dental Assisting Council provisions of SB 540. Katie Dawson, CDHA, commented, would it have any effect on how the funds are divided? Tamara McNeely, CADAT, commented that they support the composition of the Dental Assisting Council however; we strongly oppose the appointing of the members by just the President of the Board. She stated that they have some grave concerns about prior DAF appointees being appointed to the new Council, they also have concerns regarding the members meeting the qualifications of section 1602, and that they demonstrate satisfaction of the appointing authority of having no proprietary interest in the business of dental assisting education or examination. We realize that seeking government appointments would be a long process but we just want to insure that there are some checks and balances as to the background and the qualifications of the Council appointees. She further stated that CADAT would prefer legislative appointments because of their concern about what was happening with the DAF and that they have sent all this information in their position letter to the B & P Committee. Kristy Shellans, Legal Counsel, stated that all of the Committee Members are appointed by the Board President. It would change the way the Board President runs the Committees if it were a legislative or gubernatorial appointment for Committee members. Tamara McNeely, CADAT, thanked Ms. Shellans for that clarification and stated that they do recognize that but they just want some safeguards regarding the qualifications of the Council members. The discussion returned to the motion on the table. Ms. Downing withdrew her motion and Dr. McCormick agreed to withdraw the second. There was no new motion.

Mr. DeCuir reported that they sent a letter to the Business & Professions Committee Chair and staff asking for additional tools to strengthen the Enforcement Program. In addition to just filing an Accusation they asked that a Notice of Correction, Letter of Admonishment and a time limitation for posting citations and fines on the Internet be included. There was discussion about whether this needed to be done in SB 540 or whether it could wait and be done in SB 544. M/S/C (Casagrande/Afriat) to include the Enforcement tools in the letter to the Senate B & P Committee. The motion passed unanimously with 2 abstentions.

M/S/C (McCormick/Olinger) to take a position of support on SB 540 with recommendations that the pertinent bullets be ratified and included in the letter to the Senate B & P Committee. The pertinent bullets being:

- Provide an amendment to ensure that the Board will be able to continue to collect fees on or after January 1, 2012; but that any increase in fees on or after January 1, 2012 would need to be adopted by regulation rather than resolution. The Board will be unable to collect current dental assisting fees after January 1, 2012 until the regulations become effective.
- Add additional enforcement methods that would assist staff in closing minor to moderate violations more quickly (time limitations on public disclosure for citations issued for less egregious violations, Notice of Correction, and Letter of Admonishment).

- Provide clarification regarding: the Dental Assisting Council assuming disciplinary functions; conflict of interest language for the qualifications of the Dental Assisting Council appointees; and, the Board's ability to hear dental assisting issues in its other committees such as Enforcement, Examinations, Licensing/Certification/Permits, and Legislation/Regulatory as a result of the establishment of the Dental Assisting Council.

The motion passed unanimously with 2 abstentions. M/S/C (Afriat/Olinger) to give authority to the subcommittee to review the communications to the Legislature and authorize them to make any technical, non-substantive changes. The motion passed unanimously with 2 abstentions.

AGENDA ITEM 12: Discussion and Possible Action Regarding SB 544 (Price), Professions and Vocations: Regulatory Boards Relating to the Consumer Health Protection Enforcement Act

Sarah Wallace, Legislative and Regulatory Analyst reported that SB 544 is similar to last year's SB 1111. Staff worked with the subcommittee on a preliminary analysis of the SB 544 and wrote a letter to Senator Price. This is an informational item only as SB 544 was identified as a 2 year bill at the hearing on May 2, 2011. The subcommittee and staff will provide a more thorough analysis at a future Board meeting. M/S/C (Afriat/ McCormick) to continue to the August meeting with a package on SB 544 at staff's discretion. The motion passed unanimously.

AGENDA ITEM 13: Examination Committee Report:

Dr. Stephen Casagrande, Chair, reported that a quorum was established and the meeting minutes of February 24, 2011 were accepted. Dr. Casagrande reported that 1 out of 3 dental assisting program applicants are not passing the written exam. The committee recommended that Dental Assistants weigh in on the creation of the new examination. Dr. Casagrande reported that even with the addition of 3 more RDA exams, there is still the need for more in different locations. It was determined that as far as a site for the examination, a dental school is not necessary. The committee recommended that staff look for varied sites in the central valley, San Diego area, and further north. Dr. Dominicis gave a report on the examination for WREB Examiners. Dr. Casagrande reported that the Law and Ethics exam is now computerized which makes it easy for students to get this portion of their education out of the way at any time. Dr. Casagrande reported that CADAT has a formed a task force to look into Portfolio licensure for RDA's. He recommended that President Bettinger appoint Judy Forsythe to work with the task force. Tamara McNeely, CADAT thanked the committee for continuing to expand the RDA exam testing sites and for the recommendation to appoint a Board member to work with their task force on alternative pathways to licensure. M/S/C (Afriat/McCormick) to accept the committees report. The motion passed unanimously.

AGENDA ITEM 14: Examination Appeals Committee Report

Dr. Dominicis, Chair, reported that a quorum was established. The committee considered one RDA appeal and recommended that the Board grant the appeal on the basis that there was a procedural error at the examination. M/S/C (Afriat/Olinger) to accept the committee recommendation. The motion passed unanimously.

AGENDA ITEM 15: Licensing, Certification & Permits Committee Report

Dr. Bruce Whitcher, Chair, reported that a quorum was established and the meeting minutes of February 24, 2011 were accepted. During the committee's closed session, they considered applications from 2 RDA's for licenses to replace cancelled licenses and 1 dental applicant for a license to replace a cancelled license. M/S/C (Dominicis/Burton) to accept the Licensing, Certification, and Permit Committee's recommendation to issue new licenses to replace cancelled licenses to the 2 RDA applicants. The motion passed unanimously. M/S/C (Afriat/McCormick) to accept the Licensing, Certification, and Permit Committee and staff's recommendation to deny the issuance of a license to replace a cancelled license to the Dental applicant because there was no authority to grant his request. There was no public comment. The motion passed unanimously. M/S/C (Afriat/Olinger) to accept the Licensing, Certification, and Permit Committee's report including Dr. Bettinger's request that staff write a letter to the appropriate entity to see if it is possible to add the option to "cancel" a permit on the renewal form and follow up on it. The motion passed unanimously.

Dr. Morrow clarified that his question regarding Specialty Licensure was; could a dentist practicing under a specialty license in another state qualify for licensure by credential in California which is an unrestricted license. Does that individuals' practice limited to his/her specialty for 5 years qualify for that application process by credential? LaVonne Powell, former legal counsel for the Dental Board, commented that in other states such as Oregon you can have a 'specialist' license which restricts you to only that practice. She further stated that the Board looked into this issue to see if the term restricted could be clarified by the legislature. The legal opinion at that time was that "restricted" referred to disciplinary actions, not the type of dental practice. Dr. McCormick made the point that the majority of Dentists initially graduate from Dental School with a license for General Dentistry, then go on to further education to practice a specialty. Dr. Earl Johnson commented that he was the one who started all this with his question regarding foreign trained dentists with a specialty license sitting for the Board examination. He stated that he would like the Board to consider Legislation to allow foreign trained dentists to sit for the boards in order to receive a restricted license to practice their specialty. His concern is that this precludes some dentists including faculty from sitting for the board exam. M/S/C (Casagrande/Afriat) to agendaize this issue for the August Board meeting and bring back more information at that time. The motion passed unanimously.

AGENDA ITEM 16: Dental Assisting Committee Report

Judith Forsythe, Chair, reported that a quorum was established and the meeting minutes of February 24, 2011 were accepted with amendments. The committee recommended that the Board accept the DAF's list of suggested parameters focusing on items 1, 3, 4, and 5 pending passage of SB 540 and that item #3 be amended to say "review and suggest". The committee decided to table the issue of allowing RDAEF's to perform local anesthesia until additional information is submitted to the committee for review and reconsideration. Applied Measurements is reviewing the RDA written exam. The committee recommended that the Board consider changes to the outline for the RDA written exam to exclude or reduce the quantity of questions for Infection Control, Dental Radiation Safety, and Preventative Procedures during the examination review process in accordance with B & P Code Section 139. The committee recommended studying the issue and asking for exam validity from OPES for the possibility of splitting the RDAEF exam into 2 separate parts: Clinical and Laboratory. The committee recommended that a subcommittee be formed to look into the feasibility of conducting a survey of RDAEF licensees for the purpose of analysis of workforce and access to care. Dr. Bettinger appointed Dr. Witcher and Judy Forsythe to the subcommittee to come up with survey questions. M/S/C (Afriat/McCormick) to accept the committee recommendations and the committee report. The motion passed unanimously. Tamara McNeely, CADAT, commented that she would like an item regarding DANBE recognition on the next meeting agenda.

AGENDA ITEM 17: Legislative and Regulatory Committee Report

Fran Burton, Chair, reported that a quorum was established and the meeting minutes of February 24, 2011 were accepted. The committee reviewed the legislative calendar and noted the May 27, 2011 deadline for fiscal committees to hear and report bills. The committee then moved on to their list of legislation. Ms. Burton reviewed the Committee's recommendations for each bill. M/S/C (Afriat/Downing) to accept the committee's recommendations. The motion passed unanimously.

AGENDA ITEM 18: Enforcement Committee Report

Rebecca Downing, Chair, reported that a quorum was established and the meeting minutes of February 24, 2011 were accepted. Staff was commended on such a thorough group of reports. Ms. Downing gave an overview of the report contents. Dr. Dominicis commented that the Calibration Course was well received and attracted very good quality consultants. Dr. Dominicis stated that he would like to see the Board be more proactive in the recruitment of females and minorities as consultants. M/S/C (Afriat/Forsythe) to accept the committee report. The motion passed unanimously.

AGENDA ITEM 19: Update from Subcommittee Regarding Portfolio Licensure Examination for Dentistry (AB 1524, Stats 2010 ch 446)

Dr. Casagrande reported, for the subcommittee that they are now in the process of creating a structure for the exam, developing standardized criteria for assessment and grading of applicants' competency. They are also developing the training and calibration of examiners and a process by which the Board

will be able to independently monitor and audit the Portfolio examination. COMIRA, the Board's professional exam developer and contractor, held a kick-off meeting in southern California at USC, to begin the implementation phase of Portfolio. COMIRA is gathering all six different specialties from within the Dental schools that will be tested in Portfolio and, gathering the criteria for and developing the standardized grade sheets. The Board and staff will use that information to develop Regulations.

AGENDA ITEM 20: Report on the April 27, 2011 meeting of the Elective Facial Cosmetic Surgery (EFCS) Permit Credentialing Committee, Discussion and Possible Action to Accept Committee and Subcommittee Recommendations:

(A) Dr. Suzanne McCormick reported that the EFCS permit committee met via teleconference to consider one application for an EFCS permit. The application was tabled pending further clarification. She explained the new website language for easier navigation through the application process. The committee requested that the Board approve the committee's recommended modifications to the webpage language. M/S/C (Afriat/Olinger) to approve the committee report and recommendations. The motion passed unanimously.

(B) Dr. Whitcher reported that he and Dr. McCormick were asked to serve on a subcommittee to review applications to replace Dr. Karas who had resigned from the EFCS Committee. Dr. Whitcher thanked Dr. Karas for his long service to the EFCS Committee. The subcommittee received applications from two very qualified candidates. M/S/C (Afriat/McCormick) to accept the subcommittee's recommendation to fill the vacancy on the Elective Facial Cosmetic Surgery Permit Credentialing Committee with Dr. Louis Gallia. The motion passed unanimously.

In an attempt to increase the applicant pool in the future, Mr. Afriat requested that staff notify other interested parties, in addition to those organizations outlined in statute, when vacancies occur on the EFCS Permit Credentialing Committee.

AGENDA ITEM 21: Discussion and Possible Action Regarding Subcommittee Report on Record Retention of Inactive Patient Records.

Dr. Morrow reported that he and Dr. Olinger looked at what several other organizations use for a length of time for retention of records. The subcommittee recommends the requirement that records be retained for at least seven years from the date of an adult patient's last visit. Dental records of an unemancipated minor must be maintained for at least one year after the minor has reached age seventeen but not less than seven years from the date of the patient's last visit. M/S/C (Casagrande/Afriat) to accept the subcommittee's recommendations and to direct staff to prepare regulatory language to include defining active and inactive (a patient who has not been seen for twenty-four months). The motion passed unanimously. Mr. DeCuir asked that the staff be allowed flexibility on this new regulatory package as this was not on the regulatory priorities list for this year. Dr. Bettinger agreed and asked that we revisit regulatory priorities at the August Board meeting.

AGENDA ITEM 22: Discussion and Possible Action to Conduct a Feasibility Study for a Continuing Competency Program

Dr. McCormick reported that we will be looking at the different models of Continuing Competency Programs in the future. M/S/C (Olinger/Afriat) to table the discussion until the next meeting. The motion passed unanimously. Dr. Earl Johnson commented that the Board might want to consider Core Competencies as an alternative to Continuing Competencies.

PUBLIC COMMENT

There was no further public comment.

ADJOURNMENT

The meeting adjourned at 1:24 p.m.



MEMORANDUM

DATE	July 12, 2011
TO	Dental Board of California
FROM	Linda Byers, Administrative Assistant Dental Board of California
SUBJECT	Agenda Item 12: President's Report

Dr. John Bettinger will give a verbal report.



MEMORANDUM

DATE	July 19, 2011
TO	Dental Board of California
FROM	Linda Byers, Administrative Assistant Dental Board of California
SUBJECT	Agenda Item 13: Executive Officer's Report

Richard DeCuir, Executive Officer, will give a verbal report.



MEMORANDUM

DATE	July 12, 2011
TO	Dental Board of California
FROM	Linda Byers, Administrative Assistant Dental Board of California
SUBJECT	Agenda Item 14: Dental Hygiene Committee of California (DHCC) Activities Update

DHCC will not be providing a report at this Board Meeting.



MEMORANDUM

DATE	August 12, 2011
TO	Board Members
FROM	Sharon Langness, Budget Analyst
SUBJECT	Agenda Item 15: Budget Report: Dentistry Fund & Dental Assisting Fund

Attached is a copy of the current budget projections (based upon the June 2011 CALSTARS report) for your review.

The reports show that both funds should end the year with a reversion. The Dentistry Fund will revert approximately \$763,575 and the Dental Assisting Fund will revert approximately \$305,845. These reversions are attributed to a number of factors. Due to the Governor's hiring freeze, expenditures for Personal Services were reduced for both funds, and overall general expenses for both funds were reduced. The Dentistry Fund allotment for the Attorney General's office was underspent due to a shortage of staff in the Attorney General's office.

In addition to the Board's normal yearly expenditures, the Board had to pay a court settlement in the amount of \$675,000. With a larger than normal reversion, the Board was able to pay this cost without having to request additional funds from the Legislature and the Department of Finance.

Additionally, the Board is currently being required to cut 5% from overall expenditures from both the Dental Board and the Dental Assisting Program. This will be added to the mandatory 5% salary savings already incurred by both programs.

At year-end, many purchases and contract invoices are not paid by June 30, so a more accurate accounting of expenditures and reversion amounts will come in the FM13, End of Year Fiscal Report from CALSTARS this month.

The Executive Officer's Report covers more in-depth budgetary information.

0741 - Dental Board of California

Analysis of Fund Condition

Prepared 7/18/11

(Dollars in Thousands)

Proposed FY 2011-12 Governor's Budget

	Actual 2009-10	CY 2010-11	Governor's Budget BY 2011-12	BY + 1 2012-13
BEGINNING BALANCE	\$ 7,318	\$ 7,865	\$ 4,941	\$ 4,235
Prior Year Adjustment	\$ 180	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 7,498	\$ 7,865	\$ 4,941	\$ 4,235
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	\$ 22	\$ 34	\$ 34	\$ 34
125700 Other regulatory licenses and permits	\$ 834	\$ 918	\$ 907	\$ 907
125800 Renewal fees	\$ 6,919	\$ 6,595	\$ 6,688	\$ 6,688
125900 Delinquent fees	\$ 70	\$ 82	\$ 84	\$ 84
131700 Misc. Revenue from Local Agencies				
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 55	\$ 44	\$ 4	\$ 18
150500 Interest Income From Interfund Loans	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ 4	\$ 4	\$ 4	\$ 4
161000 Escheat of unclaimed checks and warrants	\$ 3	\$ 3	\$ 3	\$ 3
161400 Miscellaneous revenues	\$ 13	\$ 13	\$ 13	\$ 13
164300 Penalty Assessments	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 7,920	\$ 7,693	\$ 7,737	\$ 7,751
Transfers from Other Funds				
F00001 Rpymt of GF loans per Item 1250-011-0741, BAs of 2002/2003			\$ 3,000	\$ 1,400
F00683 Teale Data Center (CS 15.00, Bud Act of 2005)				
FXXXXX Proposed GF loan Repayment				
Transfers to Other Funds				
T00001 GF loan per Item 1250-011-0741, BA of 2002	\$ -	\$ -	\$ -	\$ -
T00001 GF loan per Item 1250-011-0741, BA of 2003	\$ -	\$ -	\$ -	\$ -
T03039 Transfer to Dentally Underserved Account				
Totals, Revenues and Transfers	\$ 7,920	\$ 7,693	\$ 10,737	\$ 9,151
Totals, Resources	\$ 15,418	\$ 15,558	\$ 15,678	\$ 13,386
EXPENDITURES				
Disbursements:				
0840 State Controller (State Operations)	\$ 6	\$ 15	\$ 12	
8880 FISCA		\$ 6	\$ 48	
1110 Program Expenditures (State Operations)	\$ 7,547	\$ 10,610	\$ 11,383	\$ 11,611
BreEZe Redistribution		\$ (14)		
8880 Financial Information System of California (State Operations)				
Total Disbursements	\$ 7,553	\$ 10,617	\$ 11,443	\$ 11,611
FUND BALANCE				
Reserve for economic uncertainties	\$ 7,865	\$ 4,941	\$ 4,235	\$ 1,775
Months in Reserve	8.9	5.2	4.4	1.8

NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
- EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2011-12

DEPARTMENT OF CONSUMER AFFAIRS
Dental Board

BUDGET REPORT
FY 2010/11 Expenditure Projection
Month 12 Calstars

Month(s)	12
Mo. Remaining	0

OBJECT DESCRIPTION	FY 2009/10		FY 2010/11				UNENCUMBERED BALANCE
	ACTUAL EXPENDITURES (MONTH 13)	PY Expenditures (MONTH 12)	BUDGET ALLOTMENT	CY EXPENDITURES (MONTH 12)	PERCENT SPENT	PROJECTIONS TO YEAR END	
PERSONNEL SERVICES							
Civil Service - Perm	1,979,125	1,979,125	2,970,113	2,641,080	89%	2,641,080	329,033
Temp Help Exper Examiners		0	40,000	0			
Phys Fitness Incentive	780	780		4,653		4,653	(4,653)
Temp Help 907	239,932	223,130	222,403	275,557	124%	300,000	(77,597)
Exam Proctor (915)		0	45,447	0	0%	0	45,447
Allocated Proctor Cost	1,160	1,160		269		269	(269)
Separated Proctor Cost							
Statutory-Exempt	89,587	89,587	103,608	96,829	93%	105,064	(1,456)
Bd/Commsn (901,920)	15,100	15,100	45,950	19,200	42%	21,000	24,950
Comm Member (911)	5,500	5,500	58,686	3,900		4,255	54,431
Overtime	25,685	25,685	25,208	4,582	18%	5,000	20,208
Benefits	864,846	913,957	1,629,394	1,311,173	80%	1,311,173	318,221
Special Adjustments - Personal Services							
Salary Savings			(325,303)	0	0%		(325,303)
TOTAL PERS SVS	3,221,715	3,254,024	4,815,506	4,357,243	90%	4,392,494	423,012
OPERATING EXPENSES & EQUIPMENT							
Fingerprints	8,849	7,115	25,777	8,399	33%	8,500	17,277
General Expense	175,428	172,427	234,365	112,982	48%	115,000	119,365
Minor Equipment 226	92,349	92,349	107,000	43,155	40%	47,000	60,000
Printing	47,612	47,447	41,502	66,797	161%	67,000	(25,498)
Communication	55,606	52,506	36,949	54,575	148%	58,000	(21,051)
Postage	62,194	56,948	59,791	60,265	101%	65,700	(5,909)
Insurance	2,033	2,033	6,972	2,016	29%	2,016	4,956
Travel In state	115,643	113,569	100,755	124,218	123%	124,218	(23,463)
Travel Out of state	53	53				0	0
Training	3,900	3,900	23,148	6,515	28%	6,515	16,633
Facilities Ops	389,619	389,495	351,656	456,856	130%	457,000	(105,344)
Utilities							0
C&P Serv. Internal	52,606	52,006	134,917	52,101	39%	57,000	77,917
Health & Med-Interdept.							0
**C&P Serv. External	201,099	200,699	282,274	217,708	77%	218,000	64,274
Departmental Services (pro rata)	893,709	953,160	1,009,017	996,266	99%	1,009,017	0
Interagency Svcs		0	881	0	0%		881
Teale (Data Centers)	38,893	38,893	18,907	36,546	193%	39,000	(20,093)
Data Processing	9,168	9,168	10,366	18,843	182%	18,843	(8,477)
Central Adm. Services (statewide pro rata)	312,553	312,553	373,091	373,091	100%	373,091	0
EXAMS	184,524	175,024	756,298	118,683	16%	118,683	
Other Items of Expense	3,085	3,085	661	14,746	2231%	14,746	(14,085)
Vehicle Operations	38,891	38,541	9,055	45,100	498%	45,500	(36,445)
ENFORCEMENT							
Attorney General	1,271,981	1,271,970	1,778,310	1,401,277	79%	1,401,290	377,020
Off of Admin Hearings	216,972	206,437	406,720	179,385	44%	188,539	218,181
Evidence/Witness	457,841	442,041	243,959	523,823	215%	542,546	(298,587)
Court Reporter Services	27,856	27,856		19,604		19,604	(19,604)
Div of Investigations							0
Major Equipment		0	32,000	0		32,000	0
Settlement				675,000		675,000	(675,000)
Total OE & E	4,662,464	4,669,275	6,044,371	5,607,951	93%	5,703,808	340,563
Special Items of Expense							
Interest - Settlement							
Tort Payments			0				
Board of Control Claims						0	
Total Special I of E		0	0	0	0%	0	0
TOTAL EXPENDITURES	7,884,179	7,923,299	10,859,877	9,965,194	92%	10,096,302	763,575
Fingerprint Reimb.	(24,397)	(24,397)	(53,000)	(24,765)		(53,000)	
Reimb. Other	(72,103)	(72,103)	(197,000)	(83,726)		(197,000)	
Reimb. Unscheduled	(241,851)	(241,852)	(218,852)	(218,469)			
Total Reimbursements	(338,351)	(338,352)	(250,000)	(326,960)	131%	(250,000)	0
NET APPROPRIATION	7,545,828	7,584,947	10,609,877	9,638,235	91%	9,846,302	763,575

Surplus/Deficit 7.2%

3142 - Registered Dental Assistant Program

Analysis of Fund Condition

Prepared 7/18/11

(Dollars in Thousands)

Proposed FY 2011-12 Governor's Budget

	Actual 2009-10	CY 2010-11	Governor's Budget BY 2011-12	BY +1 2012-13
BEGINNING BALANCE	\$ -	\$ 1,931	\$ 1,857	\$ 1,640
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ -	\$ 1,931	\$ 1,857	\$ 1,640
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	\$ 14	\$ 13	\$ 13	\$ 13
125700 Other regulatory licenses and permits	\$ 243	\$ 308	\$ 310	\$ 310
125800 Renewal fees	\$ 1,225	\$ 1,186	\$ 1,079	\$ 1,079
125900 Delinquent fees	\$ 73	\$ 61	\$ 51	\$ 51
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 4	\$ 18	\$ 15	\$ 14
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 5	\$ 5	\$ 5	\$ 5
164300 Penalty Assessments	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,564	\$ 1,591	\$ 1,473	\$ 1,472
Transfers from Other Funds				
0380 - Committee on Dental Auxilliaries	\$ 1,619	\$ -	\$ -	\$ -
Transfers to Other Funds				
	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 3,183	\$ 1,591	\$ 1,473	\$ 1,472
Totals, Resources	\$ 3,183	\$ 3,522	\$ 3,330	\$ 3,112
EXPENDITURES				
Disbursements:				
0840 State Controller (State Operations)	\$ 1	\$ 2	\$ 2	\$ -
1110 Program Expenditures (State Operations)	\$ 1,251	\$ 1,670	\$ 1,688	\$ 1,722
BreEZe BCP		\$ (7)		
Total Disbursements	\$ 1,252	\$ 1,665	\$ 1,690	\$ 1,722
FUND BALANCE				
Reserve for economic uncertainties	\$ 1,931	\$ 1,857	\$ 1,640	\$ 1,390
Months in Reserve	13.9	13.2	11.4	9.5

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
- B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2011-12



MEMORANDUM

DATE	July 18, 2011
TO	Dental Board of California
FROM	Linda Byers, Administrative Assistant Dental Board of California
SUBJECT	Agenda Item 16: Presentation by CDA regarding Access to Care

The California Dental Association will give a presentation regarding Access to Care.



MEMORANDUM

DATE	July 12, 2011
TO	Dental Board of California
FROM	Linda Byers, Administrative Assistant Dental Board of California
SUBJECT	Agenda Items 17-22: Committee Reports

Committee Chairs will give verbal reports.



MEMORANDUM

DATE	August 2, 2011
TO	Board Members
FROM	Georgetta Griffith, DBC Consultant Roberta Chinn, Ph.D. - COMIRA
SUBJECT	Agenda Item 23: Update on Portfolio Licensure Examination for Dentistry

Since our last meeting, our consultants, COMIRA, met with dental school faculty to begin the process of working out the details for the Portfolio Examination. The workshops were well attended by the schools.

Six focus groups were conducted at USC:

- | | |
|--|---------------|
| 1. Oral Diagnosis and Treatment Planning | June 22, 2011 |
| 2. Endodontics | June 27, 2011 |
| 3. Removal Prosthetics | June 29, 2011 |
| 4. Periodontics | July 7, 2011 |
| 5. Indirect Restoration | July 11, 2011 |
| 6. Direct Restoration | July 18, 2011 |

Participants in each group were asked to identify case selection criteria, determine the number of competency cases to be completed and develop grading criteria for the competency examinations. The work products from each meeting are in the process of being reviewed by participants.

COMIRA will be providing the Board with an update at the meeting.



MEMORANDUM

DATE	July 18, 2011
TO	Dental Board of California
FROM	Sarah Wallace, Legislative & Regulatory Analyst Dental Board of California
SUBJECT	Agenda Item 24: Prospective Legislative Proposals

Background

Stakeholders are encouraged to submit proposals in writing to the Board before or during the meeting for possible consideration by the Board at a future meeting.



MEMORANDUM

DATE	August 3, 2011
TO	Dental Board of California
FROM	Sarah Wallace, Legislative & Regulatory Analyst Dental Board of California
SUBJECT	Agenda Item 25: Discussion and Possible Action Regarding Regulatory Priorities for 2011/2012 Fiscal Year

Background:

During the November 2010 meeting, the Board reviewed pending regulatory files that had been initiated and were moving through the formal rulemaking process. Those regulatory files included:

- (1) Disciplinary Guidelines (Status: Complete),
- (2) Retroactive Fingerprinting Requirements (Status: Complete),
- (3) Dental Assisting Educational Programs and Courses (Status: Pending Department of Finance review), and
- (4) Minimum Standards for Infection Control (Status: Complete).

Additionally, the Board discussed setting priorities for new rulemakings during 2011. In addition to the four packages listed above, the Board voted to establish the following priority order to initiate rulemakings during 2011:

- (5) Consumer Protection Enforcement Initiative (Status: Pending Department of Finance review),
- (6) Portfolio Examination Requirements (Status: Pending contractor's findings),
- (1) Uniform Standards for Substance-Abusing Licensees (Status: Pending Board review of comments received during the 45-day public comment period), and
- (7) Revise current Regulations for Use of Conscious Sedation, Use of Oral Conscious Sedation for Pediatric Patients, and Use of Oral Conscious Sedation for Adult Patients (Status: Pending establishment of a task force to develop recommendations).

Both the Board and staff have been working diligently since November to ensure that the regulatory files move forward to maintain maximum public protection. A status report regarding the above regulatory packaged can be found in Attachment 1.

Since the November 2010 meeting, the Board and Board staff have identified several regulations that need to be added or require updating. Below is list of twenty (20)

needed regulations for the Board to consider prioritizing for FY 2011-2012. A complete listing, including summaries, can be found in Attachment 2.

- Sponsored Free Healthcare Events (New Regulation)
- Notice to Consumers (New Regulation)
- Probation Assignment Guidelines (New Regulation)
- Dental Assisting Licensing and Permitting Fees (CCR, Title 16, § 1022)
- Dental Assisting Program Application and Examination Requirements (CCR, Title 16, §§ 1076 – 1081.1, and 1083)
- Pit & Fissure Sealant Course Requirements (CCR, Title 16, § 1070.3)
- Radiation Safety Course Requirements (CCR, Title 16, §§ 1014-1014.1)
- Coronal Polishing Course Requirements (CCR, Title 16, § 1070.4)
- Ultrasonic Scaling Course Requirements (CCR, Title 16, § 1070.5)
- Dental Assistant Duties and Settings (CCR, Title 16, § 1085)
- Registered Dental Assistant Duties and Settings (CCR, Title 16, § 1086)
- Registered Dental Assistant in Extended Functions Duties and Settings (CCR, Title 16, § 1087)
- Equivalency Standards for CPR Courses (New Regulation)
- Teaching Methodology Requirements (New Regulation)
- Foreign Dental School Requirements (CCR, Title 16, §§ 1024.3-1024.12)
- Mobile Dental Clinics (CCR, Title 16, § 1026)
- Oral Conscious Sedation Forms (CCR, Title 16, §§ 1044.1, 1044.3(c), and 1044.4(a))
- Change of Address Requirements (New Regulation)
- Elective Facial Cosmetic Surgery Permit Requirements (New Regulation)
- Retention of Inactive Patient Dental Records (New Regulation)
- Citation and Fine Records Purge Requirements (New Regulation)

Action Requested:

Staff requests the Board review the list of issues that require rulemakings, and establish a priority list to assist staff with determining workload for FY 2011/2012. Staff recommends that the Sponsored Health Care Events regulatory package and the Citation and Fine Records Purge Requirements regulatory package be considered on the list of priorities as the Board discusses this agenda item.

ATTACHMENT 1

The following provides an update of the status of: (1) the regulatory files that were pending in November 2011, and (2) the rulemakings that were deemed to be priority in during 2011:

- (2) **Disciplinary Guidelines (CCR, Title 16, § 1018):** The Board's Disciplinary Guidelines regulatory file was approved by the Office of Administrative Law and filed with the Secretary of State on December 14, 2010. The regulation became effective on December 14, 2010. **Status: Complete.**
- (3) **Retroactive Fingerprinting (CCR, Title 16, §§ 1007, 1008, and 1017.2):** The Board's Retroactive Fingerprinting regulatory file was approved by the Office of Administrative Law and filed with the Secretary of State on March 9, 2011. The regulation became effective on July 1, 2011. **Status: Complete.**
- (4) **Dental Assisting Educational Programs and Courses (CCR, Title 16, §§ 1070, 1070.1, 1070.2, 1070.6, 1070.7, 1070.8, and 1071):** The Board adopted the final text, as noticed in the third modified text, at its February 2011 meeting. The final regulatory file has been approved by the Director of the Department of Consumer Affairs and the Secretary of the State and Consumer Services Agency. The file is currently under review at the Department of Finance. Once the file is approved by the Director of the Department of Finance, staff will submit the regulatory file to the Office of Administrative Law. The Office of Administrative Law will have 30 working days to review the file. Once approved, the rulemaking will be filed with the Secretary of State and will become effective 30 days later. **Status: Pending Department of Finance review.**
- (5) **Minimum Standards for Infection Control (CCR, Title 16, § 1005):** The Board's Minimum Standards for Infection Control regulatory file was approved by the Office of Administrative Law and filed with the Secretary of State on July 21, 2011. The regulation will become effective on August 20, 2011. **Status: Complete.**
- (6) **Consumer Protection Enforcement Initiative (CCR, Title 16, §§ 1018.05 and 1020):** The Board adopted the final text, as noticed in the modified text, at its May 2011 meeting. The regulatory file was submitted to the Director of the Department of Consumer Affairs on June 13, 2011. The final regulatory file is required be approved by the Director of the Department of Consumer Affairs, the Secretary of the State and Consumer Services Agency, and the Director of the Department of Finance. Once the approval signatures are obtained, the rulemaking will be submitted to the Office of Administrative Law. The Office of Administrative Law will have 30 working days to review the file. Once approved, the rulemaking will be filed with the Secretary of State and will become effective 30 days later. **Status: Pending Department of Finance review.**
- (7) **Portfolio Examination Requirements:** The Board worked with stakeholders to draft the initial framework for the proposed regulatory language while AB 1524 (Chapter 446, Statutes of 2010) was moving through the legislative process.

Since the bill was enacted, the Board has contracted with COMIRA to evaluate and determine the testing components of the examination to ensure it is psychometrically sound. Once COMIRA completes their work, staff will finalize proposed language to present to the Board to initiate a rulemaking. **Status: Pending contractor's findings.**

- (8) **Uniform Standards Relating to Substance Abusing Licensees and Disciplinary Guidelines (CCR, Title 16, §§ 1018 and 1020.5):** The Board approved proposed language to initiate a rulemaking at its February 2011 meeting. The initial rulemaking file was submitted to the Office of Administrative Law on March 11, 2011. The proposed action was published on March 25, 2011 and was noticed on the Board's web site and mailed to interested parties. The 45-day public comment period began on March 25, 2011 and ended on May 9, 2011. The regulatory hearing was held on May 10, 2011. The Board received oral testimony from the California Dental Association and written comments from the Center for Public Interest Law. The Substance Abuse Coordination Committee (SACC) met on April 11, 2011 and revised requirements contained in the *Uniform Standards Relating to Substance-Abusing Healing Arts Licensees*. The Board will be responding to comments during its August 2011 meeting. **Status: Pending Board review of comments received during the 45-day public comment period.**
- (9) **Revise Conscious Sedation Requirements:** Dr. Whitcher and Dr. Le, the two-member subcommittee charged with the task of reviewing the ADA "Guidelines for the Use of Sedation and General Anesthesia by Dentists" and the current statutes and regulations governing the use of conscious sedation and oral conscious sedation, gave a comprehensive report to the Board in November 2010. The subcommittee recommended revising the Dental Practice Act sections related to general anesthesia and conscious sedation to improve clarity and, where possible, consistency with nationally recognized guidelines such as the ADA Guidelines. They recommended it will require both statutory and regulatory amendments. The subcommittee recommended engaging communities of interest in the development of proposed regulatory language and recommended that the Board form a task force to allow participation by stakeholders. The Board accepted the subcommittee's recommendation. **Status: Pending establishment of a task force to develop recommendations.**

ATTACHMENT 2

Since the November 2010 meeting, the Board and Board staff have identified several regulations that need to be added or require updating. Staff requests the Board review the following subject matters that require rulemakings, and establish a priority list to assist staff with determining workload for FY 2011/2012:

Legislatively Required Regulations:

- **Sponsored Free Healthcare Events (New Regulation)** – This legislatively required regulation is a result of AB 2699 (Chapter 270, Statutes of 2010). The Board approved proposed regulatory language at its February 2011 meeting. Staff is in the process of completing the initial rulemaking documents to be filed with the Office of Administrative Law. These proposed regulations would implement, interpret and make specific the provisions of Section 901, as it pertains to licensed dentists, including the application and registration requirements, disciplinary actions, recordkeeping requirements and provisions for termination for the exemption of an out-of-state licensed dentist who wishes to participate in a sponsored free health care event.
- **Notice to Consumers (New Regulation)** – Senate Bill 540 (Price, 2011) specifies that the Board shall comply with the requirements of Business and Professions Code Section 138 by January 1, 2013. The Board shall require that the Notice to Consumers include a provision that the Board is the entity that regulates dentists and provide the telephone number and Internet address of the Board.
- **Probation Assignment Guidelines (New Regulation)** – Senate Bill 540 (Price, 2011) specifies that the board shall adopt written guidelines on how to make probation assignments for licensees and shall ensure that probationary and evaluation reports are conducted consistently and regularly.
- **Dental Assisting Licensing and Permitting Fees (CCR, Title 16, § 1022)** – Senate Bill 540 (Price, 2011) specifies that the Board shall establish dental assisting licensing and permitting fees through regulation.

Regulations Relative to the Dental Assisting Program:

- **Dental Assisting Program Application and Examination Requirements (CCR, Title 16, §§ 1076 – 1081.1, and 1083)** – In November 2009, the Board reviewed and approved two proposals for regulatory changes relative to dental assisting. The first proposal implemented the requirements for Dental Assisting Educational Programs and Courses to maintain consistency with the provision contained in AB 2637 (Chapter 499, Statutes of 2008). The second proposal made necessary amendments to the Dental Assisting Program Application and Examination Requirements to ensure compliance with AB 2637 (Chapter 499, Statutes of 2008). The Board promulgated the Dental Assisting Educational Programs and Courses regulations, with the understanding that once they were

effective, the Board would then promulgate the regulations relating to the Dental Assisting Program Application and Examination Requirements. The Dental Assisting Educational Programs and Courses regulatory file is nearing the final review stages and the Board may wish to consider revising the Dental Assisting Program Application and Examination Requirements in the near future.

- **Pit & Fissure Sealant Course Requirements (CCR, Title 16, § 1070.3)** – These requirements need to be revised to ensure compliance with AB 2637 (Chapter 499, Statutes of 2008).
- **Radiation Safety Course Requirements (CCR, Title 16, §§ 1014-1014.1)** – These requirements need to be revised to ensure compliance with AB 2637 (Chapter 499, Statutes of 2008).
- **Coronal Polishing Course Requirements (CCR, Title 16, § 1070.4)** – These requirements need to be revised to ensure compliance with AB 2637 (Chapter 499, Statutes of 2008).
- **Ultrasonic Scaling Course Requirements (CCR, Title 16, § 1070.5)** – These requirements need to be revised to ensure compliance with AB 2637 (Chapter 499, Statutes of 2008).
- **Dental Assistant Duties and Settings (CCR, Title 16, § 1085)** – These requirements need to be revised to ensure compliance with AB 2637 (Chapter 499, Statutes of 2008).
- **Registered Dental Assistant Duties and Settings (CCR, Title 16, § 1086)** – These requirements need to be revised to ensure compliance with AB 2637 (Chapter 499, Statutes of 2008).
- **Registered Dental Assistant in Extended Functions Duties and Settings (CCR, Title 16, § 1087)** – These requirements need to be revised to ensure compliance with AB 2637 (Chapter 499, Statutes of 2008).
- **Equivalency Standards for CPR Courses (New Regulation)** – During the formal rulemaking process for the Dental Assisting Educational Programs and Courses regulatory file, the Board and stakeholders identified a need to specify the equivalency standards for CPR courses relative to dental assisting programs and courses.
- **Teaching Methodology Requirements (New Regulation)** – During the formal rulemaking process for the Dental Assisting Educational Programs and Courses regulatory file, the Board and stakeholders identified a need to specify the teaching methodology requirements relative to dental assisting programs and courses.

Other Needed Regulations:

- **Foreign Dental School Requirements (CCR, Title 16, §§ 1024.3-1024.12)** – The Board may wish to review these requirements to ensure consistency with Board’s California dental school approval process and licensing requirements to ensure public safety.
- **Mobile Dental Clinics (CCR, Title 16, § 1026)** – At the November 2010 Board meeting, Bill Lewis of CDA reported that following CDA’s review of California’s regulations regarding Mobile and portable dental providers, CDA felt that the current regulations were lacking. CDA would like to work with the Board to promulgate additional regulations in order to better protect and serve the citizens of California. Dr’s. Olinger and Le volunteered to serve on a subcommittee to work with CDA to begin looking at the issues.
- **Oral Conscious Sedation Forms (CCR, Title 16, §§ 1044.1, 1044.3(c), and 1044.4(a))** – Several of the OCS program’s forms need minor updating and corrections.
- **Change of Address Requirements (New Regulation)** – The Board may wish to consider a new regulation to incorporate the Dental Board’s Address Change form and require notarization of address changes, at least for dentists, per the suggestion of the Board’s Enforcement Unit Investigators and Enforcement Chief. Legal counsel advised staff to not accept change of address requests by phone, but only accept it in writing. In order to require the licensees to use a specific form or notarize it, it has to be in regulation to make it legally enforceable. This may, also, be an opportunity to mirror the Dental Hygiene Committee of California’s statute, Business and Professions Code Section 1934 requiring that “A licensee who changes his or her address of record shall notify the committee within 30 days of the change.”
- **Elective Facial Cosmetic Surgery Permit Requirements (New Regulation)** – Regulations are necessary to interpret and specify the provisions contained in Business and Professions Code Section 1638.1 relating to the application and approval process requirements for the issuance of an Elective Facial Cosmetic Surgery permit.
- **Retention of Inactive Patient Dental Records (New Regulation)** – At the May 2011 meeting, Dr. Morrow and Dr. Olinger, appointed subcommittee, recommended the Board complete a rulemaking to institute a requirement that inactive patient records be retained for at least seven years from the date of an adult patient’s last visit and that dental records of an un-emancipated minor must be maintained for at least one year after the minor has reached age seventeen but not less than seven years from the date of the patient’s last visit.
- **Citation and Fine Records Purge Requirements (New Regulation)** - Currently, the Board’s enforcement program is limited to two methods to address violations of the Dental Practice Act; issuance of a citation and administrative

filings with the Office of the Attorney General. One of the current methods available is the issuance of an administrative citation. This method is used to address minor violations that do not warrant more severe disciplinary measures. However, because a citation remains on the licensee's record indefinitely, and the information is available to the public via the Internet, licensee's routinely request an informal hearing to challenge the merits of the allegation. In most cases, the licensee questions the fairness of a permanent mark against their license for a minor violation of the Dental Practice Act. The amount of time devoted to the informal hearing process limits the efficiency of the citation as an intermediate disciplinary tool. By comparison, citations issued by other Boards have a statute of limitations placed on the length of time posted for public disclosure (i.e. Medical Board of California, 5 years; Board of Registered Nursing, 3 years).



MEMORANDUM

DATE	July 21, 2011
TO	Dental Board of California
FROM	Dr. Bruce Witcher, Dental Board Vice President Dental Board of California
SUBJECT	Agenda Item 26: Discussion and Possible Action Regarding the Update of the Board's Strategic Plan

Background:

In 2010 the Board held two strategic planning sessions facilitated by SOLID staff. The Board updated the mission, vision, and value statements and added goals and objectives leading to a draft Strategic Plan.

The Board approved the draft Strategic Plan at its July 26, 2010 meeting. According to the Plan the goals and objectives were to be revised as needed in 2012.

The Sunset Review Background Paper addressed the 2010-2012 Dental Board Strategic Plan with the following recommendation:

" The DBC should develop and publish a detailed action plan with specific action items and realistic target dates for how each of the objectives will be met. Additionally, the Board should be given a written status report on the action plan at each board meeting."

In response to this recommendation I have included Strategic Plan goals and objectives along with related action items and areas for setting target dates for consideration by the Board.

Board Action Requested:

1. The Board may adopt, modify, or reject these proposed changes to the Strategic Plan.
2. If these changes are adopted or modified the Board may direct staff to add draft changes to the Strategic Plan for later consideration by the Board.

Goals and Objectives

The Dental Board of California is putting forth the following goals and objectives for 2010-2012. As part of the ongoing planning and monitoring process, the stated goals and objectives will be evaluated and adjusted as necessary to meet business needs.

Licensing

Administer fair, valid, timely, comprehensive, and relevant licensing examinations to ensure public protection and provide a licensing process that permits applicants timely access to the workforce without compromising consumer protection.

Objectives

Explore a new license examination process.

Establish and maintain a leadership role in any licensure examination process.

Objective: Develop and implement the Portfolio licensure examination.

Measure: 1. Percent progress toward implementation _____

2. Estimated dates of completion and implementation _____

Objective: Maintain effective participation in the Western Regional Examining Board.

Measure: 1. Number of WREB examiners from California _____

2. Number of WREB meetings attended by DBC representatives _____

Goal 2

Communication and Education

Provide the most current information and services to the board's stakeholders; set standards to ensure high quality educational services and programs.

Objectives

1. Annually at minimum, release a newsletter to provide up-to-date disciplinary actions and other developments including legislative and regulatory changes and preventative enforcement suggestions.
2. Maintain, augment, and improve ease-of-use of the Board's web site.

Measure: Number of newsletters published per year.

Measure: Satisfaction survey of visitors to web site (if feasible).

Task:

1. Evaluate web site for usability, complete assessment by _____
2. Make changes to web site, completed by _____
 - a. Changes recommended (list) _____

Implement Board representative outreach to students in dental educational programs.

Use local component societies and school meetings as a venue to provide updates on Board activities and services.

Maintain an open dialogue with stakeholders.

Consider conducting outreach programs where public policy issues on health care are discussed.

Task: Conduct Board outreach

Measure: number of outreach programs completed per year. _____

Maintain standards for Continuing Dental Education.

Measure: percent audits completed

- 1. CE audits*
- 2. CE provider audits (if feasible)*

Reprint laws and regulations on a regular basis.

Measure: Reprint of DPA accomplished in 2011. Next reprint to be done by _____ (year).

Goal 3

Consumer Protection and Enforcement

Ensure the Board's enforcement and diversion programs provide timely and equitable consumer protection.

Objectives

Be proactive about legislative solutions.

Objective: Annually identify and respond with legislative changes to keep laws current and consistent with the board's mission.

Measure: Percent successful enactment of promoted legislative changes.

Tasks:

- 1. Secure extension of board's sunset date.*
- 2. Sponsor legislation to update _____.*
- 3. Advocate the board's role and its positions regarding dental care.*

Goal 3 (continued)
Consumer Protection
and Enforcement

Objectives

Implement improved reporting and tracking of enforcement cases.

Measure: Percentage of cases closed or referred within 6 months

Objective : Achieve ___ percent closure or referral on all cases within __ months by June 30, 2012.

Objective : Manage enforcement activities for achievement of performance expectations.

Measure: Percentage compliance with program requirements

Objective: Achieve ___ percent closure on all administrative cases within _____ months by June 30, 2012.

Measure: Percentage closure of administrative cases within _____ months.

Objective: Assure consumer satisfaction with enforcement process.

Measure: Consumer satisfaction survey results.

**Objective: Initiate policy review of emerging enforcement issues by June 30, 2012.*

Measure: The number of issues identified and discussed

**New item*

Implement short-term and long-term IT improvements.

Measure:

- 1. Number of cases tracked using IAR _____*
- 2. Status update on Breeze system, to be implemented by _____*

Maintain optimal staffing by continuing to fill vacant enforcement and diversion staff positions.

Measure: Number of unfilled staff positions _____

Recruit Board experts and consultants.

Measure: Number of consultants and experts recruited _____

Uphold the role of the dentist as the ultimate responsible party regarding patient treatment.

Suggest possible measure for this parameter

Goal 4

Dental Practice Act

Complete an ongoing review of the Dental Practice Act to update existing laws and regulations to ensure they continue to provide efficient and effective consumer protections.

Objectives

Identify areas within the DPA that potentially need updating.
Complete regulations to update duties and practice settings.

Objective: Review ___ areas of the laws regulating dentistry for relevancy, currency and value for consumer protection by June 30, 2012.

Measure: Number of areas of existing laws reviewed

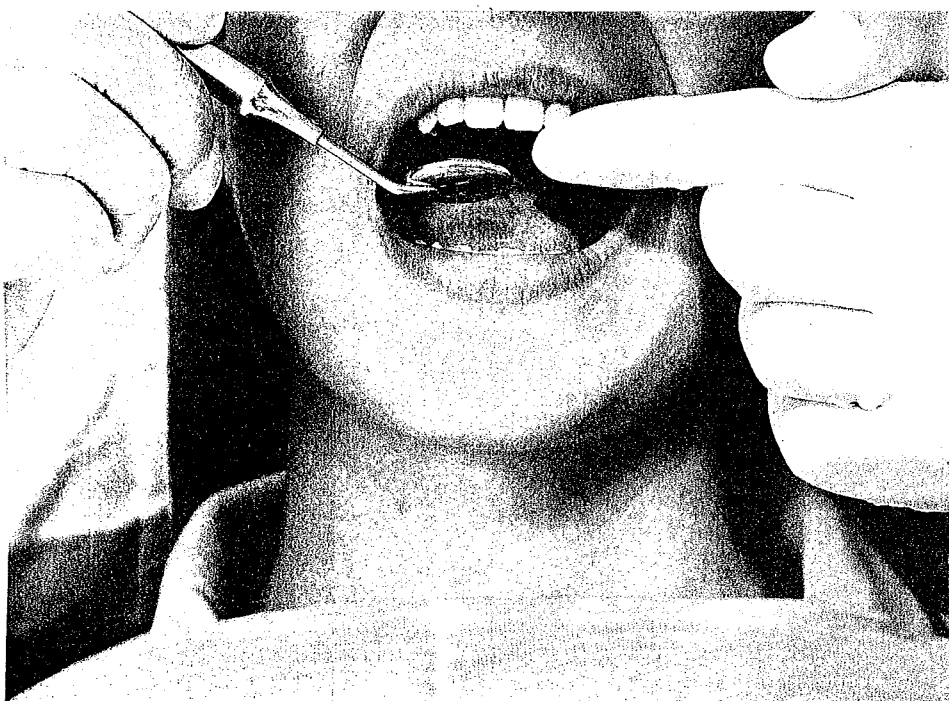
Objective: Annually identify and respond with regulatory changes to keep regulations current and consistent with the board's mission.

Measure: Percentage successful enactment of promoted regulatory changes

Task: Make technical changes to regulations to keep the code updated.

Example:

- a. Time limit for retention of records*
- b. ?*



Our Mission

The mission of the Dental Board of California is to protect and promote the health and safety of consumers of the State of California.

Our Vision

The Dental Board of California will be the leader in public protection, promotion of oral health, and access to quality care.

Our Values

Integrity: Conduct the business of the board in a transparent, impartial and independent manner.

Service: To provide high quality assistance to all California consumers, professionals, internal and external stakeholders.

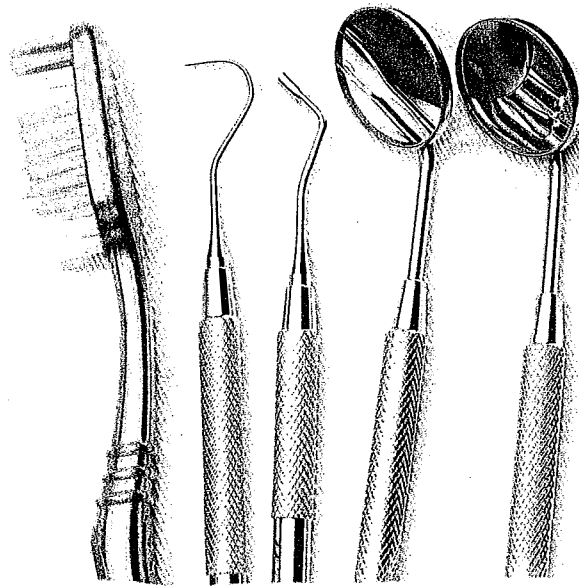
Professionalism: To assure qualified, proficient and skilled staff provide services for the Dental Board of California.

Fairness: To assist and provide information to all stakeholders in an unbiased and impartial manner.

Respect: To value all constituents of the Dental Board of California.

Diversity: To acknowledge and recognize the diversity of California consumers and professionals.





Goals and Objectives

The Dental Board of California is putting forth the following goals and objectives for 2010-2012. As part of the ongoing planning and monitoring process, the stated goals and objectives will be evaluated and adjusted as necessary to meet business needs.

Goal 1

Licensing

Administer fair, valid, timely, comprehensive, and relevant licensing examinations to ensure public protection and provide a licensing process that permits applicants timely access to the workforce without compromising consumer protection.

OBJECTIVES

- Explore a new license examination process.
- Establish and maintain a leadership role in any licensure examination process.

Goal 2

Communication and Education

Provide the most current information and services to the board's stakeholders; set standards to ensure high quality educational services and programs.

OBJECTIVES

- Annually at minimum, release a newsletter to provide up-to-date disciplinary actions and other developments including legislative and regulatory changes and preventative enforcement suggestions.
- Maintain, augment, and improve ease-of-use of the Board's web site.
- Implement Board representative outreach to students in dental educational programs.
- Use local component societies and school meetings as a venue to provide updates on Board activities and services.
- Maintain an open dialogue with stakeholders.
- Consider conducting outreach programs where public policy issues on health care are discussed.
- Maintain standards for Continuing Dental Education.
- Reprint laws and regulations on a regular basis.

Goal 3

Consumer Protection and Enforcement

Ensure the Board's enforcement and diversion programs provide timely and equitable consumer protection.

OBJECTIVES

- Be proactive about legislative solutions.
- Implement improved reporting and tracking of enforcement cases.
- Implement short-term and long-term IT improvements.
- Maintain optimal staffing by continuing to fill vacant enforcement and diversion staff positions.
- Recruit Board experts and consultants.
- Uphold the role of the dentist as the ultimate responsible party regarding patient treatment.

Goal 4

Dental Practice Act

Complete an ongoing review of the Dental Practice Act to update existing laws and regulations to ensure they continue to provide efficient and effective consumer protections.

OBJECTIVES

- Identify areas within the DPA that potentially need updating.
- Complete regulations to update duties and practice settings.