STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

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

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

Tuesday, December 4, 2012

Embassy Suites LAX/South
1440 East Imperial Avenue, El Segundo, CA 90245
310-640-3600 or 916-263-2300

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*

Tuesday, December 4, 2012

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

8:30 a.m. DENTAL BOARD OF CALIFORNIA – FULL BOARD

ROLL CALL ..... Establishment of a Quorum

***CLOSED SESSION – FULL BOARD**

Deliberate and Take Action on Disciplinary Matters
*The Board will meet in closed session as authorized by Government Code Section 11126(c)(3)

***CLOSED SESSION – LICENSING, CERTIFICATION, AND PERMITS COMMITTEE**

Issuance of New License(s) to Replace Cancelled License(s)
*The Committee will meet in closed session as authorized by Government Code Section 11126(c)(2) to deliberate on applications for issuance of new license(s) to replace cancelled license(s)

OPEN SESSION RESUMES AT APPROXIMATELY 10:00 a.m. OR UPON ADJOURNMENT OF CLOSED SESSION

AGENDA ITEM 5A..... Approval of the August 16-17, 2012 Full Board Meeting Minutes

AGENDA ITEM 5B..... Approval of the October 24, 2012 Dental Board Teleconference Minutes

AGENDA ITEM 6 ..... President's Report
AGENDA ITEM 7 ..... Executive Officer's Report
- Attorney General Expenditures for the Dental Assisting Program

AGENDA ITEM 8 ..... Election of Dental Board of California Officers for 2013

AGENDA ITEM 9 ..... Update from the Department of Consumer Affairs Executive Office

AGENDA ITEM 10 ..... Update on Dental Hygiene Committee of California (DHCC) Activities

AGENDA ITEM 11 ..... Budget Reports: Dental Fund & Dental Assisting Fund

AGENDA ITEM 12 ..... Update Regarding the Dental Board of California (DBC) and the Dental Hygiene Committee of California (DHCC) Annual Review of the Minimum Standards for Infection Control

AGENDA ITEM 13 ..... Enforcement Committee Report
The Board may take action on any items listed on the attached Enforcement Committee agenda

AGENDA ITEM 14 ..... Examination Committee Report
The Board may take action on any items listed on the attached Examination Committee agenda

AGENDA ITEM 15 ..... Licensing, Certification & Permits Committee Report
The Board may take action on any items listed on the attached Licensing, Certification & Permits Committee agenda and act on recommendations to the Board regarding issuance of new licenses to replace cancelled licenses

AGENDA ITEM 16 ..... Dental Assisting Council Report
The Board may take action on any items listed on the attached Dental Assisting Council agenda

AGENDA ITEM 17 ..... Legislative and Regulatory Committee Report
The Board may take action on any items listed on the attached Legislative and Regulatory Committee agenda

AGENDA ITEM 18 ..... Report on the October 3, 2012 meeting of the Elective Facial Cosmetic Surgery Permit Credentialing Committee; and Discussion and Possible Action to Accept Committee Recommendations for Issuance of Permits

AGENDA ITEM 19 ..... Update on Actions Taken to Implement the Patient Protection and Affordable Care Act

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA
Note: The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Government Code § 11125 and 11125.7(a).)

FUTURE AGENDA ITEMS
Stakeholders Are Encouraged to Propose Items for Possible Consideration by the Board at a Future Meeting

BOARD MEMBER COMMENTS FOR ITEMS NOT ON THE AGENDA
Note: The Board may not discuss or take action on any matter raised during the Board Member Comments section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting. (Government Code § 11125 and 11125.7(a).)

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

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Dental Board of California
Meeting Minutes
Thursday, August 16, 2012

Department of Consumer Affairs
2005 Evergreen Street, Hearing Room
Sacramento, CA 95815

DRAFT

Members Present:
Bruce Whitcher, DDS President
Huong Le, DDS, Vice President
Steve Afriat, Public Member
Luis Dominicis, DDS
Judith Forsythe, RDA
Suzanne McCormick, DDS
Steven Morrow, DDS
Thomas Olinger, DDS

Members Absent:
Fran Burton, Secretary
Stephen Casagrande, DDS
Rebecca Downing, Public Member

Staff Present:
Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
Kim Trefry, Enforcement Chief
Nancy Butler, Supervising Investigator
April Alameda, Investigative Analysis Unit Manager
Dawn Dill, Licensing and Examination Unit Manager
Lori Reis, Complaint and Compliance Unit Manager
Jocelyn Campos, Enforcement Coordinator
Sarah Wallace, Legislative and Regulatory Analyst
Karen Fischer, Associate Analyst
Linda Byers, Executive Assistant
Spencer Walker, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Dr. Bruce Whitcher, President, called the meeting of the Dental Board of California to order at 8:32 a.m. Dr. Huong Le, Vice-President, called the roll and a quorum was established.

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

The Board returned to open session at 10:58 a.m.

AGENDA ITEM 1: Regional Examinations Presentation by Guy Shampaine, DDS, Past President of the American Board of Dental Examiners (ADEX)

Dr. Shampaine, Chairman of the Northeast Regional Board (NERB), introduced Dr. Bruce Barrette, President of the American Board of Dental Examiners (ADEX). Dr. Shampaine began his presentation by stating that the patients are the stakeholders when licensing dentists; they are the ones at risk if someone is licensed inappropriately. Licensure exists for the protection of the public. Dr. Shampaine stated that a licensure exam is not to determine who should get a license; it's there to determine who should not get a license. Each state had its own licensure examination until 1968. There was no mobility between states.

ADEX is an organization of state dental boards that function as a national examination committee for the participating state boards and testing agencies.

California was one of the founding states of ADEX. Dr. Ariane Terlet, former California Dental Board Member, was the first secretary of ADEX. Many of California's principles of examination were incorporated when ADEX was established.

Dr. Shampaine explained that ADEX is not a testing agency. ADEX representatives develop a widely accepted examination which is administered by examination agencies such as the Southeast Regional Testing Association (SERTA) and the Northeast Regional Board (NERB) according to ADEX rules. It is the most widely accepted licensure examination in the United States with forty states now accepting ADEX's licensure examination.

Dr. Shampaine reviewed many of the details of the ADEX organization and some examination details. He stated that the next goal of ADEX is to create a Uniform National Clinical Examination which will be accepted for licensure by all State Dental Boards, thereby allowing mobility of the Dental Graduate.

Dr. Shampaine stated that one out of five dentists in the United States is licensed in California.
The goal of ADEX is to have the Dental Board of California consider accepting the ADEX examination as an additional licensure pathway.

COMMITTEE/COUNCIL Meetings Commenced at 11:40 a.m.

PUBLIC COMMENT
There was no public comment following adjournment of the Licensing, Certification and Permits Committee meeting.

The meeting recessed at 3:40 p.m. and will resume at 8:30 a.m. Friday, August 17, 2012.

DRAFT

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Dental Board of California
Meeting Minutes
Friday, August 17, 2012

Department of Consumer Affairs
2005 Evergreen Street, Hearing Room
Sacramento, CA 95815

DRAFT

Members Present:
Bruce Whitcher, DDS President
Huong Le, DDS, Vice President
Steve Afriat, Public Member
Luis Dominicis, DDS
Judith Forsythe, RDA
Suzanne McCormick, DDS
Steven Morrow, DDS
Thomas Olinger, DDS

Members Absent:
Fran Burton, Secretary
Stephen Casagrande, DDS
Rebecca Downing, Public Member

Staff Present:
Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
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Jocelyn Campos, Enforcement Coordinator
Sarah Wallace, Legislative and Regulatory Analyst
Karen Fischer, Associate Analyst
Linda Byers, Executive Assistant
Spencer Walker, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Dr. Bruce Whitcher called the meeting to order at 8:32 a.m. Dr. Huong Le, Vice-President called the roll and a quorum was established. Dr. Whitcher stated that Roberta Chinn from Comira would be in attendance to give a report along with Reichel Everhart, Board Relations liaison, from the Department of Consumer Affairs Executive Office. Dr. Whitcher recognized representatives from the Dental Hygiene committee, Lori Hubble, Executive Officer and new Dental Hygiene Committee of California (DHCC) member Evangeline Ward.

AGENDA ITEM 2: Approval of the Full Board Meeting Minutes from May 17-18, 2012
Dr. Morrow asked for a correction of the minutes. He stated that in the Thursday May 17, 2012 minutes on page 3 of 8 in the first paragraph, the sentence 'The International program is a graduate program composed of students from dental schools, other than Mexico, who hold legal citizenship in the United States and who plan to return to the U.S. to practice', should be replaced with the sentence 'The International program is a graduate program composed of *dentists that have graduated* from dental schools, other than Mexico, who hold legal citizenship *or resident status* in the United States and who plan to return to the U.S. to practice'. He also asked that in the next sentence his name be replaced with '*the site visit team's*'. M/S/C (McCormick/Morrow) to approve the May 17-18, 2012 Dental Board meeting minutes as amended. The motion passed with one abstention.

AGENDA ITEM 3: President's Report
Dr. Whitcher reported that Dr. Casagrande received re-appointment to the Board. He stated that last month he received a letter of resignation from Dr. Bettinger. Dr. Whitcher thanked Dr. Bettinger for his service on the Board since 2007 where he was President in 2010 and 2011. Dr. Whitcher reported there are currently 11 Board members of the 15 total positions on the Board. He hopes that some appointments of new Board members are forthcoming.

Dr. Whitcher reported that after the May Board meeting he volunteered at 'CDA Cares' in Modesto, a free dental clinic sponsored by the California Dental Association Foundation. He stated that another CDA Cares event will be held in Sacramento at Cal Expo on August 24-25. Dr. Whitcher stated that he also attended the CDA Hygiene House of Delegates meeting in Santa Clara. He reported that some Board members will be attending the upcoming American Dental Association's (ADA) Conference in San Francisco, October 18-21. He, Dr. Morrow and Dr. Casagrande were invited to attend the American Association of Dental Boards' annual meeting in San Francisco October 17-18. He remarked that he will also be attending the American Association of Oral and Maxillofacial Surgeons (AAOMS) annual meeting in September along with the CDA House of Delegates meeting in November. Dr. Whitcher requested that anyone wishing to have items considered for placement on the agenda should submit those proposals as early as possible as staff begins preparing for the next Board meeting immediately following the completion of the current meeting.

AGENDA ITEM 4: Executive Officer's Report
Richard DeCuir, Executive Officer, reported that he will be volunteering at the CDA Cares clinic in Sacramento at Cal Expo on August 25, 2012. He reported that on June 30, 2012, $1.7 million of loan reimbursement was granted to the Dental Board. Mr. DeCuir stated that after 18 months we finally have our video-conferencing equipment installed which allows inter-active meetings with other Boards and Bureaus who have video-conferencing abilities including our Orange office in Southern California. Mr. DeCuir reported that the Dental Lab subcommittee held a phone conference with the California Dental Association (CDA) to work on proposed language to be brought back to the Board at the next meeting. Denise Johnson, Assistant Executive Officer, reported that the predecessors of the current Executive team started a contract with Verizon for a web-based phone system in the Board's Sacramento office that was rejected the day before it was to be implemented. Ms. Johnson is working with our Board liaison and Verizon to set up a meeting to review what is available and what system might best fit the Board's needs. Mr. DeCuir reported that the 2

positions left vacant in the licensing department by recent retirements were abolished by DCA administration as part of the budget reduction. DCA also abolished 2 of the Board's 8 retired annuitant positions. There may be additional cuts forthcoming.

AGENDA ITEM 5: Update from the Department of Consumer Affairs Executive Office
Reichel Everhart, Deputy Director of Board Relations for DCA, reported that she spoke with the Appointments Office the previous day regarding Board Member appointments. She was told that several interviews had been done and a meeting with the Governor was scheduled for the following week. She also reported that DCA has been working with the Governor's office on the reorganization plan. She stated that if the reorganization goes through DCA will add 2 new Boards and 2 new Bureau's. The Bureau's of Real Estate and Real Estate Appraisers and the Board's of Chiropractic Examiners and Structural Pest Control. Ms. Everhart yielded the remainder of her time to the BreEZe Team for a presentation. Brandon Rutschman, BreEZe Project Manager, gave a presentation highlighting the benefits of the BreEZe system which will provide one unified system that will handle applicant tracking, licensing and enforcement. BreEZe will begin working with the Dental Board in September 2012 with a Go-Live date scheduled for May of 2013 and Full System operation anticipated by October 2013. One of the benefits of the BreEZe system is that it will interface with the Department of Justice, Law Enforcement and the Attorney General's office.

Dawn Dill, Licensing and Examination Unit Manager and Dental Board Liaison to BreEZe, reported that the online application and renewal features of this system will revolutionize the way the Dental Board does business. Licensees and complainants will also be able to check the status of their documents online.

AGENDA ITEM 6: Update on Dental Hygiene Committee of California (DHCC) Activities
Lori Hubble, Executive Officer of the Dental Hygiene Committee, reported that the DHCC has been very busy with their Registered Dental Hygienist (RDH) clinical examinations. She stated that over the past 3 months they tested 375 candidates. This number is down by about 200 from previous years due to candidates now taking the WREB examination. The pass rate was approximately 89%. Ms. Hubble reported that DHCC Enforcement statistics show 25 open investigations, 9 probationers and 3 accusations filed with the Deputy Attorney General's office. Ms. Hubble closed by inviting the Dental Board to the Dental Hygiene Committee meeting in December.

AGENDA ITEM 7: Budget Reports: Dental Fund & Dental Assisting Fund
Mr. DeCuir introduced Genie Albertson the Dental Board's new Budget Analyst. Ms. Albertson reviewed the expenditures for the last fiscal year for the Dentistry and Dental Assisting Funds as well as the "Fund Conditions" which are each of these funds projected fiscal solvency for the current fiscal year and future fiscal years.

Ms. Albertson reported that without a fee increase to generate additional revenue, the Dental Board will be out of money by the end of fiscal year 2013-14 if the additional loan repayment of $2.7 million is not received and out of money in fiscal year 2014-15 even if the loan repayment is received.

AGENDA ITEM 8(A): Discussion and Possible Action to Consider Staff's Recommendation for Appropriate Fee Increase to Dentistry to Sustain Board Expenditures

Richard DeCuir, Executive Officer, reviewed the documents provided to give a more detailed report of how license renewal revenue is predominantly used for Enforcement programs. He also provided a breakdown of the renewal fee that is necessary to achieve the required amount to meet the annual Enforcement expenditures. Dr. Morrow stated that if we go on the premise that renewal fees pay for enforcement; where does the cost recovery we get from enforcement cases go? Mr. DeCuir pointed out that cost recovery is classified as "Unscheduled Reimbursement" and is included but cannot be counted on every year.

Bill Lewis, California Dental Association (CDA), commented that CDA recognizes that it has been a long time since there has been a fee increase but an increase $365 to $450 seems like a significant jump all at one time. CDA is concerned that the magnitude of this increase has not been fully justified.

Dr. Guy Acheson, California Academy of General Dentistry, commented that the statistics for 2011 show an increase of 900 new Dental licensees and already 500 for 2012 with 5 months to go. He would like to see the projections updated.

Dr. Earl Johnson commented that simply put the Board is spending more than it is taking in and a fee increase is necessary.

AGENDA ITEM 8(B): Discussion and Possible Action to Consider Initiation of a Rulemaking to Amend *California Code of Regulations, Title 16, § 1021* Relevant to Examination, Permit, and License Fees for Dentists

Sarah Wallace, Legislative and Regulatory Analyst, stated that this is the same language that was included in the May Board meeting packets. She stated that she used the numbers from the statistics given to draft proposed regulatory language for the Board's consideration. M/S/C (Afriat/Morrow) to accept the proposed regulatory language relevant to examination, permit, and licensure fees for dentists, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed amendments to California Code of Regulations, Title 16, §1021 as noticed in the proposed text.

Mr. Afriat commented that in § 1021 there are many sections struck and he asked if they were to be replaced somewhere. Mr. DeCuir stated that because these regulations have not been changed for 14 years, many of the stricken items either no longer exist or have been replaced by Portfolio. Mr. DeCuir stated that with the fee increase we are cleaning up the old regulatory language.

Dr. Olinger commented that the language appears to reflect the 23% maximum increase. He stated that he would rather not raise the fees the maximum in light of the fact that we received some of the loan repayment money that was owed the Board. He suggested a

smaller increase with a review in 1 or 2 years. Dr. Whitcher commented that it takes a year to get a regulatory package through.

Dr. Morrow commented that he feels the need for the Board to do more long range planning rather than crisis management. He stated that at the statutory limit of 23%, the increase is $50 per year, $100 for the biennial renewal which realistically is about the same as a night out at the movies.

The motion passed unanimously.

AGENDA ITEM 9: Update Regarding the California Dental Association's Request to Amend Regulations Pertaining to Mobile Dental Clinics *(California Code of Regulations, Title 16, §1049)*

Sarah Wallace, Legislative and Regulatory Analyst, reported that in May 2010, the California Dental Association (CDA) submitted a letter to the Board's Executive Officer, Richard DeCuir, seeking consideration of the Board to promulgate additional regulatory requirements relative to mobile dental clinics. The CDA had reviewed the Board's regulations governing mobile and portable dental providers and found the regulations lacking appropriate measures to ensure accountability and public safety. The CDA requested the issue of amending the Board's mobile dental clinic regulations be placed on the agenda for a future meeting.

At its May 2012 meeting, the Board reviewed the CDA's proposed amendments to the California Code of Regulations, Title 16, §1049 relative to mobile dental clinics. Board Legal Counsel, Kristy Shellans, commented that the proposed language would need some more work and expressed concern regarding authority, clarity, and consistency with current law and noted that the proposed exemptions look overly broad. Dr. Whitcher, Board President, appointed a subcommittee to work with staff to evaluate the CDA's proposed amendments and bring recommendations back to the Board.

The Subcommittee worked with Legal Counsel to review the CDA's proposed amendments. They found that the language proposed by the CDA would not meet the approval standards of the Office of Administrative Law (OAL). Many of the proposed amendments are not authorized by statute and would not meet the necessity and clarity standards of the Administrative Procedure Act and such proposed regulatory language would not gain the approval of the OAL.

Dr. Huong Le, subcommittee member, reported that the current regulations relate only to mobile van clinics and do not regulate dental operations using portable units therefore the proposed changes would not meet the statutory requirement. At this time the subcommittee would not recommend accepting the proposed changes. Dr. Le stated that with the upcoming reforms to healthcare there will be many school based programs where portable units are utilized. Dr. Le suggested that some regulatory changes may be needed to include these portable units. Dr. Whitcher clarified that Business and Professions Code § 1657, at one point, refers to 'mobile dental units' but it was legal counsel's opinion that the term wasn't sufficiently broad to encompass portable units. The subcommittee would therefore recommend considering a statutory change. M/S/C (Afriat/McCormick) to accept the subcommittee report and not move forward with initiating a rulemaking at this time. The motion passed unanimously.

Bill Lewis, CDA, stated that they appreciate the Board looking into this issue and they will continue to work with the Board through any means needed to facilitate change.

Dr. Morrow commented that there are additional sections in California Code of Regulations §§1049 and 1026 one of which pertains to mobile dental clinics operated by Dental Schools. He asked Legal Counsel if changing part of one section would affect all of the sections. Spencer Walker, Legal Counsel, stated that he would research these sections and report back to the Board.

AGENDA ITEM 10: Update on Pending Regulatory Packages:
Sarah Wallace, Legislative and Regulatory Analyst, reported that the Board currently has 4 regulatory packages pending. The Sponsored Free Health Care Events and Notice to Consumers have been finalized since the last meeting and submitted to the Department of Consumer Affairs (DCA), Agency and Department of Finance for approval. They both passed review at DCA and Agency. The Department of Finance should sign off on the packages within the next 30 days. Once all packages are received back they will be submitted to the Office of Administrative Law (OAL) who will have 30 working days to review and either approve or disapprove them. Upon approval, they will go into effect 30 days after submission to the Secretary of State's Office.

Ms. Wallace stated that the Abandonment of Applications package, whose intent was to split the Registered Dental Assistant in Extended Functions (RDAEF) examination and the Uniform Standards package are both in the initial stages of drafting the rulemaking documents. Both should be noticed prior to the December Board meeting.

AGENDA ITEM 11: Discussion and Possible Action Regarding Regulatory Priorities for the 2012/2013 Fiscal Year
Ms. Wallace reported that the Board and Board staff have identified twenty (20) needed regulations for the Board to consider prioritizing for FY 2012/2013. 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 2012/2013. Dr. Whitcher stated that the California Association of Dental Assisting Teachers (CADAT) requested the Dental Assisting Regulations be made a priority. CADAT may have draft language available. Dr. Whitcher may appoint a subcommittee from the Dental Assisting Council to review the draft language. Dr. Morrow and Judith Forsythe agreed that the Dental Assisting Regulations should be one of the priorities. Dr. Whitcher proposed the following list in priority order:

1. Fee Increases and Abandonment of Applications
2. Uniform Standards
3. Portfolio Regulations
4. Dental Assisting Regulations

Dr. Morrow suggested adding Foreign Dental Schools via CODA. Dr. Whitcher stated that would take a statutory change. Mr. Afriat is researching an author for that proposal.

Dr. Morrow also requested that the Board keep in mind that the Standards by which a Foreign Dental School is assessed were crafted more than 10 years ago and those need updating. Ms. Wallace suggested bringing this item to the Legislative and Regulatory

Committee for review. Dr. Whitcher requested that this be kept on the list. He stated that he will appoint a subcommittee.

M/S/C (Morrow/Afriat) to approve the list of regulatory priorities.

Tamara McNeely, CADAT, thanked the Board for prioritizing Dental Assisting Educational Regulations. She asked for a timeline so that CADAT can cooperate with the Dental Assisting Council's subcommittee in proposing language. Dr. Whitcher asked if CADAT has draft language ready to go. Ms. McNeely stated yes they do. Dr. Whitcher asked that CADAT make that draft language available to staff. Ms. McNeely agreed.

The motion passed unanimously.

AGENDA ITEM 12: Update on Actions Taken to Implement the Patient Protection and Affordable Care Act (PPACA)

Ms. Wallace reported that at this time there is limited information available as to how the PPAPC will impact dentistry. The California Health Benefit Exchange (Exchange) is an independent public entity within California state government and is comprised of five members who have been appointed by the Governor and the Legislature. The Exchange is charged with creating a new insurance marketplace in which individuals and small businesses will be able to purchase competitively priced health plans using federal tax subsidies and credits beginning in 2014. Ms. Wallace stated that there are two bills currently going to the Assembly and the Senate. Assembly bill 1453 and Senate bill 951. Both of these bills reinforce the Federal requirements for the PPACA. They establish that pediatric oral and vision care services will be included as part of the essential benefits.

Bill Lewis, California Dental Association (CDA), commented that California is the first state to implement a Health Benefit Exchange Program. He stated that the only mandate is that a pediatric oral health benefit must be offered to all participants in the Exchange. CDA is advocating that the Healthy Families/Children's Health Insurance Program (CHIP) be the benchmark oral health benefit for children. He stated that CDA has been very involved in the reassignment of Healthy Families participants to the Medi-Caid (Medi-Cal in California) oral health program.

Dr. Paul Reggiardo, California Society of Pediatric Dentistry (CSPD), commented that CSPD has been working with CDA and the Legislature in establishing the essential dental benefits package.

AGENDA ITEM 13: Subcommittee Report on DBC Workforce Data Collection - Cultural and Linguistic Competency Survey (AB 269) and OSHPD Healthcare Workforce Clearinghouse Project (SB 139)

Dr. Whitcher reported that he and Ms. Downing worked on this report along with Karen Fischer. He stated that the Dental Board (DBC) has been collecting workforce data pursuant AB 269 (Eng) since January 1, 2009. The purpose of the survey is to determine the number of dentists and licensed or registered dental auxiliaries, and their cultural and linguistic competencies. The DBC may have a role in assisting the Legislature or other entities to determine the capacity of the dental workforce to deliver care to Californians, especially those who will become eligible for Medi-Cal under the Affordable Care Act which will expand coverage up to 133% of the poverty line in 2014. In this context, the

Subcommittee was tasked to investigate the DBC's activities with respect to collecting and reporting workforce data.

Dr. Whitcher stated that given the SB 269 survey that is ongoing for new and renewing licentiates, and the DBC's participation in the OSHPD clearinghouse project, the Subcommittee does not believe it would be beneficial to institute any new data collection activities at this time. Given the breadth of the OSHPD project in particular, and it's very specific goal of providing workforce data to the Legislature, any new surveys or other data collections by the DBC may be redundant and not cost-effective. The Subcommittee recommends that the Board receive regular updates on the OSHPD project at future meetings.

AGENDA ITEM 14: Update Regarding Dental Board of California's Strategic Plan

Dr. Whitcher reported that he and staff had been reviewing options on how to proceed with updating the Dental Board of California's Strategic Plan (Plan). The DBC managers and SOLID's manager have participated in the discussions, and there is agreement that using a facilitator is beneficial to developing Board goals and objectives for the future. The Department's SOLID Training staff is experienced in strategic plan development and eager to assist us.

Staff recommends that the Board hold a one day workshop, facilitated by SOLID, in Sacramento to develop its Plan. The workshop participants would be Board and Council members along with DBC managers, and would be a public meeting that could be webcast if scheduling permits.

Several dates were discussed and it was agreed that members of the Board and Council will notify Ms. Fischer of their availability.

AGENDA ITEM 15: Discussion and Possible Action Regarding 2013 Board Meeting Dates

The Board discussed possible Board meeting dates for 2013 and agreed upon:

San Diego:	February 28 – March 1, 2013
San Francisco:	May 16 - 17, 2013
Sacramento:	August 15 - 16, 2013
Los Angeles:	November 7 - 8, 2013

AGENDA ITEM 16: Report on the July 11, 2012 meeting of the Elective Facial Cosmetic Surgery Permit Credentialing Committee; and Discussion and Possible Action to Accept Committee Recommendations for Issuance of Permits

Dr. Whitcher reported that the Elective Facial Cosmetic Surgery (EFCS) Permit Credentialing Committee met on July 11, 2012 by teleconference in seven (7) locations, including Sacramento, Poway, Redlands, Rancho Mirage, Irvine, Paso Robles, and San Diego. They welcomed him as the new EFCS Permit Credentialing Committee Board Liaison replacing Dr. Suzanne McCormick.

Dr. Whitcher reported that the Credentialing Committee reviewed one application from Dr. Monty Wilson who requested unlimited privileges for Category I (cosmetic contouring of the

osteocartilaginous facial structure, which may include, but not limited to, rhinoplasty and otoplasty) and Category II (cosmetic soft tissue contouring or rejuvenation, which may include, but not limited to, facelift, blepharoplasty, facial skin resurfacing, or lip augmentation).

Upon review, the Credentialing Committee recommended the Board issue a permit for unlimited Category I (cosmetic contouring of the osteocartilaginous facial structure, which may include, but not limited to, rhinoplasty and otoplasty) and Category II (cosmetic soft tissue contouring or rejuvenation, which may include, but not limited to, facelift, blepharoplasty, facial skin resurfacing, or lip augmentation) procedures.

M/S/C (McCormick/Morrow) to issue Dr. Monty C. Wilson, DDS, an EFCS permit in Category I and Category II procedures. The motion passed unanimously.

AGENDA ITEM 17: Enforcement Committee Report

Dr. Le reported that a quorum was established and the minutes of the May 17, 2012 meeting were approved. Dr. Le stated that Kim Trefry, Enforcement Chief, reported on program projects and improvements, stipulation to probation, peace officer standards and training compliance and the challenges the unit is experiencing due to the additional vehicle reductions. She further reported that the Supervising Investigators finalized the first ever Probation Policy and Procedure Manual. Dr. Le stated that Lori Reis, Complaint and Compliance Unit Manager reported that there were four referrals into the Diversion Program. Dr. Olinger requested that the training of staff by an oral surgeon be recorded and provided to the Board members so they can see what is being disseminated. Dr. Whitcher agreed. Ms. Trefry commented that the training wasn't a focus on his opinion of standard of care; it was an overview of that particular area of practice. Mr. DeCuir stated that he would be concerned about compromising the Board's internal policies and procedures.

AGENDA ITEM 18: Joint Meeting of the Examination Committee and the Dental Assisting Council Report

Dr. Morrow reported that roll call was taken for the Examination Committee and the Dental Assisting Council and quorums were established. The Examination Committee minutes of the May 17, 2012 meeting were approved. Dr. Morrow reported that there was beneficial and informative discussion regarding the Registered Dental Examination pass rates. The main concern was that the statistics were not improving since the implementation of the new written examination 4 months ago. The question was raised as to why the practical examination pass rates are so much higher. The Joint Committee and Council approved a recommendation to the Board to investigate those factors that might be contributing to the low passing scores on the written examination and to report those findings to the Board at a future meeting. M/S/C (Forsythe/ Afriat) to accept the report and approve the recommendation of the Joint Committee and Council to investigate those factors that might be contributing to the low passing scores on the written examination and to report those findings to the Board at a future meeting. The motion passed unanimously.

AGENDA ITEM 19: Update on Portfolio Licensure Examination for Dentistry *(AB 1524, Stats 2010 ch 446)*

Dr. Roberta Chinn, Consultant on the Portfolio Project, reported that they began defining the grading criteria and the case selection criteria earlier this year. This process was recently completed. A first draft of the Candidate Handbook has been completed which explains all the parameters of the Portfolio exam. She is currently working on an Examiner Training Manual. She stated that at this point an Examiner Training Manual with examples needs to be created.

Dr. Chinn outlined the schedule:

Complete the Examiner Training Manual	10/ 2012
Finalize Examiner Training Tools	12/2012
Determine Documentation & Audit Process for Examination	1&2/2013
Pre-Testing Begins	2/2013

Dr. Morrow commented that he has sent out an email to the participating faculty at all 6 schools requesting their assistance in obtaining the clinical images needed for the training manual.

Dr. Chinn stated that the next step after completion of the previous project is the regulatory process. She stated that she will provide the Board with a turnkey package so that they can begin drafting regulations.

Bill Lewis, California Dental Association, asked if regulations can begin while some of Dr. Chinn's remaining elements are still underway or must we wait until everything is completed?

Spencer Walker, Legal Counsel, answered no, it can't be done piecemeal because it is a lengthy process to make amendments once it is filed with the Office of Administrative Law.

Dr. Morrow stated that he thought the Board could start an initial draft of regulations using the language that was part of the Bill.

Dr. Whitcher appointed a subcommittee of Dr. Morrow and Dr. Casagrande to work on the Portfolio regulations.

AGENDA ITEM 20: Dental Assisting Council Report

Judith Forsythe, Dental Assisting Council Chair, reported that the minutes from the May 17, 2012 Dental Assisting Council meeting were approved. She stated that Ms. Johnson gave an update on the program statistics. Five additional Subject Matter Consultants were added bringing the total to six with one having recently retired. This will ultimately eliminate the application backlog.

After review of the roles and responsibilities of the Dental Assisting Council relating to assigning specific procedures for the Registered Dental Assistant (RDA) practical examination, the Council recommends that the Board continue examining the same procedures currently being tested for the Registered Dental Assistant practical examination.

After review of the roles and responsibilities of the Dental Assisting Council relating to assigning specific procedures for the Registered Dental Assistant in Extended Functions (RDAEF) examination, the Council recommends that the Board continue examining the same procedures currently being tested for the Registered Dental Assistant in Extended Functions examination.

M/S/C (McCormick/Olinger) to accept the Council recommendations and report. The motion passed unanimously.

Spencer Walker, Legal Counsel, commented that Public Comment does not need to be taken after the Committee reports are given as it was already taken after the Committee meetings.

Dr. Whitcher mentioned that on the RDAEF Survey, the RDAEF I and RDAEF II numbers were lumped together which skewed the survey results.

Dr. Morrow recalled the Examination Committee report to add that Dr. McCormick reported on the reorganizational structure of the WREB organization and that the current WREB pass rate is 85%.

M/S/C (Olinger/Afriat) to reconsider the Joint Examination Committee and Dental Assisting Council report. The motion passed unanimously.

M/S/C (Afriat/Morrow) to accept the Joint Examination Committee and Dental Assisting Council report. The motion passed unanimously.

Dr. Whitcher appointed a subcommittee from the Dental Assisting Council of Anne Contreras and Emma Ramos to work with staff on the proposed Dental Assisting Regulations pertaining to Radiation Safety and bring comments back to the Board.

AGENDA ITEM 21: Legislative and Regulatory Committee Report

In the absence of Committee Chair Fran Burton, Mr. Afriat, vice-Chair, reported that a quorum was established and the minutes from the May 17, 2012 Legislative and Regulatory Committee meeting were approved. The committee discussed 5 bills:

AB 1588 – No action was taken on this bill. Staff reported that the Board took a position of support if amended at the May 2012 Board meeting. Amendments were made and a letter of support was sent in July.

AB 1976 – The Committee wanted to change to a support position. The bill is dead.

SB 694 – No action was taken on this bill. The bill was held in the Appropriations Committee suspense file. The bill's sponsors will be in contact with staff regarding the bill's future. Maintain current watch position.

SB 1202 – No action was taken on this bill. Dr. Olinger requested that staff seek clarification as to whether the scope of practice would change if RDHAP's are allowed to own mobile dental clinics. Staff contacted the author's office and sponsor's legislative advocate. Staff was assured that the ability to own mobile dental clinics would not impact the scope of practice. Maintain watch position.

SB 1575 – The Board took an oppose position unless Code §§1715.5 and 1950.5 are amended at the May 2012 meeting. Staff worked with the Senate B & P Committee and the Board's concerns have been addressed amending that the Board shall change from an opposed to a watch position.

Mr. Afriat reported that now that the Universidad DeLaSalle Bajio's renewal application has been approved, the Board will seek an author for the Foreign Dental School proposed statutory amendments.

Mr. Afriat reported that the Committee voted to have Board staff review the feasibility of proposing statutory or regulatory changes to require application to the Dental Board for granting an exemption to California licensure for non-California licensed dentists while appearing and operating as bona fide clinicians or instructors in dental colleges approved by the Dental Board of California.

M/S/C (Afriat/Morrow) to accept the committee's recommendation to support AB 1976. The motion passed unanimously.

M/S/C (Afriat/Morrow) to accept the committee's recommendation to change to a watch position for SB 1575. The motion passed unanimously.

Dr. Olinger commented that it is his opinion that the Board should not approve foreign Dental Schools. That should only be done by CODA or another agency approved by the Board. He advises clean-up language. Dr. Olinger asked that this be agendized at a future Board meeting.

Mr. DeCuir explained that the language mirrors the language used for the California schools and if it is changed, it will also need to be changed for the California schools. It was purposely written as is.

M/S/C (Afriat/Le) to agendize discussion of Foreign Dental School accreditation language at a future meeting and accept the Legislative and Regulatory Committee report. The motion passed with one opposition.

AGENDA ITEM 22: Licensing, Certification & Permits Committee Report

Dr. Olinger, chair, reported that during Closed Session the Licensing, Certification and Permits Committee considered 3 applications for re-issuance of a license to replace a cancelled license. Two were for Registered Dental Assistants and one was for a dentist.

M/S/C (Olinger/Forsythe) to reissue license to replace cancelled license to applicant EH. The motion passed unanimously.

M/S/C (Olinger/Forsythe) to reissue a license to replace cancelled license to applicant CG. The motion passed unanimously

M/S/C (Olinger/Afriat) to reissue a license to replace cancelled license to applicant DG. The motion passed unanimously.

DRAFT

Dr. Olinger reported that a quorum was established and the minutes from the May 17, 2012 Licensing, Certification and Permits Committee meeting were approved. He stated that program licensure and permit statistics were reviewed. Dr. Whitcher commented that the General Anesthesia evaluations are going well but the Conscious Sedation evaluations are falling behind due to lack of evaluators. He noted that it is the Board's prerogative, under Business & Professions code §1647.7, to require an evaluation prior to issuance of a permit. He feels that we aren't at that point yet but the Board may want to consider the public's safety as these permit holders are currently practicing before they have had an evaluation.

PUBLIC COMMENT

Bill Lewis, California Dental Association, commented that CDA Cares is next week and volunteers are still needed.

The meeting adjourned at 12:02 p.m.

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Teleconference Meeting of the Dental Board of California
Meeting Minutes
Wednesday, October 24, 2012
DRAFT

Members Present:
Bruce Whitcher, DDS, President
Huong Le, DDS, Vice President
Fran Burton, Public Member, Secretary
Stephen Casagrande, DDS
Luis Dominicis, DDS
Rebecca Downing, Public Member
Suzanne McCormick, DDS
Steven Morrow, DDS
Thomas Olinger, DDS

Members Absent
Steve Afriat, Public Member
Judith Forsythe, RDA

Staff Present:
Denise Johnson, Assistant Executive Officer
Kim Trefry, Enforcement Chief
Nancy Butler, Supervising Investigator
Karen Fischer, Special Assistant to the Executive Officer
Linda Byers, Executive Assistant
Paula Fernandez, Personnel Analyst
Sharon Langness, Dental Assisting Analyst
Dawn Dill, Licensing Manager
Karen Dunn, Senior Investigator
Spencer Walker, Senior Legal Counsel
Jeff Sears, DCA Personnel Officer
Sheila Braverman, DCA Classification and Pay Analyst

TELECONFERENCE LOCATIONS WITH PUBLIC ACCESS:

Dental Board of California Offices:
2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
333 S. Anita Drive, Basement Conference Room, Orange, CA 92780

Other Locations:
4107 Magnolia Blvd., Burbank, CA 91505
8202 Florence Avenue, Suite 101, Downey, CA 90240
8375 University Avenue, La Mesa, CA 91941
355 Santa Fe Drive, Ste. 100, Encinitas, CA 92024
345 9th Street, Ste. 302, Oakland, CA 94607

Board President Bruce Whitcher, DDS called the meeting to order at 12:01p.m. Roll was called and a quorum was established. Teri Lane and Vicki Williams, Supervising Investigators at the Dental Board's Southern California office were in attendance. There were no public members in attendance at any of the teleconference locations.

Agenda Item 1 - Presentation by the Department of Consumer Affairs' Office of Human Resources Regarding the Selection and Recruitment Process for the Executive Officer of the Dental Board of California

Jeff Sears, the Department of Consumer Affairs Personnel Officer reported that the Office of Human Resources (OHR) is happy to assist the Dental Board during the recruitment and selection process for the Executive Officer. He stated that the Dental Board will make the decisions with OHR acting as a resource and consultants in the process along with Spencer Walker the Board's legal counsel. Mr. Sears stated that in order to begin the process, the Board would need to establish a two-member Selection Committee and set the limits of the Selection Committee's authority. Additionally, he explained that the Board may want to determine the recruitment period and the method and length of time for advertising or the Board may delegate that decision to the Selection Committee. Mr. Sears remarked that because the Board cannot pay travel expenses for candidates, the initial interviews are typically done via telephone. If the Board and Selection Committee prefers, OHR can do the initial screening of applications. Once the Selection Committee has reviewed and narrowed down the applicants, the Board will conduct final interviews of the top five (5) or six (6) candidates in Closed Session and make their selection. The OHR will provide sample questions and participate if the Board desires.

Agenda Item 2 - Discussion and Possible Action Regarding the Selection and Recruitment Process of the Executive Officer of the Dental Board of California

Dr. Whitcher suggested that the recruitment advertisement be run for thirty days initially and extended if necessary. The other Board members agreed. He also suggested that the recruitment advertisement be placed on Monster.com, Jobs.com and the State Personnel Board's (SPB) website. M/S/C (Downing/McCormick) to delegate authority to the Selection Committee to determine scope of advertising. A roll call vote was taken and the motion passed unanimously. Dr. Le asked Mr. Sears what the optimum number of applications would be before the recruitment ad was stopped. Mr. Sears suggested that approximately thirty (30) would be a good number but not mandatory.

Mr. Sears commented that the roll of the Selection Committee is critical and the members must be extremely committed and willing to put in the time necessary to make the process successful. Dr. Morrow nominated Dr. Whitcher and Rebecca Downing. Dr. Whitcher accepted the nomination. Ms. Downing declined the nomination. Dr. Casagrande nominated Fran Burton who accepted the nomination. Dr. Whitcher appointed himself and Fran Burton to the two-member Selection Committee.

Dr. Whitcher proposed that the job advertisement be posted on the SPB website as soon as possible to run for thirty days initially and extended if necessary. M/S/C (Downing/Le) to delegate authority to the Selection Committee to extend the advertising period if necessary. A roll call vote was taken and the motion passed unanimously.

Dr. Morrow suggested that the Selection Committee be responsible for reviewing initial applications and conducting initial interviews either by phone or in person, and submitting

those candidates that the Selection Committee deems most qualified for the Board's consideration. Mr. Sears asked if the Full Board or the Selection Committee would be making necessary changes to the Job Announcement. It was agreed that the Selection Committee would make any changes necessary to the Job Announcement. Dr. Whitcher proposed a goal of having a finalist list for the February 2013 Board Meeting. Mr. Sears commented that he thinks it is feasible to close the Job Announcement at the end of December 2012, conduct initial interviews in January 2013 and have a list of final candidates for the February 2013 Board Meeting.

Agenda Item 3 - Review and Possible Action to Revise the Duty Statement of the Executive Officer of the Dental Board of California

Dr. Whitcher suggested adding Dental Assisting to the Duty Statement. Denise Johnson, Assistant Executive Officer pointed out that the number of Board members on the Duty Statement needs to be changed to 15. Dr. Morrow suggested adding the word "attends" to the portion of the Duty Statement pertaining to coordinating and managing Board Meetings. Mr. Sears recommends that his staff make the necessary changes to the Duty Statement and present it to the Selection Committee upon completion. M/S/C (McCormick/Olinger) to allow the OHR to make the necessary changes to the Duty Statement and give it to the Selection Committee upon completion. A roll call vote was taken and the motion passed unanimously.

Agenda Item 4 - Employment of Retired Annuitants

Mr. Sears reported that the Governor has instructed the State to reduce the number of temporary employees including Retired Annuitants. The Department of Consumer Affairs (DCA) has reduced its numbers from 200 down to 80. It is the intention of DCA to maintain this number but there is a process by which a Retired Annuitant may be approved. The Executive Officer may request approval for a specific classification to do specific work within a specific timeframe. The OHR reviews the requests and makes recommendations to the Director of DCA who, if she agrees, takes it to the State and Consumer Services Secretary who authorizes or denies the requests for the Governor. There has been some success in obtaining additional Retired Annuitants but there is no guarantee. Approvals are based on the nature of the request and only mission critical tasks are considered. Fran Burton asked what the timeline is for these approvals. Mr. Sears stated that the Director meets with the Agency Secretary every other week. The Executive Officer hires the Retired Annuitants so the task would fall to the Interim Executive Officer after December 4, 2012 with the Board's input.

***CLOSED SESSION**

*Pursuant to Government Code §11126(a)(1), the Board convened in closed session to discuss the selection process and possible appointment of an Interim Executive Officer.

RETURN TO OPEN SESSION TO ANNOUNCE THE RESULTS OF CLOSED SESSION

The Board returned to Open Session and announced that they had appointed an Interim Executive Officer which would be announced upon the return of the current Executive Officer, to fill the vacancy effective December 5, 2012.

PUBLIC COMMENT

There was no public comment.

The meeting adjourned at 1:15 p.m.

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MEMORANDUM

DATE	October 29, 2012
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant Dental Board of California
SUBJECT	**Agenda Item 6:** President's Report

Dr. Bruce Whitcher, Board President, will give a verbal report.

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MEMORANDUM

DATE	October 29, 2012
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant Dental Board of California
SUBJECT	**Agenda Item 7:** Executive Officer's Report

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

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MEMORANDUM

DATE	October 29, 2011
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant Dental Board of California
SUBJECT	**Agenda Item 8:** Election of Dental Board of California Officers

Business and Professions Code, Section 1606: Election of Officers
"The board shall elect a president, a vice president and a secretary from its membership. This section controls over the provisions of section 107 of this code with respect to the selection of officers."

The 2006 Board adopted policy on election of officers is attached and reads:

"Election of Officers
It is board policy to elect officers at the final meeting of the calendar year for service during the next calendar year, unless otherwise decided by the board."

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MEMORANDUM

DATE	October 29, 2012
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant Dental Board of California
SUBJECT	**Agenda Item 9:** Update from the Department of Consumer Affairs Executive Office

A Representative from the Department of Consumer Affairs Executive Office will provide a verbal report.

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MEMORANDUM

DATE	October 29, 2012
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant Dental Board of California
SUBJECT	**Agenda Item 10:** Dental Hygiene Committee of California (DHCC) Activities Update

The Dental Hygiene Committee of California (DHCC) will not be able to participate in this Board meeting because the DHCC is holding its meeting in Sacramento on the same day as the Dental Board meeting.

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MEMORANDUM

DATE	November 21, 2012
TO	Dental Board Members
FROM	Richard DeCuir, Executive Officer Dental Board of California
SUBJECT	**Agenda Item #11: Budget Report: Dentistry Expenditures & Dental Assisting Program Expenditures**

For Fiscal Year (FY) 2012-13, the Board's budget is broken into two separate appropriation accounts which together total a Board appropriation of $13,140,000 [$11,410,000 (Dentistry Fund) + $1,730,000 (Dental Assisting Fund) = $13,140,000 (Total Board Appropriation)].

The following documents are intended to provide an expenditure summary of the current fiscal year for the Dentistry and Dental Assisting funds. In addition, I have enclosed documents that we call Fund Conditions, which project the Board's fiscal solvency in each fund for our current and future fiscal years. For the Dental Assisting Fund, I have also attached a letter from Senior Assistant Attorney General Alfredo Terrazas to Department of Consumer Affairs Director Denise Brown confirming the temporary suspension of processing of low priority dental assisting enforcement cases.

The specifics surrounding the Board's two appropriations and expenditures are as follows:

Dentistry

The Board's Dentistry expenditures is based upon the September CALSTARS report that came out in October 2012. According to that report, the Board has spent roughly $2.6 million of its (FY) 2012-13 Dentistry budget appropriation. Approximately $1.2 million of the expenditures is Personnel Services, and roughly $1.3 million of the expenditures is Operating Expense & Equipment (OE&E). Based on these expenditures, the Board is projected to revert back to the Dentistry Fund approximately $560,000.

Also attached are Fund Conditions which are intended to project future revenues, expenditures, and balances. You will note that the Dentistry Fund Condition includes repayment of the remaining $2.7 million outstanding loan repayment split into multiple fiscal years; $1.35 million in (FY) 2013-14, and $1.35 million in (FY) 2014-15.

(At the end of Fiscal Year (FY) 2011-12, the Dentistry Fund was repaid $1.7 million of the $4.4 million outstanding loan repayment.) Based on the fund condition analysis, the Dental Board will end (FY) 2014-15 with a **negative balance** of $2,545 million. However, this does not take into account the Dental Board fee increase for licensure that is projected to take place within the next twelve (12) to eighteen (18) months. Underexpenditures which have been averaging approximately $1million/year are also not factored into these projections.

Dental Assisting

For Dental Assisting, the Board requested an update of Dental Assisting expenditures based on the October CALSTARS report that came out in November 2012. According to this report, the Board has spent roughly $644,000 of its current year budget appropriation. Approximately $181,000 of the expenditures is Personnel Services, and roughly $463,000 of the expenditures is Operating Expense & Equipment. Due to the enormous increase in Attorney General (AG) Expenditures for Dental Assisting, the Board is not projecting a reversion back to the Dental Assisting Fund. In fact, the current year expenditure report has projected an over expenditure of approximately $170,000. The primary reason for the continued over expenditure is the Attorney General line item. For the last fiscal year the Board's AG budget was approximately $60,000, while the actual expenditures exceeded $255,000. For the current year, the Board's Dental Assisting budget is approximately $67,000. Projected expenditures are estimated at $270,000. [*NOTE: As you all know, there is a provision in the Government Code that specifies that if the Executive Officer knowingly overspends his/her budget, he/she can be held professionally and personally liable. (Something neither Karen Fischer nor I intend to see occur)]*. We, therefore, have taken steps to ensure that we spend within our total authorization including minimizing overtime unless absolutely necessary and mission critical, and more importantly, suspending the AG processing of dental assisting cases, except priority cases. Attached is the letter referenced above from Alfredo Terrazas confirming this temporary suspension. Karen and I have also been in contact with the Department of Consumer Affairs Budget Office and Department of Finance to secure a current year budget augmentation to cover the projected AG expenditures. This augmentation could take 30-90 days to secure. If approved, the suspension will be lifted.

Karen and I will provide you all with a further explanation at the Board meeting.

DENTISTRY

DENTAL BOARD - 0741
BUDGET REPORT
FY 2012-13 EXPENDITURE PROJECTION

September 30, 2012

OBJECT DESCRIPTION	FY 2011-12 ACTUAL EXPENDITURES (MONTH 13)	FY 2011-12 PRIOR YEAR EXPENDITURES 9/30/2011	FY 2012-13 BUDGET STONE 2012-13	FY 2012-13 CURRENT YEAR EXPENDITURES 9/30/2012	FY 2012-13 PERCENT SPENT	FY 2012-13 PROJECTIONS TO YEAR END	FY 2012-13 UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	3,270,234	765,338	**3,506,376**	815,942	23%	**3,433,746**	72,630
Statutory Exempt (EO)	102,012	24,705	**103,608**	24,705	24%	**102,012**	1,596
Temp Help (Expert Examiners)	0		**40,000**		0%		40,000
Physical Fitness Incentive	5,330	975		1,300		**5,400**	(5,400)
Temp Help Reg (907)	185,150	48,204	**222,403**	50,293	23%	**187,000**	35,403
Temp Help (Exam Proctors)	0		**45,447**		0%	**0**	45,447
Board Member Per Diem (901, 920)	16,500	2,800	**45,950**	800	2%	**16,800**	29,150
Committee Members (911)	4,300	1,000	**58,686**	800	1%	**5,000**	53,686
Overtime	34,558	6,696	**25,208**	13,166	52%	**38,000**	(12,792)
Staff Benefits	1,443,263	350,849	**1,759,409**	369,140	21%	**1,553,460**	205,949
Salary Savings	0		**0**			**0**	0
TOTALS, PERSONNEL SVC	5,061,347	1,200,567	**5,807,087**	**1,276,146**	**22%**	**5,341,417**	465,670
OPERATING EXPENSE AND EQUIPMENT							
General Expense	123,774	16,347	**75,086**	26,010	35%	**138,000**	(62,914)
Fingerprint Reports	24,978	3,294	**25,777**	5,096	20%	**25,000**	777
Minor Equipment	64,450	1,510	**16,600**		0%	**65,000**	(48,400)
Printing	40,384	18,154	**42,502**	12,622	30%	**68,000**	(25,498)
Communication	41,558	1,728	**33,670**	7,321	22%	**59,000**	(25,330)
Postage	69,066	13,780	**59,791**	14,555	24%	**75,000**	(15,209)
Insurance	2,027		**2,100**		0%	**2,027**	73
Travel In State	110,677	12,500	**109,309**	11,575	11%	**129,000**	(19,691)
Training	6,434	717	**7,148**	1,750	24%	**6,500**	648
Facilities Operations	385,214	376,218	**360,656**	348,808	97%	**400,000**	(39,344)
C & P Services - Interdept.	50,623	45,828	**102,086**	45,055	44%	**59,000**	43,086
C & P Services - External	233,510	213,919	**241,146**	176,094	73%	**264,000**	(22,854)
DEPARTMENTAL SERVICES:							
Departmental Pro Rata	436,830		**511,106**	129,960	25%	**511,106**	0
Admin/Exec	537,230		**630,748**	161,518	26%	**630,748**	0
Interagency Services	0		**881**		0%	**881**	0
DOI-ProRata Internal	18,178		**25,531**	6,458	25%	**25,531**	0
Public Affairs Office	36,306		**36,456**	9,231	25%	**36,456**	0
CCED	39,178		**43,893**	11,091	25%	**43,893**	0
INTERAGENCY SERVICES:							
Consolidated Data Center	26,960		**17,517**	2,490	14%	**27,000**	(9,483)
DP Maintenance & Supply	32,846	1,565	**11,366**		0%	**33,000**	(21,634)
Central Admin Svc-ProRata	413,261	103,315	**506,464**	126,616	25%	**506,464**	0
EXAMS EXPENSES:							
Exam Supplies	0		**43,589**		0%	**0**	43,589
Exam Freight	0		**166**		0%	**0**	166
Exam Site Rental	0		**244,586**		0%	**0**	244,586
C/P Svcs-External Expert Administration	231,504	129,765	**6,709**	30,131	449%	**203,692**	(196,983)
C/P Svcs-External Expert Examiners	0		**238,248**		0%	**0**	238,248
C/P Svcs-External Subject Matter	76					**100**	
OTHER ITEMS OF EXPENSE:	10,511		**661**	3,446	521%	**13,000**	(12,339)
Awarded Attorney Fee							
ENFORCEMENT:							
Attorney General	1,380,916	255,893	**1,778,310**	162,221	9%	**1,562,935**	215,375
Office Admin. Hearings	297,050	22,998	**406,720**	3,722	1%	**300,000**	106,720
Court Reporters	23,256	4,186		315		**24,000**	(24,000)
Evidence/Witness Fees	513,135	70,251	**243,959**	36,989	15%	**520,000**	(276,041)
Vehicle Operations	54,331	6,680	**9,055**	4,332	48%	**54,000**	(44,945)
Major Equipment	8,493		**38,000**		0%	**8,493**	29,507
TOTALS, OE&E	5,212,756	1,298,648	**5,869,836**	1,337,406	23%	**5,791,826**	78,110
TOTAL EXPENSE	10,274,103	2,499,215	**11,676,923**	2,613,552	45%	**11,133,243**	543,780
Sched. Reimb. - Fingerprints	(24,483)	(3,009)	**(53,000)**	(4,753)	9%	**(53,000)**	0
Sched. Reimb. - Other	(12,255)	(2,410)	**(214,000)**	(2,665)	1%	**(230,000)**	16,000
Unsched. Reimb. - External/Private	(40,207)	(9,920)		(10,788)			0
Probation Monitoring Fee - Variable	(89,868)	(20,873)		(18,052)			0
Invest Cost Recover FTB Collection	(50)						0
Unsched. Reimb. - Other	(240,470)	(42,222)		(45,637)			0
NET APPROPRIATION	9,866,770	2,420,781	**11,409,923**	2,531,657	22%	**10,850,243**	**559,780**
						SURPLUS/(DEFICIT):	**4.9%**

0741 - Dental Board of California
Analysis of Fund Condition

Prepared 10/17/12

(Dollars in Thousands)

NOTE: $2.7 Million General Fund Repayment Outstanding

		Actual 2011-12	CY 2012-13	Governor's Budget BY 2013-14	BY+1 2014-15
BEGINNING BALANCE		$ 6,087	$ 6,180	$ 2,495	$ 66
Prior Year Adjustment		$ 73	$ -	$ -	$ -
Adjusted Beginning Balance		$ 6,160	$ 6,180	$ 2,495	$ 66
REVENUES AND TRANSFERS					
Revenues:					
125600	Other regulatory fees	$ 26	$ 28	$ 26	$ 26
125700	Other regulatory licenses and permits	$ 709	$ 738	$ 738	$ 738
125800	Renewal fees	$ 7,180	$ 7,166	$ 7,208	$ 7,208
125900	Delinquent fees	$ 74	$ 73	$ 74	$ 74
131700	Misc. Revenue from Local Agencies	$ -	$ -	$ -	$ -
141200	Sales of documents	$ -	$ -	$ -	$ -
142500	Miscellaneous services to the public	$ -	$ -	$ -	$ -
150300	Income from surplus money investments	$ 21	$ 7	$ -	$ -
150500	Interest Income From Interfund Loans	$ 210	$ -	$ -	$ -
160400	Sale of fixed assets	$ -	$ -	$ -	$ -
161000	Escheat of unclaimed checks and warrants	$ 4	$ -	$ -	$ -
161400	Miscellaneous revenues	$ 2	$ -	$ -	$ -
164300	Penalty Assessments	$ -	$ -	$ -	$ -
Totals, Revenues		$ 8,226	$ 8,012	$ 8,046	$ 8,046
Transfers from Other Funds					
F00001	Repayment Per Item 1250-011-0741, Budget Act of 2003	$ 1,700	$ -	$ -	$ -
F00683	Teale Data Center (CS 15.00, Bud Act of 2005)				
	Loan Repayment 2013-14			$ 1,350	$ 1,350
Totals, Revenues and Transfers		$ 9,926	$ 8,012	$ 9,396	$ 9,396
Totals, Resources		$ 16,086	$ 14,192	$ 11,891	$ 9,462
EXPENDITURES					
Disbursements:					
0840 State Controller (State Operations)		$ 12	$ 11		
8880 Financial Information System of California (State Operations)		$ 27	$ 9		
1110 Program Expenditures (State Operations)		$ 9,867	$ 11,677	$ 11,772	$ 12,007
Total Disbursements		$ 9,906	$ 11,697	$ 11,825	$ 12,007
FUND BALANCE					
Reserve for economic uncertainties		$ 6,180	$ 2,495	$ 66	$ -2,545
Months in Reserve		6.3	2.5	0.1	-2.5

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2012-13 AND ON-GOING.

B. ASSUMES INTEREST RATE AT .30%.

C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

DENTAL ASSISTING

DENTAL ASSISTING PROGRAM - 3142
BUDGET REPORT
FY 2012-13 EXPENDITURE PROJECTION

October 31, 2012

OBJECT DESCRIPTION	FY 2011-12 ACTUAL EXPENDITURES (MONTH 13)	FY 2011-12 PRIOR YEAR EXPENDITURES 10/31/2011	FY 2012-13 BUDGET STONE 2012-13	FY 2012-13 CURRENT YEAR EXPENDITURES 10/31/2012	FY 2012-13 PERCENT SPENT	FY 2012-13 PROJECTIONS TO YEAR END	FY 2012-13 UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	286,169	76,899	**373,880**	104,058	28%	**344,219**	29,661
Statutory Exempt (EO)			**0**			**0**	0
Temp Help (Expert Examiners)							0
Temp Help (Consultants)							0
Physical Fitness Incentive	0		**158**	1,603	1015%	**1,603**	(1,445)
Temp Help Reg (907)							0
Temp Help (Exam Proctors)	196					**200**	(200)
Board Member Per Diem (901, 920)	1,500					**1,500**	(1,500)
Overtime	37,524	5,449		10,107		**37,500**	(37,500)
Staff Benefits	152,711	38,862	**200,224**	65,358	33%	**216,201**	(15,977)
Salary Savings	0		**0**			**0**	0
TOTALS, PERSONNEL SVC	478,100	121,210	**574,262**	**181,126**	**32%**	**601,223**	(26,961)
OPERATING EXPENSE AND EQUIPMENT							
General Expense	5,438	1,946	**40,387**	2,286	6%	**5,500**	34,887
Fingerprint Reports	0		**7,780**	0	0%	**0**	7,780
Minor Equipment			**0**			**0**	0
Printing	23,470	6,226	**19,001**	1,192	6%	**23,500**	(4,499)
Communication	95	10	**9,500**	9	0%	**100**	9,400
Postage	21,004	5,809	**35,991**	7,703	21%	**21,000**	14,991
Insurance			**0**			**0**	0
Travel In State	52,494	8,035	**28,056**	26,034	93%	**52,500**	(24,444)
Training	0		**4,119**	0	0%	**0**	4,119
Facilities Operations	35,866	34,978	**63,950**	31,515	49%	**37,609**	26,341
C & P Services - Interdept.	0		**288,439**	0	0%	**133,613**	154,826
C & P Services - External	0	15,000	**12,532**	14,825	118%	**14,825**	(2,293)
DEPARTMENTAL SERVICES:							
OIS ProRata	165,801	54,326	**205,397**	104,390	51%	**205,397**	0
Admin/Exec	74,232	25,969	**76,639**	39,446	51%	**76,639**	0
Interagency Services	0		**72,554**	0	0%	**72,554**	0
IA w/ OER	29,408		**0**	37,208		**37,208**	(37,208)
DOI-ProRata Internal	2,500	1,015	**3,105**	1,576	51%	**3,105**	0
Public Affairs Office	4,993	2,041	**4,391**	2,230	51%	**4,391**	0
CCED	5,172	1,240	**5,321**	2,698	51%	**5,321**	0
INTERAGENCY SERVICES:							0
Consolidated Data Center	0		**1,576**	0	0%	**0**	1,576
DP Maintenance & Supply	0		**1,369**	0	0%	**0**	1,369
Statewide ProRata	73,015	18,254	**69,192**	17,298	25%	**69,192**	0
EXAMS EXPENSES:							
Exam Supplies	9,853		**3,946**	1,961	50%	**9,900**	(5,954)
Exam Site Rental - State Owned	26,010	8,800		13,005		**26,000**	(26,000)
Exam Site Rental - Non State Owned	46,495	29,845	**69,939**	20,010	29%	**47,000**	22,939
C/P Svcs-External Expert Administration	10,860	1,050	**30,877**	1,355	4%	**12,000**	18,877
C/P Svcs-External Expert Examiners	0		**47,476**	0	0%	**0**	47,476
C/P Svcs-External Subject Matter	177,084	76,419		51,357		**177,000**	(177,000)
OTHER ITEMS OF EXPENSE:	0		**285**	0	0%	**0**	285
ENFORCEMENT:							
Attorney General	257,788	56,410	**67,536**	86,685	128%	**269,500**	(201,964)
Office Admin. Hearings	0		**2,740**	0	0%	**0**	2,740
Court Reporters						**0**	0
Evidence/Witness Fees	0		**87**	0	0%	**0**	87
Vehicle Operations			**0**			**0**	0
Major Equipment			**0**			**0**	0
TOTALS, OE&E	1,021,578	347,373	**1,172,185**	462,783	39%	**1,303,854**	(131,669)
TOTAL EXPENSE	1,499,678	468,583	**1,746,447**	643,909	71%	**1,905,077**	(158,630)
Sched. Reimb. - Fingerprints	(1,690)	(153)	**(13,000)**	(686)	5%	**(1,700)**	(11,300)
Sched. Reimb. - Other	(1,205)	(470)	**(3,000)**	(235)	8%	**(1,200)**	(1,800)
NET APPROPRIATION	1,496,783	467,960	**1,730,447**	642,988	37%	**1,902,177**	**(171,730)**
						SURPLUS/(DEFICIT):	**-9.9%**

3142 - Dental Assistant Program
Analysis of Fund Condition

Prepared 11/15/12

(Dollars in Thousands)

Galley I

	Actual 2011-12	CY 2012-13	Governor's Budget BY 2013-14	BY + 1 2014-15	BY + 2 2015-16
BEGINNING BALANCE	$ 2,263	$ 2,445	$ 2,360	$ 2,208	$ 2,019
Prior Year Adjustment	$ 49	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ 2,312	$ 2,445	$ 2,360	$ 2,208	$ 2,019
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	$ 16	$ 16	$ 15	$ 15	$ 15
125700 Other regulatory licenses and permits	$ 306	$ 327	$ 343	$ 343	$ 343
125800 Renewal fees	$ 1,224	$ 1,227	$ 1,228	$ 1,228	$ 1,228
125900 Delinquent fees	$ 73	$ 65	$ 65	$ 65	$ 65
141200 Sales of documents	$ -	$ -	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ -	$ -	$ -	$ -	$ -
150300 Income from surplus money investments	$ 10	$ 7	$ 7	$ 6	$ 5
160400 Sale of fixed assets	$ -	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ 1	$ 1	$ 1	$ 1	$ 1
161400 Miscellaneous revenues	$ 4	$ 4	$ 4	$ 4	$ 4
164300 Penalty Assessments	$ -	$ -	$ -	$ -	$ -
Totals, Revenues	$ 1,634	$ 1,647	$ 1,663	$ 1,662	$ 1,661
Totals, Revenues and Transfers	$ 1,634	$ 1,647	$ 1,663	$ 1,662	$ 1,661
Totals, Resources	$ 3,946	$ 4,092	$ 4,023	$ 3,870	$ 3,680
EXPENDITURES					
Disbursements:					
0840 State Controller (State Operations)	$ 2	$ 2	$ -	$ -	$ -
8880 Financial Information System for CA (State Operations)	$ 2				
1110 Program Expenditures (State Operations)	$ 1,497	$ 1,730	$ 1,815	$ 1,851	$ 1,888
Total Disbursements	$ 1,501	$ 1,732	$ 1,815	$ 1,851	$ 1,888
FUND BALANCE					
Reserve for economic uncertainties	$ 2,445	$ 2,360	$ 2,208	$ 2,019	$ 1,791
Months in Reserve	16.9	15.6	14.3	12.8	11.2

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2012-13 AND ONGOING.

B. ASSUMES INTEREST RATE AT .30%.

C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
DENTAL BOARD OF CALIFORNIA
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MEMORANDUM

DATE	November 19, 2012
TO	Dental Board of California
FROM	Sarah Wallace, Legislative and Regulatory Analyst Dental Board of California
SUBJECT	**Agenda Item 12:** Update Regarding the Dental Board of California (DBC) and Dental Hygiene Committee of California (DHCC) Annual Review of the Minimum Standards for Infection Control.

Dr. Whitcher, Dental Board President, and Alex Calero, Dental Hygiene Committee of California (DHCC) President, have appointed members to a subcommittee to review and provide recommendations to the DHCC, Dental Assisting Council, and the Board regarding the annual review of the Minimum Standards for Infection Control. (California Code of Regulations, Title 16, Section1005)

The subcommittee members and assigned staff are as follows:

Huong Le, DDS – DBC Member
Noel Kelsch, RDHAP – DHCC Member
Denise Romero, RDA – Dental Assisting Council Member
Lori Hubble, DHCC Executive Officer
Sarah Wallace, Dental Board Legislative/Regulatory Analyst

Subcommittee members were provided with a copy of the current regulatory text. They were asked to review it, note any questions, comments and concerns, and to email those comments to Sarah Wallace so that a subcommittee working document can be developed. A preliminary review of the Center for Disease Control (CDC) Guidelines for Infection Control indicates that there have not been any new recommendations regarding infection control in the dental setting.

Staff will contact the subcommittee after the holidays to schedule a teleconference meeting sometime mid to late January 2013 to discuss the review and how to move forward.

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MEMORANDUM

DATE	August 29, 2012
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant Dental Board of California
SUBJECT	**Agenda Items 13-17:** Committee Reports

The Committee Chairs will give reports.

STATE OF CALIFORNIA
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MEMORANDUM

DATE	November 9, 2012
TO	Dental Board Members
FROM	Nellie Forgét, Program Coordinator Elective Facial Cosmetic Surgery (EFCS) Permit Program
SUBJECT	**Agenda Item 18:** Report on the October 3, 2012 Meeting of the Elective Facial Cosmetic Surgery Permit Credentialing Committee; and Discussion and Possible Action to Accept Committee Recommendations for Issuance of Permits.

Current Update:
The Elective Facial Cosmetic Surgery (EFCS) Permit Credentialing Committee met on October 3, 2012 by teleconference.

The Committee revisited proposed regulatory language that was presented at the April 2009 EFCS Permit meeting. The Committee provided staff with feedback on regulatory changes. The Committee reviewed and discussed the new application and provided staff with direction regarding necessary additions or modifications.

A subcommittee was developed to discuss various issues regarding the application process that were brought up at the October 3, 2012 EFCS Permit Credentialing Committee Meeting so Staff can have a more conclusive document to bring back to the Committee at the next meeting.

In closed session, the Credentialing Committee reviewed two (2) applications. According to statue, the Committee shall make a recommendation to the Dental Board on whether to issue to issue a permit to the applicant. The permit may be unqualified, entitling the permit holder to perform any facial cosmetic surgical procedure authorized by the statue, or it may contain limitations if the Credentialing Committee is not satisfied that the applicant has the training or competence to perform certain classes of procedures, or if the applicant has not requested to be permitted for all procedures authorized in statute.

The Committee's Recommendations to the Board is as follows:

1. Applicant: Dr. Alexander V. Antipov – Requested unlimited privileges for Category I (cosmetic contouring of the osteocartilaginous facial structure, which may include,

but not limited to, rhinoplasty and otoplasty) and Category II (cosmetic soft tissue contouring or rejuvenation, which may include, but not limited to, facelift, blepharoplasty, facial skin resurfacing, or lip augmentation).

The Credential Committee recommends the Board issue a permit for Category I privileges (cosmetic contouring of the osteocartilaginous facial structure, which may include, but not limited to, rhinoplasty and otoplasty) and Category II (cosmetic soft tissue contouring or rejuvenation, which may include, but not limited to, facelift, blepharoplasty, facial skin resurfacing, or lip augmentation).

2. Applicant: Dr. S.R. - Requested unlimited privileges for Category I (cosmetic contouring of the osteocartilaginous facial structure, which may include, but not limited to, rhinoplasty and otoplasty).

   The Credential Committee recommends the Board reject S.R.'s application and have staff request clarification on what procedures the applicant intends to perform.

Action Requested:

1. Staff requests a motion from the Board to accept the EFCS Permit Credentialing Committee Report.
2. Staff requests a motion to issue Dr. Alexander V. Antipov an EFCS Permit in Category I and Category II procedures.

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MEMORANDUM

DATE	November 14, 2012
TO	Dental Board of California
FROM	Sarah Wallace, Legislative & Regulatory Analyst Dental Board of California
SUBJECT	**Agenda Item 19:** Update on Actions Taken to Implement the Patient Protection and Affordable Healthcare Act

The following information has been derived from bill analyses written by Legislative staff members:

On January 1, 2014, the federal Patient Protection and Affordable Care Act (PPACA) will require a health insurance issuer that offers coverage in a small group or individual market to ensure that such coverage includes the essential health benefits package, as defined. The PPACA requires each state to establish an American Health Benefits Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers by January 1, 2014. The PPACA defines a qualified health plan as a plan that, among other requirements, provides an essential health benefits package.

Existing state law creates the California Health Benefit Exchange (Exchange) to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers by January 1, 2014. The Exchange is an independent public entity within California state government and is comprised of five members who have been appointed by the Governor and the Legislature. The Exchange is charged with creating a new insurance marketplace in which individuals and small businesses will be able to purchase competitively priced health plans using federal tax subsidies and credits beginning in 2014.

Assembly Bill 1453 (Monning, Chapter 854, Statutes of 2012):
Governor Brown signed Assembly Bill 1453 on September 30, 2012. This bill added provisions to the California Health and Safety Code to comply with federal law and consistently implement the essential health benefits provisions of PPACA and related federal guidance and regulations, by adopting the uniform minimum essential benefits requirement in state-regulated health care coverage regardless of whether the policy or contract is regulated by the Department of Managed Health Care or the Department of

Insurance and regardless of whether the policy or contract is offered to individuals or small employers inside or outside of the California Health Benefit Exchange.
This bill requires an individual or small group health care service plan contract issued, amended, or renewed on or after January 1, 2014, to cover essential health benefits, which would be defined to include the health benefits covered by particular benchmark plans. The bill prohibits treatment limits imposed on these benefits from exceeding the corresponding limits imposed by the benchmark plans and would generally prohibit a plan from making substitutions of the benefits required to be covered. The bill specifies that these provisions apply regardless of whether the contract is offered inside or outside the Exchange but would provide that they do not apply to grandfathered plans, specialized plans, or Medicare supplement plans, as specified. The bill prohibits a health care service plan from issuing, delivering, renewing, offering, selling, or marketing a plan contract as compliant with the federal essential health benefits requirement satisfies the bill's requirements. The bill authorizes the Department of Managed Health Care to adopt emergency regulations implementing these provisions until March 1, 2016, and would enact other related provisions. The passage of this bill was contingent upon the passage of Senate Bill 951. A copy of the chaptered bill is included in your packet for reference.

Senate Bill 951 (Hernandez, Chapter 866, Statutes of 2012):
Governor Brown signed Senate Bill 951 on September 30, 2012. This bill added provisions to the California Insurance Code to comply with federal law and consistently implement the essential health benefits provisions of PPACA and related federal guidance and regulations, by adopting the uniform minimum essential benefits requirement in state-regulated health care coverage regardless of whether the policy or contract is regulated by the Department of Managed Health Care or the Department of Insurance and regardless of whether the policy or contract is offered to individuals or small employers inside or outside of the California Health Benefit Exchange.
This bill requires an individual or small group health insurance policy issued, amended, or renewed on or after January 1, 2014, to cover essential health benefits, which would be defined to include the health benefits covered by particular benchmark plans. The bill prohibits treatment limits imposed on these benefits from exceeding the corresponding limits imposed by the benchmark plans and would generally prohibit an insurer from making substitutions of the benefits required to be covered. The bill specifies that these provisions apply regardless of whether the policy is offered inside or outside the Exchange but would provide that they do not apply to grandfathered plans or plans that cover excepted benefits, as specified. The bill prohibits a health insurer, when issuing, delivering, renewing, offering, selling, or marketing a policy, from indicating or implying that the policy covers essential health benefits unless the policy covers essential health benefits as provided in the bill. The bill authorizes the Department of Insurance to adopt emergency regulations implementing these provisions until March 1, 2016, and enact other related provisions. The passage of this bill was contingent upon the passage of Assembly Bill 1453. A copy of the chaptered bill is included in your packet for reference.

Estimating the Change in Coverage in California with a Basic Health Program:
The Exchange requested the UC Berkeley Center for Labor Research and Education and the UCLA Center for Health Policy Research provide a report regarding the change in coverage in California basic health programs. As a result, the research centers submitted a report to the Exchange in August 2012 entitled “Estimating the Change in

Coverage in California with a Basic Health Program". This report is available on the Exchange's web site and a hard copy is included in your packet for informational purposes.

Impact of the PPACA on the Dental Board of California:
The impact of the PPACA upon the Dental Board licensees is unknown at this time. However, the ability of Californians to access dental care should not be directly impacted by this law. Staff will continue to monitor the PPACA and provide reports to the Board of its potential impact on dentistry once further information is obtained.

Action Requested:
No action necessary.

Assembly Bill No. 1453

CHAPTER 854

An act to add Section 1367.005 to the Health and Safety Code, relating to health care coverage.

[Approved by Governor September 30, 2012. Filed with Secretary of State September 30, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1453, Monning. Health care coverage: essential health benefits.

Commencing January 1, 2014, existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires a health insurance issuer that offers coverage in the small group or individual market to ensure that such coverage includes the essential health benefits package, as defined. PPACA requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers. PPACA defines a qualified health plan as a plan that, among other requirements, provides an essential health benefits package. Existing state law creates the California Health Benefit Exchange (the Exchange) to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers by January 1, 2014.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime.. Existing law requires health care service plan contracts to cover various benefits.

This bill would require an individual or small group health care service plan contract issued, amended, or renewed on or after January 1, 2014, to cover essential health benefits, which would be defined to include the health benefits covered by particular benchmark plans. The bill would prohibit treatment limits imposed on these benefits from exceeding the corresponding limits imposed by the benchmark plans and would generally prohibit a plan from making substitutions of the benefits required to be covered. The bill would specify that these provisions apply regardless of whether the contract is offered inside or outside the Exchange but would provide that they do not apply to grandfathered plans, specialized plans, or Medicare supplement plans, as specified. The bill would prohibit a health care service plan from issuing, delivering, renewing, offering, selling, or marketing a plan contract as compliant with the federal essential health benefits requirement satisfies the bill's requirements. The bill would authorize the Department of Managed Health Care to adopt emergency regulations implementing these provisions until March 1, 2016, and would enact other related provisions.

These provisions would only be implemented to the extent essential health benefits are required pursuant to PPACA. The bill would provide that it shall become operative only if SB 951 is also enacted.

Because a willful violation of the bill's provisions with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

(a) Commencing January 1, 2014, the federal Patient Protection and Affordable Care Act (PPACA) requires a health insurance issuer that offers coverage to small employers or individuals, both inside and outside of the California Health Benefit Exchange, with the exception of grandfathered plans as defined under Section 1251 of PPACA, to provide minimum coverage that includes essential health benefits, as defined.

(b) It is the intent of the Legislature to comply with federal law and consistently implement the essential health benefits provisions of PPACA and related federal guidance and regulations, by adopting the uniform minimum essential benefits requirement in state-regulated health care coverage regardless of whether the policy or contract is regulated by the Department of Managed Health Care or the Department of Insurance and regardless of whether the policy or contract is offered to individuals or small employers inside or outside of the California Health Benefit Exchange.

SEC. 2. Section 1367.005 is added to the Health and Safety Code, to read:

1367.005. (a) An individual or small group health care service plan contract issued, amended, or renewed on or after January 1, 2014, shall, at a minimum, include coverage for essential health benefits pursuant to PPACA and as outlined in this section. For purposes of this section, "essential health benefits" means all of the following:

(1) Health benefits within the categories identified in Section 1302(b) of PPACA: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services, including oral and vision care.

(2) (A) The health benefits covered by the Kaiser Foundation Health Plan Small Group HMO 30 plan (federal health product identification number 40513CA035) as this plan was offered during the first quarter of

2012, as follows, regardless of whether the benefits are specifically referenced in the evidence of coverage or plan contract for that plan:

(i) Medically necessary basic health care services, as defined in subdivision (b) of Section 1345 and in Section 1300.67 of Title 28 of the California Code of Regulations.

(ii) The health benefits mandated to be covered by the plan pursuant to statutes enacted before December 31, 2011, as described in the following sections: Sections 1367.002, 1367.06, and 1367.35 (preventive services for children); Section 1367.25 (prescription drug coverage for contraceptives); Section 1367.45 (AIDS vaccine); Section 1367.46 (HIV testing); Section 1367.51 (diabetes); Section 1367.54 (alpha feto protein testing); Section 1367.6 (breast cancer screening); Section 1367.61 (prosthetics for laryngectomy); Section 1367.62 (maternity hospital stay); Section 1367.63 (reconstructive surgery); Section 1367.635 (mastectomies); Section 1367.64 (prostate cancer); Section 1367.65 (mammography); Section 1367.66 (cervical cancer); Section 1367.665 (cancer screening tests); Section 1367.67 (osteoporosis); Section 1367.68 (surgical procedures for jaw bones); Section 1367.71 (anesthesia for dental); Section 1367.9 (conditions attributable to diethylstilbestrol); Section 1368.2 (hospice care); Section 1370.6 (cancer clinical trials); Section 1371.5 (emergency response ambulance or ambulance transport services); subdivision (b) of Section 1373 (sterilization operations or procedures); Section 1373.4 (inpatient hospital and ambulatory maternity); Section 1374.56 (phenylketonuria); Section 1374.17 (organ transplants for HIV); Section 1374.72 (mental health parity); and Section 1374.73 (autism/behavioral health treatment).

(iii) Any other benefits mandated to be covered by the plan pursuant to statutes enacted before December 31, 2011, as described in those statutes.

(iv) The health benefits covered by the plan that are not otherwise required to be covered under this chapter, to the extent required pursuant to Sections 1367.18, 1367.21, 1367.215, 1367.22, 1367.24, and 1367.25, and Section 1300.67.24 of Title 28 of the California Code of Regulations.

(v) Any other health benefits covered by the plan that are not otherwise required to be covered under this chapter.

(B) Where there are any conflicts or omissions in the plan identified in subparagraph (A) as compared with the requirements for health benefits under this chapter that were enacted prior to December 31, 2011, the requirements of this chapter shall be controlling, except as otherwise specified in this section.

(C) Notwithstanding subparagraph (B) or any other provision of this section, the home health services benefits covered under the plan identified in subparagraph (A) shall be deemed to not be in conflict with this chapter.

(D) For purposes of this section, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343) shall apply to a contract subject to this section. Coverage of mental health and substance use disorder services pursuant to this paragraph, along with any scope and duration limits imposed on the benefits, shall be in compliance with the Paul Wellstone and Pete Domenici Mental Health

Parity and Addiction Equity Act of 2008 (Public Law 110-343), and all rules, regulations, or guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

(3) With respect to habilitative services, in addition to any habilitative services identified in paragraph (2), coverage shall also be provided as required by federal rules, regulations, and guidance issued pursuant to Section 1302(b) of PPACA. Habilitative services shall be covered under the same terms and conditions applied to rehabilitative services under the plan contract.

(4) With respect to pediatric vision care, the same health benefits for pediatric vision care covered under the Federal Employees Dental and Vision Insurance Program vision plan with the largest national enrollment as of the first quarter of 2012. The pediatric vision care benefits covered pursuant to this paragraph shall be in addition to, and shall not replace, any vision services covered under the plan identified in paragraph (2).

(5) With respect to pediatric oral care, the same health benefits for pediatric oral care covered under the dental plan available to subscribers of the Healthy Families Program in 2011–12, including the provision of medically necessary orthodontic care provided pursuant to the federal Children's Health Insurance Program Reauthorization Act of 2009. The pediatric oral care benefits covered pursuant to this paragraph shall be in addition to, and shall not replace, any dental or orthodontic services covered under the plan identified in paragraph (2).

(b) Treatment limitations imposed on health benefits described in this section shall be no greater than the treatment limitations imposed by the corresponding plans identified in subdivision (a), subject to the requirements set forth in paragraph (2) of subdivision (a).

(c) Except as provided in subdivision (d), nothing in this section shall be construed to permit a health care service plan to make substitutions for the benefits required to be covered under this section, regardless of whether those substitutions are actuarially equivalent.

(d) To the extent permitted under Section 1302 of PPACA and any rules, regulations, or guidance issued pursuant to that section, and to the extent that substitution would not create an obligation for the state to defray costs for any individual, a plan may substitute its prescription drug formulary for the formulary provided under the plan identified in subdivision (a) as long as the coverage for prescription drugs complies with the sections referenced in clauses (ii) and (iv) of subparagraph (A) of paragraph (2) of subdivision (a) that apply to prescription drugs.

(e) No health care service plan, or its agent, solicitor, or representative, shall issue, deliver, renew, offer, market, represent, or sell any product, contract, or discount arrangement as compliant with the essential health benefits requirement in federal law, unless it meets all of the requirements of this section.

(f) This section shall apply regardless of whether the plan contract is offered inside or outside the California Health Benefit Exchange created by Section 100500 of the Government Code.

(g) Nothing in this section shall be construed to exempt a plan or a plan contract from meeting other applicable requirements of law.

(h) This section shall not be construed to prohibit a plan contract from covering additional benefits, including, but not limited to, spiritual care services that are tax deductible under Section 213 of the Internal Revenue Code.

(i) Subdivision (a) shall not apply to any of the following:

(1) A specialized health care service plan contract.

(2) A Medicare supplement plan.

(3) A plan contract that qualifies as a grandfathered health plan under Section 1251 of PPACA or any rules, regulations, or guidance issued pursuant to that section.

(j) Nothing in this section shall be implemented in a manner that conflicts with a requirement of PPACA.

(k) This section shall be implemented only to the extent essential health benefits are required pursuant to PPACA.

(*l*) An essential health benefit is required to be provided under this section only to the extent that federal law does not require the state to defray the costs of the benefit.

(m) Nothing in this section shall obligate the state to incur costs for the coverage of benefits that are not essential health benefits as defined in this section.

(n) A plan is not required to cover, under this section, changes to health benefits that are the result of statutes enacted on or after December 31, 2011.

(o) (1) The department may adopt emergency regulations implementing this section. The department may, on a one-time basis, readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted under this section.

(2) The initial adoption of emergency regulations implementing this section and the readoption of emergency regulations authorized by this subdivision shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(3) The director shall consult with the Insurance Commissioner to ensure consistency and uniformity in the development of regulations under this subdivision.

(4) This subdivision shall become inoperative on March 1, 2016.

(p) For purposes of this section, the following definitions shall apply:

(1) "Habilitative services" means medically necessary health care services and health care devices that assist an individual in partially or fully acquiring or improving skills and functioning and that are necessary to address a health condition, to the maximum extent practical. These services address the skills and abilities needed for functioning in interaction with an individual's

environment. Examples of health care services that are not habilitative services include, but are not limited to, respite care, day care, recreational care, residential treatment, social services, custodial care, or education services of any kind, including, but not limited to, vocational training. Habilitative services shall be covered under the same terms and conditions applied to rehabilitative services under the plan contract.

(2) (A) "Health benefits," unless otherwise required to be defined pursuant to federal rules, regulations, or guidance issued pursuant to Section 1302(b) of PPACA, means health care items or services for the diagnosis, cure, mitigation, treatment, or prevention of illness, injury, disease, or a health condition, including a behavioral health condition.

(B) "Health benefits" does not mean any cost-sharing requirements such as copayments, coinsurance, or deductibles.

(3) "PPACA" means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and any rules, regulations, or guidance issued thereunder.

(4) "Small group health care service plan contract" means a group health care service plan contract issued to a small employer, as defined in Section 1357.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. This act shall become operative only if Senate Bill 951 of the 2011–12 Regular Session is also enacted.

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Senate Bill No. 951

CHAPTER 866

An act to add Section 10112.27 to the Insurance Code, relating to health care coverage.

[Approved by Governor September 30, 2012. Filed with Secretary of State September 30, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 951, Hernandez. Health care coverage: essential health benefits.

Commencing January 1, 2014, existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires a health insurance issuer that offers coverage in the small group or individual market to ensure that such coverage includes the essential health benefits package, as defined. PPACA requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers. PPACA defines a qualified health plan as a plan that, among other requirements, provides an essential health benefits package. Existing state law creates the California Health Benefit Exchange (the Exchange) to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers by January 1, 2014.

Existing law provides for the regulation of health insurers by the Department of Insurance and requires health insurance policies to cover various benefits.

This bill would require an individual or small group health insurance policy issued, amended, or renewed on or after January 1, 2014, to cover essential health benefits, which would be defined to include the health benefits covered by particular benchmark plans. The bill would prohibit treatment limits imposed on these benefits from exceeding the corresponding limits imposed by the benchmark plans and would generally prohibit an insurer from making substitutions of the benefits required to be covered. The bill would specify that these provisions apply regardless of whether the policy is offered inside or outside the Exchange but would provide that they do not apply to grandfathered plans or plans that cover excepted benefits, as specified. The bill would prohibit a health insurer, when issuing, delivering, renewing, offering, selling, or marketing a policy, from indicating or implying that the policy covers essential health benefits unless the policy covers essential health benefits as provided in the bill. The bill would authorize the Department of Insurance to adopt emergency regulations implementing these provisions until March 1, 2016, and enact other related provisions.

These provisions would only be implemented to the extent essential health benefits are required pursuant to PPACA. The bill would provide that it shall become operative only if AB 1453 is also enacted.

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

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

(a) Commencing January 1, 2014, the federal Patient Protection and Affordable Care Act (PPACA) requires a health insurance issuer that offers coverage to small employers or individuals, both inside and outside of the California Health Benefit Exchange, with the exception of grandfathered plans as defined under Section 1251 of PPACA, to provide minimum coverage that includes essential health benefits, as defined.

(b) It is the intent of the Legislature to comply with federal law and consistently implement the essential health benefits provisions of PPACA and related federal guidance and regulations, by adopting the uniform minimum essential benefits requirement in state-regulated health care coverage regardless of whether the policy or contract is regulated by the Department of Managed Health Care or the Department of Insurance and regardless of whether the policy or contract is offered to individuals or small employers inside or outside of the California Health Benefit Exchange.

SEC. 2. Section 10112.27 is added to the Insurance Code, to read:

10112.27. (a) An individual or small group health insurance policy issued, amended, or renewed on or after January 1, 2014, shall, at a minimum, include coverage for essential health benefits pursuant to PPACA and as outlined in this section. This section shall exclusively govern what benefits a health insurer must cover as essential health benefits. For purposes of this section, "essential health benefits" means all of the following:

(1) Health benefits within the categories identified in Section 1302(b) of PPACA: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services, including oral and vision care.

(2) (A) The health benefits covered by the Kaiser Foundation Health Plan Small Group HMO 30 plan (federal health product identification number 40513CA035) as this plan was offered during the first quarter of 2012, as follows, regardless of whether the benefits are specifically referenced in the plan contract or evidence of coverage for that plan:

(i) Medically necessary basic health care services, as defined in subdivision (b) of Section 1345 of the Health and Safety Code and in Section 1300.67 of Title 28 of the California Code of Regulations.

(ii) The health benefits mandated to be covered by the plan pursuant to statutes enacted before December 31, 2011, as described in the following sections of the Health and Safety Code: Sections 1367.002, 1367.06, and

1367.35 (preventive services for children); Section 1367.25 (prescription drug coverage for contraceptives); Section 1367.45 (AIDS vaccine); Section 1367.46 (HIV testing); Section 1367.51 (diabetes); Section 1367.54 (alpha feto protein testing); Section 1367.6 (breast cancer screening); Section 1367.61 (prosthetics for laryngectomy); Section 1367.62 (maternity hospital stay); Section 1367.63 (reconstructive surgery); Section 1367.635 (mastectomies); Section 1367.64 (prostate cancer); Section 1367.65 (mammography); Section 1367.66 (cervical cancer); Section 1367.665 (cancer screening tests); Section 1367.67 (osteoporosis); Section 1367.68 (surgical procedures for jaw bones); Section 1367.71 (anesthesia for dental); Section 1367.9 (conditions attributable to diethylstilbestrol); Section 1368.2 (hospice care); Section 1370.6 (cancer clinical trials); Section 1371.5 (emergency response ambulance or ambulance transport services); subdivision (b) of Section 1373 (sterilization operations or procedures); Section 1373.4 (inpatient hospital and ambulatory maternity); Section 1374.56 (phenylketonuria); Section 1374.17 (organ transplants for HIV); Section 1374.72 (mental health parity); and Section 1374.73 (autism/behavioral health treatment).

(iii) Any other benefits mandated to be covered by the plan pursuant to statutes enacted before December 31, 2011, as described in those statutes.

(iv) The health benefits covered by the plan that are not otherwise required to be covered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, to the extent otherwise required pursuant to Sections 1367.18, 1367.21, 1367.215, 1367.22, 1367.24, and 1367.25 of the Health and Safety Code, and Section 1300.67.24 of Title 28 of the California Code of Regulations.

(v) Any other health benefits covered by the plan that are not otherwise required to be covered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(B) Where there are any conflicts or omissions in the plan identified in subparagraph (A) as compared with the requirements for health benefits under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code that were enacted prior to December 31, 2011, the requirements of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code shall be controlling, except as otherwise specified in this section.

(C) Notwithstanding subparagraph (B) or any other provision of this section, the home health services benefits covered under the plan identified in subparagraph (A) shall be deemed to not be in conflict with Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(D) For purposes of this section, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343) shall apply to a policy subject to this section. Coverage of mental health and substance use disorder services pursuant to this paragraph, along with any scope and duration limits imposed on the benefits, shall be in compliance with the Paul Wellstone and Pete Domenici Mental Health

Parity and Addiction Equity Act of 2008 (Public Law 110-343), and all rules, regulations, and guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26).

(3) With respect to habilitative services, in addition to any habilitative services identified in paragraph (2), coverage shall also be provided as required by federal rules, regulations, or guidance issued pursuant to Section 1302(b) of PPACA. Habilitative services shall be covered under the same terms and conditions applied to rehabilitative services under the policy.

(4) With respect to pediatric vision care, the same health benefits for pediatric vision care covered under the Federal Employees Dental and Vision Insurance Program vision plan with the largest national enrollment as of the first quarter of 2012. The pediatric vision care services covered pursuant to this paragraph shall be in addition to, and shall not replace, any vision services covered under the plan identified in paragraph (2).

(5) With respect to pediatric oral care, the same health benefits for pediatric oral care covered under the dental plan available to subscribers of the Healthy Families Program in 2011–12, including the provision of medically necessary orthodontic care provided pursuant to the federal Children's Health Insurance Program Reauthorization Act of 2009. The pediatric oral care benefits covered pursuant to this paragraph shall be in addition to, and shall not replace, any dental or orthodontic services covered under the plan identified in paragraph (2).

(b) Treatment limitations imposed on health benefits described in this section shall be no greater than the treatment limitations imposed by the corresponding plans identified in subdivision (a), subject to the requirements set forth in paragraph (2) of subdivision (a).

(c) Except as provided in subdivision (d), nothing in this section shall be construed to permit a health insurer to make substitutions for the benefits required to be covered under this section, regardless of whether those substitutions are actuarially equivalent.

(d) To the extent permitted under Section 1302 of PPACA and any rules, regulations, or guidance issued pursuant to that section, and to the extent that substitution would not create an obligation for the state to defray costs for any individual, an insurer may substitute its prescription drug formulary for the formulary provided under the plan identified in subdivision (a) as long as the coverage for prescription drugs complies with the sections referenced in clauses (ii) and (iv) of subparagraph (A) of paragraph (2) of subdivision (a) that apply to prescription drugs.

(e) No health insurer, or its agent, producer, or representative, shall issue, deliver, renew, offer, market, represent, or sell any product, policy, or discount arrangement as compliant with the essential health benefits requirement in federal law, unless it meets all of the requirements of this section. This subdivision shall be enforced in the same manner as Section 790.03, including through the means specified in Sections 790.035 and 790.05.

(f) This section shall apply regardless of whether the policy is offered inside or outside the California Health Benefit Exchange created by Section 100500 of the Government Code.

(g) Nothing in this section shall be construed to exempt a health insurer or a health insurance policy from meeting other applicable requirements of law.

(h) This section shall not be construed to prohibit a policy from covering additional benefits, including, but not limited to, spiritual care services that are tax deductible under Section 213 of the Internal Revenue Code.

(i) Subdivision (a) shall not apply to any of the following:

(1) A policy that provides excepted benefits as described in Sections 2722 and 2791 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-21; 42 U.S.C. Sec. 300gg-91).

(2) A policy that qualifies as a grandfathered health plan under Section 1251 of PPACA or any binding rules, regulation, or guidance issued pursuant to that section.

(j) Nothing in this section shall be implemented in a manner that conflicts with a requirement of PPACA.

(k) This section shall be implemented only to the extent essential health benefits are required pursuant to PPACA.

(*l*) An essential health benefit is required to be provided under this section only to the extent that federal law does not require the state to defray the costs of the benefit.

(m) Nothing in this section shall obligate the state to incur costs for the coverage of benefits that are not essential health benefits as defined in this section.

(n) An insurer is not required to cover, under this section, changes to health benefits that are the result of statutes enacted on or after December 31, 2011.

(o) (1) The commissioner may adopt emergency regulations implementing this section. The commissioner may, on a one-time basis, readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted under this section.

(2) The initial adoption of emergency regulations implementing this section and the readoption of emergency regulations authorized by this subdivision shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(3) The commissioner shall consult with the Director of the Department of Managed Health Care to ensure consistency and uniformity in the development of regulations under this subdivision.

(4) This subdivision shall become inoperative on March 1, 2016.

(p) Nothing in this section shall impose on health insurance policies the cost sharing or network limitations of the plans identified in subdivision (a) except to the extent otherwise required to comply with provisions of this code, including this section, and as otherwise applicable to all health insurance policies offered to individuals and small groups.

(q) For purposes of this section, the following definitions shall apply:

(1) "Habilitative services" means medically necessary health care services and health care devices that assist an individual in partially or fully acquiring or improving skills and functioning and that are necessary to address a health condition, to the maximum extent practical. These services address the skills and abilities needed for functioning in interaction with an individual's environment. Examples of health care services that are not habilitative services include, but are not limited to, respite care, day care, recreational care, residential treatment, social services, custodial care, or education services of any kind, including, but not limited to, vocational training. Habilitative services shall be covered under the same terms and conditions applied to rehabilitative services under the policy.

(2) (A) "Health benefits," unless otherwise required to be defined pursuant to federal rules, regulations, or guidance issued pursuant to Section 1302(b) of PPACA, means health care items or services for the diagnosis, cure, mitigation, treatment, or prevention of illness, injury, disease, or a health condition, including a behavioral health condition.

(B) "Health benefits" does not mean any cost-sharing requirements such as copayments, coinsurance, or deductibles.

(3) "PPACA" means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and any rules, regulations, or guidance issued thereunder.

(4) "Small group health insurance policy" means a group health care service insurance policy issued to a small employer, as defined in Section 10700.

SEC. 3. This act shall become operative only if Assembly Bill 1453 of the 2011–12 Regular Session is also enacted and becomes operative.

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UCLA CENTER FOR HEALTH POLICY RESEARCH

UC BERKELEY LABOR CENTER

CalSIM California Simulation of Insurance Markets

The California Simulation of Insurance Markets (CalSIM) model is designed to estimate the impacts of various elements of the Affordable Care Act on employer decisions to offer insurance coverage and individual decisions to obtain coverage in California. It was developed by the UC Berkeley Center for Labor Research and Education and the UCLA Center for Health Policy Research, with generous funding provided by The California Endowment.

Estimating the Change in Coverage in California with a Basic Health Program

A memorandum prepared at the request of the California Health Benefit Exchange

by the UC Berkeley Center for Labor Research and Education and the UCLA Center for Health Policy Research

August 2012

MEMORANDUM

Estimating the Change in Coverage in California with a Basic Health Program

August 10, 2012

The UC Berkeley Labor Center and UCLA Center for Health Policy Research were asked to examine the impact of a Basic Health Program (BHP) on coverage in California. To answer the question we employed the California Simulation of Insurance Markets (CalSIM) Model, version 1.7. Results are provided for two scenarios. The "base" scenario assumes typical responses by individuals and employers to expanded coverage offerings. The "enhanced" scenario is based on a more robust enrollment and retention strategy by state coverage programs.

Executive Summary

- A Basic Health Plan increases overall coverage in California between 60,000 and 120,000 under the base scenario. Under the enhanced scenario, the change in coverage over the no-BHP model ranges from a 20,000 increase to a 70,000 decrease depending on response to the BHP.[1]
- We find no negative impact on the risk mix in the overall Exchange/Individual Market as a result of a Basic Health Program.
- A Basic Health Program would reduce the size of the Exchange between 720,000 and 950,000 individuals. This could limit the Exchange's bargaining power in the individual market, and may affect its ability to generate reforms that would lower the rate of premium cost growth over time.
- These results assume a $20 per person per month premium in the BHP. A higher premium would reduce the gains in coverage; a lower premium would potentially improve response.

[1] The negative impact in the enhanced model is a result of specifications in CalSIM 1.7 which set Medicaid take-up by the uninsured at 75 percent and Exchange with subsidy take-up at 70% across the entire subsidized population, with 85% and higher take-up rates among individuals from low-income (200% of FPL and below) households. In Model B, which treats the BHP like a Medicaid plan in terms of consumer response, this results in fewer people enrolling under the BHP than would do so in the Exchange with subsidies.

Background

The BHP option would apply to individuals eligible for subsidized insurance coverage through the California Health Benefit Exchange with incomes up to 200 percent of the Federal Poverty Level (FPL). This includes legal permanent residents with less than five years residency with incomes under 138% FPL, but not individuals otherwise eligible for Medi-Cal. Individuals with incomes under 200% FPL account for 41 to 44 percent of those projected to enroll in subsidized coverage through the Exchange and more than 51% of the subsidy dollars.

Exhibit 1: Exchange Subsidy Eligible Californians under Age 65 by Income Category, 2019

Income (Federal Poverty Level)	Eligible	Enrolled Base Scenario	Share of Enrolled with Subsidies, by Income	Enrolled Enhanced Scenario	Share of Enrolled with Subsidies, by Income
138% FPL or less	150,000	90,000	5%	140,000	7%
139-200% FPL	930,000	630,000	36%	790,000	37%
201-250% FPL	660,000	340,000	19%	420,000	20%
251-400% FPL	1,370,000	700,000	40%	800,000	37%
Total	3,100,000	1,750,000	100%	2,150,000	100%

Source: UC Berkeley-UCLA CalSIM version 1.7, Base and Enhanced Scenarios

Assumptions

To model the Basic Health Program we tested two different assumptions by adapting our current CalSIM model. Using our original CalSIM model, people earning 200% of FPL or under who are not eligible for Medi-Cal have four options – remain uninsured, accept an employer offer of coverage (if available), purchase subsidized coverage in the Exchange, or purchase unsubsidized coverage in the Exchange or individual market. To understand the impact of the BHP option, we added a fifth option to our model: enroll in the subsidized BHP. In addition, the individuals eligible for the BHP are no longer eligible for the subsidized Exchange, although they still have an option to purchase coverage on their own in the individual market without subsidies. Under the first model ("Model A"), we treat the BHP like a health insurance plan sold through the Exchange, with similar network, scope and reputation. In the second model ("Model B"), we treat the Basic Health Program more like Medi-Cal, assuming that response will mirror public program take-up decisions rather than private insurance due to welfare stigma, reputation, and plan selection being constrained to Medi-Cal managed care networks. These two models provide upper and lower bounds to understand how coverage might shift if California adopts a Basic Health Program option. In both models, the member premium share was set to $20 per person per month based on a recent Mercer report on the financial feasibility of the BHP. We used the upper estimate of premium share paid by members up to 200% FPL.[1] Mercer suggested that the average premium would be $17 per month in 2014 on average if members between 100 to 150% FPL were charged $10 per month. After projecting a 3% per year premium increase for the BHP program over time

(versus a 6.5% increase per year in the Exchange's commercial plans), the final 2019 per person premium is $20 per month. All results are presented for 2019.

In the absence of a Basic Health Plan, families with incomes under 200% FPL would receive subsidies in the Exchange limiting out of pocket premium costs to a share of family income. This would range from 2% of income for a family with an income of 100% FPL to 6.3 percent of income for a family with an income equal to 200% FPL.[2] A single individual earning $17,902 a year (134% FPL) would pay $45 a month in premium costs in 2019 while an individual earning $26,920 (200% FPL) would pay up to $141 a month, (exhibit 2).

Exhibit 2. Federal Poverty Level Categories and Predicted Out-of-Pocket Premium Spending for Exchange and Basic Health Program Enrollees in California, 2019

Federal Poverty Level Category	Projected 2019 Federal Poverty Level-based Income Amount for a single individual	Out-of-Pocket Premium Subsidy Threshold as Percent of Income	Maximum Silver Plan Out-of-Pocket Premium (per month)	BHP Individual Premium (per month)	Difference
0 to 100% FPL	$13,460	2%	$22	$20	-$2
134% FPL	$17,902	3%	$45	$20	-$25
150% FPL	$20,190	4%	$67	$20	-$47
200% FPL	$26,920	6.3%	$141	$20	-$121

A BHP would significantly reduce the size of the Exchange, which will raise the administrative cost per policy. To account for the increased costs, we assume that premiums in the Exchange/Individual market will increase by 0.5%.

This analysis does not speak to the difference in benefits for enrollees and access to care between the two coverage options except to the extent that they affect take-up of coverage.

Enrollment Findings

In Model A we see a significant increase in take-up due to the price reduction from the BHP coupled with the assumptions that the BHP will operate like a commercial plan in terms of reputation and provider networks. An estimated 860,000 people enroll in the BHP in 2019, 80 percent of those who are eligible (Exhibit 3). In comparison, approximately 66% of those eligible for the Exchange with subsidies

[2] Legal permanent residents with less than 5 years residency in the United States are not eligible for Medicaid under the ACA, but are eligible for subsidies in the Exchange. For those with incomes below 100% FPL, premium costs are limited to 2% of the Federal Poverty Level.

were likely to take-up in previously published work using CalSIM version 1.7.[2] Coverage in the Exchange with subsidies falls by 720,000, while a small number shift from job-based coverage and out of the individual market or Exchange without subsidies. As a result, 120,000 additional individuals would have coverage under this model when compared to the Exchange with subsidies without a BHP option.

In Model B we adjust the responses to calibrate take-up to the experience of public programs. This takes into account the more limited networks in the BHP and the preference for some individuals to maintain continuity of coverage even in the face of a less expensive insurance option. Under this model 710,000 people take up coverage in the BHP by 2019. Slightly fewer than 60,000 are covered through the Individual Market or Exchange without subsidies in Model B from the BHP eligible income group. This includes 50,000 people with private coverage without the ACA who choose to retain a private insurance plan rather than enroll in the BHP. Overall, the number of people with coverage increases by 60,000 over the base scenario without the BHP.

In the enhanced versions of Model A, we estimate 950,000 fewer individuals in the Exchange with subsidies. These changes are partially explained by 1.01 million enrolling in BHP. In this model, 20,000 more people have coverage than would have without the BHP. BHP enrollment increases by 850,000 in the enhanced version of Model B. Under model B, the number of remaining uninsured increases in the enhanced model over the no-BHP option by 70,000, due to the lower projected take-up rate.

Exhibit 3: Estimated Change in Source of Coverage, 2019 (millions)

Source of Coverage	Base			Enhanced		
	Without BHP	Change in Coverage MODEL A	Change in Coverage MODEL B	Without BHP	Change in Coverage MODEL A	Change in Coverage MODEL B
Employer Sponsored Insurance	19.07	(0.01)	0.01	19.08	(0.02)	0.01
Public	8.92	-	-	9.38	-	-
Subsidized Exchange	1.75	(0.72)	(0.72)	2.15	(0.95)	(0.95)
Exchange without Subsidies / Individual Market	2.11	(0.01)	0.06	2.16	(0.02)	0.02
Basic Health Plan	-	0.86	0.71	-	1.01	0.85
Uninsured	3.96	(0.12)	(0.06)	3.04	(0.02)	0.07

Note: Based on Assumption that BHP enrollees will pay $20 per person per month
Source: UC Berkeley-UCLA CalSIM Model version 1.7

Risk Mix Findings

The Affordable Care Act includes measures to adjust risk across plans in the Exchange and outside individual market. The BHP would not be included in risk adjustment. If California adopts the BHP, it could potentially affect the risk mix in the Exchange, which could in turn have important impacts on premium costs and enrollment.

In order to understand the impact of a BHP on the risk mix in the remaining Exchange/Individual Market we looked at three factors:

- prevalence of one or more of four chronic conditions: asthma, diabetes, heart disease and high blood pressure;
- self-reported health status; and
- age category.

A BHP could be expected to affect the risk mix in conflicting ways. There is a high correlation between health status and income. The BHP population as a whole is less likely to report "Excellent" or "Very Good" health status than those in the Exchange/Individual Market with incomes over 200 percent FPL. Prevalence of one or more of the four chronic conditions is similar between the two groups. Given the difference in health status, removing the BHP population from the pool has the potential to improve the risk mix. At the same time, lower income individuals receive the largest subsidies and a greater share is predicted to enroll in coverage due to the ACA. As a result, we would expect a broader mix of individuals within that market segment to obtain coverage. These two dynamics appear to counter act each other, leaving a slight improvement in the risk mix.

We find little change in the share of individuals with chronic conditions or self-reported health status among those with coverage in the Exchange or Individual market with or without a Basic Health Plan (Exhibit 4). Without the BHP, 28 percent of the individuals predicted to enroll in the Exchange/Individual have one or more chronic illnesses; with the BHP it is 27 percent. Without a BHP, we predict that 56 percent of the individuals that enroll in the Exchange have self-reported health status of "Excellent or Very Good," without a BHP, 58 percent. With more adults leaving the Subsidized Exchange for the BHP, children make up a slightly larger share of the combined Exchange/Individual Market with the BHP (16%) than without it (13%). The highest cost age group, those between 45 and 65, makes up a similar share of the pool (33%) across all three models.

Exhibit 4. Risk Mix Exchange and Individual Market 2019 with and without BHP

	Without BHP		Model A Base		Model B Base	
	N	%	N	%	N	%
Chronic Conditions						
None	2,789,000	72%	2,288,000	73%	2,325,000	73%
1 or More	1,071,000	28%	841,000	27%	867,000	27%
Health Status						
Excellent	914,000	24%	787,000	25%	812,000	25%
Very Good	1,230,000	32%	1,040,000	33%	1,060,000	33%
Good	1,102,000	29%	863,000	28%	876,000	27%
Fair	526,000	14%	377,000	12%	381,000	12%
Poor	88,000	2%	62,000	2%	63,000	2%
Age						
0-18	512,000	13%	506,000	16%	507,000	16%
19-29	1,200,000	31%	953,000	30%	996,000	31%
30-44	878,000	23%	630,000	20%	638,000	20%
45-64	1,270,000	33%	1,041,000	33%	1,050,000	33%
Total	3,860,000		3,129,000		3,191,000	

Source: UC Berkeley-UCLA CalSIM version 1.7
Note: Based on assumption that BHP enrollees will pay $20 per person per month;
Model A = "Exchange"-like take-up decisions, Model B = "Medicaid"-like take-up decisions

Discussion

The BHP has the potential to increase coverage in California by 60,000 to 120,000 people by 2019 compared to the Exchange with subsidies on its own. This is consistent with findings in an analysis of a BHP in California by the Urban Institute.[3] Under the enhanced CalSIM scenario, which assumes stronger outreach and enrollment strategies by the Exchange, the benefits to coverage from a BHP decrease significantly.

As noted above, this analysis assumes a $20 per person per month premium cost, which may be lower than the real premium in 2019. To the degree the premium cost is higher, the increase in coverage would be smaller; if a BHP is able to offer a lower premium, the impact on coverage would be greater. Federal law allows the BHP premium to be as high as the second lowest silver plan offered in the Exchange, which provides a wide range of values that would potentially affect take-up as the price increased. While subsidies available to lower-income people would not change in that pricing scenario, the differences in cost of the BHP versus an Exchange plan would be reduced substantially. To ensure

the high levels of take-up in the BHP estimated here, the actual out-of-pocket premium would need to remain low relative to the silver plan premium options available in the Exchange.

Another important factor that could impact coverage under the BHP is increased churn between the programs. An analysis by John Graves for the Institute for Health Policy Solutions suggests that this would be significant.[4] Using the Survey of Income and Program Participation, he estimates that only 30 percent of those who qualify for the Basic Health Plan at the beginning of the year will still qualify at the end of the year. If individuals are required to re-enroll as their income changes between BHP coverage and Medi-Cal on the one side and BHP coverage and the Exchange on the other, it could create an additional administrative barrier to continuous coverage. This can be minimized if churn between Medicaid and the BHP is made seamless for enrolled individuals; how seamless this process can be is dependent on the federal rules on Basic Health Plans, which have not been issued.

Finally, a smaller Exchange (720,000 to 950,000 fewer enrollees by 2019) would have reduced market power. This could affect the bargaining power of the Exchange in the insurance market and reduce its ability to drive reforms in the delivery system that can serve to reduce costs over time. To the degree that premium in the BHP and administrative costs in the Exchange are higher than projected, increases in coverage would be correspondingly reduced.

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[1] Mercer, *State of California Financial Feasibility of a Basic Health Program*, June 28, 2011 (accessed on July 22, 2012 from http://www.mercer-government.mercer.com/basic-health-program/feasibility). Funded by The California HealthCare Foundation.

[2] Jacobs K, Watson G, Kominski GF, Roby DH, Graham-Squire D, Kinane CM, Gans D, and Needleman J. *Nine out of Ten Non-Elderly Californians Will Be Insured When the Affordable Care Act is Fully Implemented.* UC Berkeley Center for Labor Research and Education, Research Brief, June 2012. Accessed on July 22, 2012 from http://www.healthpolicy.ucla.edu/pubs/files/calsim_Exchange1.pdf.

[3] Dorn, Stan, "Basic Health Program: Issues for California," webinar, August, 2011. http://www.urban.org/uploadedpdf/412370-basic-health-program-california.pdf

[4] Curtis, Rick and Ed Neuschler, "Income Volatility Creates Uncertainty about the State Fiscal Impact of a Basic Health Program (BHP) in California, September, 2011. http://www.ihps.org/pubs/Income_Volatility_Creates_BHP_Uncertainty_2Sep2011.pdf