

**FULL BOARD MEETING
August 27, 2013**



**DEPARTMENT OF CONSUMER AFFAIRS
HEARING ROOM, HQ2
1747 NORTH MARKET BLVD.
SACRAMENTO, CA 95834**



BOARD MEETING AGENDA **Tuesday, August 27, 2013**

Department of Consumer Affairs
Hearing Room, HQ2
1747 North Market Blvd., Sacramento, CA, 95834
(916) 263-2300 (Board Office)

Members of the Board

Huong Le, DDS, MA, President
Fran Burton, Public Member, Vice President
Steven Morrow, DDS, MS, Secretary

Steven Afriat, Public Member
Stephen Casagrande, DDS
Yvette Chappell-Ingram, Public Member
Katie Dawson, RDH
Luis Dominicus, DDS
Judith Forsythe, RDA

Kathleen King, Public Member
Ross Lai, DDS
Meredith McKenzie, Public Member
Thomas Stewart, DDS
Bruce Whitcher, DDS

During this two-day meeting, the Dental Board of California will consider and may take action on any of the agenda items. It is anticipated that the items of business before the Board on the first day of this meeting will be fully completed on that date. However, should items not be completed, it is possible that it could be carried over and be heard beginning at 9:00 a.m. on the following day. Anyone wishing to be present when the Board takes action on any item on this agenda must be prepared to attend the two-day meeting in its entirety.

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 website 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 Karen M. Fischer, 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.

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

Tuesday, August 27, 2013

9:00 A.M. OPEN SESSION - FULL BOARD

10. Call to Order/Roll Call/Establishment of Quorum

CLOSED SESSION – FULL BOARD

A. Deliberate and Take Action on Disciplinary Matters

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

B. Receive Advice from Counsel on Litigation:

i. Shahab Ebrahimian et al. v Dental Board of CA, Los Angeles Superior Court, Case No. BS131882

ii. Gediz Barnar v. Dental Board of CA, Los Angeles Superior Court, Case No.30-2012-00556566

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

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 §11126(c)(2) to deliberate on applications for issuance of new license(s) to replace cancelled license(s).

RETURN TO OPEN SESSION – FULL BOARD

11. Report from the Licensing, Certification and Permits Committee Regarding Closed Session

The Board may take action on recommendations by the Licensing Certification and Permits Committee regarding issuance of new license(s) to replace cancelled license(s).

12. Executive Officer's Report

13. Budget Report

- Raising the Statutory Cap on Licensing Fees

14. Update from the Dental Hygiene Committee of California (DHCC)

15. Discussion and Possible Action to Extend the Board's Strategic Plan to a Four or Five Year Plan

16. Discussion and Possible Action Regarding 2014 Board Meeting Dates

17. Discussion and Possible Action Regarding Updating and Revising the Board Member Administrative Procedure Manual

18. Update on Universidad De La Salle, Bajio

19. Report from the Dental Assisting Council
The Board may take action on any items listed on the attached Dental Assisting Council Meeting Agenda.
20. Discussion and Possible Action Regarding Fiscal Year 2013/14 Regulatory Priorities
21. Enforcement
 - A. Enforcement Program Status
 - B. Enforcement Program Statistics
 - C. Review of Department of Consumer Affairs Fiscal Year 2012/13 Fourth Quarter Performance Measures
 - D. Impact of Senate Bill 809 (DeSaulnier) Controlled Substances: Reporting
 - E. Diversion Program Report
 - F. Recommendation for the Appointment of a Northern Diversion Evaluation Committee Member
 - G. Recognition of Dr. Graham, Board Subject Matter Expert
22. Licensing, Certification, and Permits
 - A. Review of Dental Licensure and Permit Statistics
 - B. Review of General Anesthesia/Conscious Sedation Evaluation Statistics
 - C. Update on General Anesthesia/Conscious Sedation Calibration Webinar
23. Public Comment of Items Not on the Agenda
The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 and 11125.7(a)).
24. Future Agenda Items
Stakeholders are encouraged to propose items for possible consideration by the Board at a future meeting.
25. Board Member Comments for Items Not on the Agenda
The Board may not discuss or take action on any matter raised during the Board Member Comments section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 and 11125.7(a)).
26. Adjournment



Agenda Item 11

**Report from the Licensing,
Certification and Permits
Committee Regarding
Closed Session**



MEMORANDUM

DATE	August 2, 2013
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant
SUBJECT	Agenda Item 11: Report from the Licensing, Certification and Permits Committee Regarding Closed Session

Dr. Witcher, Chair of the Licensing, Certification and Permits Committee, will provide recommendations to the Board based on the outcome of the Closed Session meeting to grant a new license(s) to replace a cancelled license(s).



Agenda Item 12

Executive Officer's Report



MEMORANDUM

DATE	August 2, 2013
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant
SUBJECT	Agenda Item 12: Executive Officer's Report

Karen M. Fischer, Executive Officer, will provide a verbal report.



Agenda Item 13

Budget Report



MEMORANDUM

DATE	August 16, 2013
TO	Dental Board Members
FROM	Genie Albertsen Budget/Contract/Procurement Analyst
SUBJECT	Agenda Item 13: Budget Report

On June 30, 2013, Fiscal Year (FY) 2012-13 officially came to a close, and on July 1, 2013 the new FY 2013-14 began. The Board manages two separate funds: 1) Dentistry Fund, and 2) Dental Assisting Fund. The funds are not comingled.

Dentistry Fund Overview

Expenditure Summary for Prior Fiscal Year 2012-13

The attached Expenditure Summary for 2012-13 provides a detailed summary of final expenses for the Dentistry Fund. The expenditures are based upon the budget report released by the Department of Consumer Affairs in early August. The Board spent roughly \$9.8 million of its total \$11.4 appropriation. Based on these final expenditures, the Board reverted approximately \$1.6 million, or approximately 14 percent of its appropriation back to the Dentistry Fund.

Fund Title	Net Appropriation	Final Expenditures	Balance (Reversion)	Percentage Remaining
Dentistry Fund	\$11,410,000	\$9,821,000	\$1,589,000	13.9%

Rounded to thousands.

Current FY 2013-14 Summary

The Dental Board's Budget appropriation for 2013-14 is approximately \$11.8 million. This is an incremental increase of \$415,000 over the 2012-13 appropriation. The increase is a result of various adjustments made including the Consumer Protection Enforcement Initiative (CPEI), BreZE, retirement, health benefits, statewide prorata, and equipment adjustments.

The first quarter projections for the current fiscal year will be available at the November Board meeting.

Fund Title	Appropriation Amount
Dentistry Fund	\$11,825,000

Analysis of Fund Condition

The Analysis of Fund Condition displays three fiscal years and projects the Dentistry Fund’s fiscal solvency for future years. In addition to the Board’s operating appropriation, the Fund Condition includes several new funding appropriations including:

- **Controlled Substances Utilization and Evaluation System (CURES)**
 ✓ \$299,000 in 2013-14 and \$279,000 in 2014-15
 In early 2013, the Board was notified of new appropriations for the funding of *CURES 2.0*. The Department of Justice created a plan for the *replacement* of the current system to include a two year transition between the old system and the new system. This is separate from the proposal in SB 809 (DeSaulnier) which only addresses ongoing maintenance needs of the system. Currently, there are five healing arts boards within DCA that provide the DOJ funding for CURES. The Dental Board’s portion is \$578,000 over two years. Refer to Agenda Item 21(D) for more information on SB 809.
- **Financial Information System for California (FI\$Cal)**
 ✓ \$53,000 in 2013-14
 It’s a business transformation project for state government in the areas of budgeting, accounting, procurement, and cash management. The project will prepare the state systems and workforce to function in an integrated financial management system environment. To ensure the success of the project, the Partner Agencies have entered into a Memorandum of Understanding signed by the State Controller, the State Treasurer, and the Directors of the Departments of Finance and General Services. The MOU demonstrates support for the project at the highest levels of these organizations and provides the framework for this project. FI\$Cal is an historic partnership of the Department of Finance, the State Controller's Office, the State Treasurer's Office and the Department of General Services.

General Fund Loan Repayment

During 2002 and 2003, \$10 million was transferred to the General Fund from the State Dentistry Fund. Over the course of the last ten years, incremental repayments have been made to the State Dentistry Fund. It was the Legislature’s intent that the loan repayment be made to ensure that the programs supported by the fund are not adversely affected through reduction in services or increased fees. Currently, there is

an outstanding balance of \$2.7 million which is scheduled to be paid no later than June 30, 2014. The Fund Condition includes the scheduled payment.

The current Analysis of Fund Condition, shows that the Dental Board will end 2014-15 with a negative balance of \$1.282 million. This projection does not include the regulatory proposal to increase specified license fees which may become effective July 1, 2014. In addition, annual reversions, which historically average \$1 million a year, are also not factored into these projections because they are subject to fluctuation.

License Fee Increase

The Board charges various fees for dentists as necessary for the purpose of carrying out its responsibilities. Existing law establishes the maximum fee amount the Board may assess its licensees by regulation. The Board's existing initial licensure and biennial renewal fees have been in effect since 1998.

As mentioned earlier, the Board is projecting a fund balance deficit of approximately \$1.282 million in 2014-15 as well as an ongoing fund balance deficit thereafter. The Board is working in consultation with the Department of Consumer Affairs' Budget Office and determined the necessity to increase the initial licensure and biennial renewal fees assessed to its dentist licensees. The Board determined that it is necessary to increase these fees to \$450, the maximum amount allowed by statute, to reduce the fund balance deficit beginning in 2014-15. Averting or delaying an immediate fee increase will cause the Board to become insolvent in 2014-15. The Board is proposing to correct a structural imbalance between its revenue and expenditures.

As a result of raising the initial licensure fee and the biennial renewal fee, the following fees assessed by the Board will be impacted; this is because these fees are determined by the fee amounts assessed by the Board for initial licensure and biennial renewal as specified in statute:

- Inactive Licenses
- Licenses on Retirement Status
- Licenses on Disability Status
- Oral and Maxillofacial Surgery (OMS) Permit renewal fees, and
- Fictitious Name Permit Application fees

Summary of Proposed License Fee Increases

License Type	Existing Fee	Proposed Increase	Proposed New Fee
Initial License Application	\$365.00	\$85.00	\$450.00
Biennial Renewal (Active)	\$365.00	\$85.00	\$450.00
Inactive License Renewal	\$365.00	\$85.00	\$450.00
Retirement Status Renewal	\$182.50	\$42.50	\$225.00
Disability Status Renewal	\$182.50	\$42.50	\$225.00
Delinquent Retirement/Disability Status	\$91.25	\$21.25	\$112.50
Oral Maxillofacial Surgery Permit Renewal	\$365.00	\$85.00	\$450.00
Initial Fictitious Name Permit	\$365.00	\$85.00	\$450.00
Fictitious Name Permit Renewal	\$150.00	No Change	No Change

Dental Assisting Fund Overview

Expenditure Summary for Prior Year 2012-13

The attached Expenditure Summary for 2012-13 provides a detailed summary of final expenses for the Dental Assisting Fund. The expenditures are based upon the final budget report released by the Department of Consumer Affairs in early August. The Board spent roughly \$1.5 million of its total \$1.8 appropriation. Based on these final expenditures, the Board reverted approximately \$377,000, or approximately 21 percent of its appropriation back to the Dental Assisting Fund.

Fund Title	Appropriation	Final Expenditures	Balance (Reversion)	Percentage Remaining
Dental Assisting	\$1,835,000	\$1,458,000	\$377,000	20.6%

Rounded to thousand.

Current Fiscal Year 2013-14 Summary

Fund Title	Appropriation Amount
Dental Assisting	\$ 1,851,000

The Dental Assisting Budget appropriation for 2013-14 is approximately \$1.9 million. This is an incremental increase of \$107,000 over the 2012-13 appropriation. The increase is a result of various adjustments made including BreEZe, retirement, health benefits, statewide prorata, and equipment adjustments.

The first quarter expenditure projections for the current fiscal year will be available at the November Board meeting.

Analysis of Fund Condition

The Analysis of Fund Condition displays three fiscal years and projects the Dental Assisting Fund's fiscal solvency for future years. In addition to the Board's operating appropriation, the Fund Condition includes a new funding appropriation of \$8,000 for FI\$Cal.

The current Analysis of Fund Condition shows that Dental Assisting will end 2014-15 with a balance of \$2.3 million.

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

August 3, 2013

OBJECT DESCRIPTION	FY 2011-12		FY 2012-13				
	ACTUAL	PRIOR YEAR	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES	EXPENDITURES	STONE	EXPENDITURES			
(MONTH 13)		2012-13	FM 13	SPENT	TO YEAR END	BALANCE	
PERSONNEL SERVICES							
Salary & Wages (Staff)	3,270,234		3,506,376	3,224,188	92%	3,224,188	282,188
Statutory Exempt (EO)	102,012		103,608	236,291	228%	236,291	(132,683)
Temp Help (Expert Examiners)	0		40,000	0	0%	0	40,000
Physical Fitness Incentive	5,330			5,200		5,200	(5,200)
Temp Help Reg (907)	185,150		222,403	144,012	65%	144,012	78,391
Temp Help (Exam Proctors)	0		45,447	0	0%	0	45,447
BL 12-03 Blanket				8,519		8,519	(8,519)
Board Member Per Diem (901, 920)	16,500		45,950	16,600	36%	16,600	29,350
Committee Members (911)	4,300		58,686	5,600	10%	5,600	53,086
Overtime	34,558		25,208	41,676	165%	41,676	(16,468)
Staff Benefits	1,443,263		1,759,409	1,520,752	86%	1,520,752	238,657
TOTALS, PERSONNEL SVC	5,061,347	0	5,807,087	5,202,838	90%	5,202,838	604,249
OPERATING EXPENSE AND EQUIPMENT							
General Expense	123,774		75,086	108,558	145%	108,558	(33,472)
Fingerprint Reports	24,978		25,777	24,890	97%	24,890	887
Minor Equipment	64,450		16,600	14,558	88%	14,558	2,042
Printing	40,384		42,502	44,381	104%	44,381	(1,879)
Communication	41,558		33,670	60,733	180%	60,733	(27,063)
Postage	69,066		59,791	73,968	124%	73,968	(14,177)
Insurance	2,027		2,100	2,775	132%	2,775	(675)
Travel In State	110,677		109,309	103,511	95%	103,511	5,798
Travel, Out-of-State	0		0	209		209	(209)
Training	6,434		7,148	4,648	65%	4,648	2,500
Facilities Operations	385,214		360,656	399,772	111%	399,772	(39,116)
C & P Services - Interdept.	50,623		102,086	46,077	45%	46,077	56,009
C & P Services - External	233,510		241,146	194,668	81%	194,668	46,478
DEPARTMENTAL SERVICES:							
OIS Pro Rata	436,830		511,106	472,181	92%	472,181	38,925
Admin/Exec	537,230		630,748	600,857	95%	600,857	29,891
Interagency Services	0		881	0	0%	0	881
IA w/ OER	0		0	23,330		23,330	(23,330)
DOI-ProRata Internal	18,178		25,531	25,531	100%	25,531	0
Public Affairs Office	36,306		36,456	31,983	88%	31,983	4,473
CCED	39,178		43,893	41,860	95%	41,860	2,033
INTERAGENCY SERVICES:							
Consolidated Data Center	26,960		17,517	19,721	113%	19,721	(2,204)
DP Maintenance & Supply	32,846		11,366	10,450	92%	10,450	916
Central Admin Svc-ProRata	413,261		506,464	506,464	100%	506,464	0
EXAMS EXPENSES:							
Exam Supplies	0		43,589	0	0%	0	43,589
Exam Freight	0		166	0	0%	0	166
Exam Site Rental	0		244,586	0	0%	0	244,586
C/P Svcs-External Expert Administration	231,504		6,709	142,763	2128%	142,763	(136,054)
C/P Svcs-External Expert Examiners	0		238,248	0	0%	0	238,248
C/P Svcs-External Subject Matter	76		0	1,259		1,259	(1,259)
OTHER ITEMS OF EXPENSE:							
Tort Pymts-Punitive	10,511		661	14,518	2196%	14,518	(13,857)
ENFORCEMENT:							
Attorney General	1,380,916		1,778,310	1,151,154	65%	1,151,154	627,156
Office Admin. Hearings	297,050		406,720	183,978	45%	183,978	222,742
Court Reporters	23,256		0	12,596		12,596	(12,596)
Evidence/Witness Fees	513,135		243,959	408,706	168%	408,706	(164,747)
Vehicle Operations	54,331		9,055	58,434	645%	58,434	(49,379)
Major Equipment	8,493		38,000	97,704	257%	97,704	(59,704)
TOTALS, OE&E	5,212,756	0	5,869,836	4,884,737	83%	4,884,737	985,099
TOTAL EXPENSE	10,274,103	0	11,676,923	10,087,575	173%	10,087,575	1,589,348
Sched. Reimb. - Fingerprints	(24,483)		(53,000)	(22,393)	42%	(53,000)	0
Sched. Reimb. - Other	(12,255)		(214,000)	(11,550)	5%	(214,000)	0
Unsched. Reimb. - External/Private	(40,207)			(44,863)			0
Probation Monitoring Fee - Variable	(89,868)			(105,674)			0
Invest Cost Recover FTB Collection	(50)			(15,999)			0
Unsched. External/Other				(5,748)			0
Unsched. Reimb. - Other	(240,470)			(283,747)			0
NET APPROPRIATION	9,866,770	0	11,409,923	9,597,602	84%	9,820,575	1,589,348
SURPLUS/(DEFICIT):							13.9%

0741 - Dental Board of California

Analysis of Fund Condition

Prepared 8/12/13

(Dollars in Thousands)

NOTE: \$2.7 Million General Fund Repayment Outstanding

	Actual 2012-13	CY 2013-14	Governor's Budget BY 2014-15
BEGINNING BALANCE	\$ 6,180	\$ 4,137	\$ 2,720
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 6,180	\$ 4,137	\$ 2,720
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	\$ 106	\$ 26	\$ 26
125700 Other regulatory licenses and permits	\$ 744	\$ 744	\$ 744
125800 Renewal fees	\$ 7,183	\$ 7,208	\$ 7,208
125900 Delinquent fees	\$ 63	\$ 74	\$ 74
131700 Misc. Revenue from Local Agencies	\$ -	\$ -	\$ -
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 17	\$ -	\$ -
150500 Interest Income From Interfund Loans	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ 3	\$ 3	\$ 3
161000 Escheat of unclaimed checks and warrants	\$ 3	\$ 3	\$ 3
161400 Miscellaneous revenues	\$ 2	\$ 2	\$ 2
164300 Penalty Assessments	\$ -	\$ -	\$ -
Totals, Revenues	\$ 8,121	\$ 8,060	\$ 8,060
Transfers from Other Funds:			
F00001 Repayment Per Item 1250-011-0741, Budget Act of 2003	\$ -		\$ -
F00683 Teale Data Center (CS 15.00, Bud Act of 2005)			
Proposed GF Loan Repayment per item 1110-011-0763, Budget Act of 2011		\$ 2,700	
Transfers to Other Funds:			
T00001 GF loan per Item 1250-011-0741, BA of 2002	\$ -	\$ -	\$ -
T00001 GF loan per Item 1250-011-0741, BA of 2003	\$ -	\$ -	\$ -
T03039 Transfer to Dentally Underserved Account			
Totals, Revenues and Transfers	\$ 8,121	\$ 10,760	\$ 8,060
Totals, Resources	\$ 14,301	\$ 14,897	\$ 10,780
EXPENDITURES			
Disbursements:			
0840 State Controller (State Operations)	\$ 14		
8880 Financial Information System of California (State Operations)	\$ 62	\$ 53	
1110 Program Expenditures (State Operations)	\$ 10,088	\$ 11,825	\$ 12,062
CURES		\$ 299	\$ 279
Total Disbursements	\$ 10,164	\$ 12,177	\$ 12,062
FUND BALANCE			
Reserve for economic uncertainties	\$ 4,137	\$ 2,720	\$ -1,282
Months in Reserve	4.1	2.7	-1.3

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- B. ASSUMES INTEREST RATE AT .30%.
- C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1
- D. FISCAL YEAR 2012-13 BASED ON PRELIMINARY REPORTS.

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

August 3, 2013

OBJECT DESCRIPTION	FY 2011-12		FY 2012-13				
	ACTUAL	PRIOR YEAR	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES	EXPENDITURES	STONE	EXPENDITURES	SPENT	TO YEAR END	BALANCE
	(MONTH 13)	FM 13	2012-13	FM 13			
PERSONNEL SERVICES							
Salary & Wages (Staff)	286,169		373,880	297,101	79%	297,101	76,779
Physical Fitness Incentive	0		158	0	0%	0	158
Temp Help (Exam Proctors)	196		0			0	0
Board Member Per Diem (901, 920)	1,500		0	4,000		4,000	(4,000)
Overtime	37,524		0	26,735		26,735	(26,735)
Staff Benefits	152,711		200,224	202,510	101%	202,510	(2,286)
TOTALS, PERSONNEL SVC	478,100	0	574,262	530,346	92%	530,346	43,916
OPERATING EXPENSE AND EQUIPMENT							
General Expense	5,438		40,387	7,461	18%	7,461	32,926
Fingerprint Reports	0		7,780	20	0%	20	7,760
Minor Equipment			0			0	0
Printing	23,470		19,001	17,776	94%	17,776	1,225
Communication	95		9,500	32	0%	32	9,468
Postage	21,004		35,991	22,412	62%	22,412	13,579
Insurance			0			0	0
Travel In State	52,494		28,056	62,524	223%	62,524	(34,468)
Training	0		4,119	695	17%	695	3,424
Facilities Operations	35,866		63,950	38,470	60%	38,470	25,480
C & P Services - Interdept.	0		288,439	0	0%	0	288,439
C & P Services - External	0		12,532	2,829	23%	2,829	9,703
DEPARTMENTAL SERVICES:							
OIS ProRata	165,801		205,397	176,035	86%	176,035	29,362
Admin/Exec	74,232		76,639	53,942	70%	53,942	22,697
Interagency Services	0		72,554	0	0%	0	72,554
IA w/ OER	29,408		0	37,208		37,208	(37,208)
DOI-ProRata Internal	2,500		3,105	3,105	100%	3,105	0
Public Affairs Office	4,993		4,391	3,849	88%	3,849	542
CCED	5,172		5,321	4,541	85%	4,541	780
INTERAGENCY SERVICES:							
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		69,192	69,192	100%	69,192	0
EXAMS EXPENSES:							
Exam Supplies	9,853		3,946	14,779	375%	14,779	(10,833)
Exam Site Rental - State Owned	26,010			48,465		48,465	(48,465)
Exam Site Rental - Non State Owned	46,495		69,939	41,290	59%	41,290	28,649
C/P Svcs-External Expert Administration	10,860		30,877	24,710	80%	24,710	6,167
C/P Svcs-External Expert Examiners	0		47,476	0	0%	0	47,476
C/P Svcs-External Expert Examiners				13,506		13,506	(13,506)
C/P Svcs-External Subject Matter	177,084			90,179		90,179	(90,179)
OTHER ITEMS OF EXPENSE:	0	0	285	0	0%	0	285
ENFORCEMENT:							
Attorney General	257,788		172,536	170,945	99%	170,945	1,591
Office Admin. Hearings	0		2,740	0	0%	0	2,740
Evidence/Witness Fees	0		87	26,941	30967%	26,941	(26,854)
TOTALS, OE&E	1,021,578	0	1,277,185	930,906	73%	930,906	346,279
TOTAL EXPENSE	1,499,678	0	1,851,447	1,461,252	165%	1,461,252	390,195
Sched. Reimb. - Fingerprints	(1,690)		(13,000)	(2,303)	18%	(2,303)	(10,697)
Sched. Reimb. - Other	(1,205)		(3,000)	(705)	24%	(705)	(2,295)
NET APPROPRIATION	1,496,783	0	1,835,447	1,458,244	79%	1,458,244	377,203
SURPLUS/(DEFICIT):							20.6%

3142 - Dental Assisting Program Analysis of Fund Condition

Prepared 8/12/13

(Dollars in Thousands)

	Actual 2012-13	CY 2013-14	Governor's Budget BY 2014-15
BEGINNING BALANCE	\$ 2,445	\$ 2,732	\$ 2,537
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 2,445	\$ 2,732	\$ 2,537
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	\$ 15	\$ 16	\$ 16
125700 Other regulatory licenses and permits	\$ 417	\$ 343	\$ 343
125800 Renewal fees	\$ 1,244	\$ 1,228	\$ 1,228
125900 Delinquent fees	\$ 68	\$ 65	\$ 65
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 8	\$ 7	\$ 7
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 5	\$ 5	\$ 5
164300 Penalty Assessments	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,757	\$ 1,664	\$ 1,664
Totals, Revenues and Transfers	\$ 1,757	\$ 1,664	\$ 1,664
Totals, Resources	\$ 4,202	\$ 4,396	\$ 4,201
EXPENDITURES			
Disbursements:			
0840 State Controller (State Operations)	\$ 3	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 9	\$ 8	\$ -
1110 Program Expenditures (State Operations)	\$ 1,458	\$ 1,851	\$ 1,888
Total Disbursements	\$ 1,470	\$ 1,859	\$ 1,888
FUND BALANCE			
Reserve for economic uncertainties	\$ 2,732	\$ 2,537	\$ 2,313
Months in Reserve	17.6	16.1	14.4

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- B. ASSUMES INTEREST RATE AT .30%.
- C. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1
- D. FISCAL YEAR 2012-13 BASED ON PRELIMINARY REPORTS.



Agenda Item 14

**Update from the Dental Hygiene
Committee of California (DHCC)**



MEMORANDUM

DATE	August 2, 2013
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant
SUBJECT	Agenda Item 14: Update from the Dental Hygiene Committee of California

Michelle Hurlbutt, President of the Dental Hygiene Committee of California, will provide a verbal report.



Agenda Item 15

**Discussion and Possible Action to
Extend the Board's Strategic Plan
to a Four or Five Year Plan**



MEMORANDUM

DATE	August 19, 2013
TO	Dental Board of California
FROM	Karen Fischer, Executive Officer
SUBJECT	Agenda Item 15: Discussion and Possible Action to Extend the Board's Strategic to a Four or Five Year Plan

Background:

The Dental Board's Strategic Plan (Plan) was updated and adopted by the Board at its November 2012 meeting. The Plan established eight goals with corresponding objectives for the next three years (2013 through 2015).

In February 2013, the Department of Consumer Affairs (DCA) SOLID training staff met with Board managers to conduct action planning in order to develop tasks and measures to ensure that the goals and objectives outlined in the Plan would be met. Specifically, staff prioritized objectives, established timeframes, determined metrics, and assigned responsibilities for each of the eight goals. SOLID training staff acknowledged that the action plan was very ambitious.

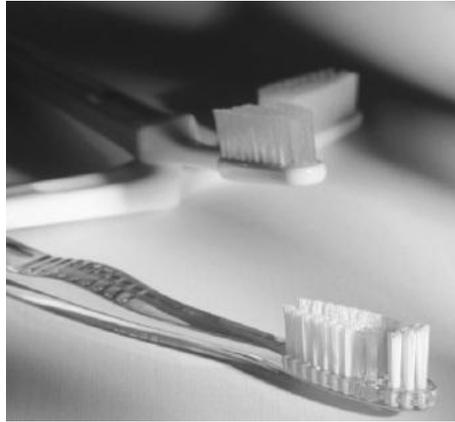
After further review, and taking into consideration staff workload, the delayed implementation of BreEZe, and preparation for the Legislative oversight process which will begin in 2014, I am requesting that the Board consider extending the Plan from a three year plan to a four year plan. This will allow the staff flexibility in successfully completing action items identified within the Plan, while going through the Legislative oversight process.

Action Requested:

Readopt the Board's Strategic Plan as a four year plan from 2013 to 2016 to extend through the Board's next Legislative review.

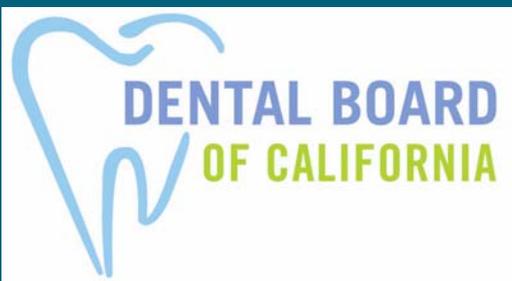
DENTAL BOARD OF CALIFORNIA

2013-2015



strategic plan

Adopted December 3, 2012



PUBLISHED BY

**DENTAL BOARD OF CALIFORNIA
2005 EVERGREEN STREET, SUITE 1550
SACRAMENTO, CA 95815
916-263-2300**

WWW.DBC.CA.GOV

MEMBERS OF THE DENTAL BOARD OF CALIFORNIA WHO ADOPTED THIS STRATEGIC PLAN, DECEMBER 3, 2012

BRUCE WHITCHER, DDS, PRESIDENT
HUONG LE, DDS, MA, VICE PRESIDENT
FRAN BURTON, SECRETARY
STEVEN AFRIAT
STEPHEN CASAGRANDE, DDS
LUIS DOMINICIS, DDS
REBECCA DOWNING
JUDITH FORSYTHE, RDA
SUZANNE MCCORMICK, DDS
STEVEN MORROW, DDS, MS
THOMAS OLINGER, DDS

RICHARD DECUIR, EXECUTIVE OFFICER

MEMBERS OF THE DENTAL ASSISTING COUNCIL

JUDITH FORSYTHE, RDA, CHAIR
DENISE ROMERO, RDA, VICE-CHAIR
ANNE CONTRERAS, RDA
PAMELA DAVIS-WASHINGTON, RDA
TERESA LUA, RDAEF
EMMA RAMOS, RDA
BRUCE WHITCHER, DDS

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ABOUT THE DENTAL BOARD OF CALIFORNIA

The Dental Board of California licenses and regulates dentists, registered dental assistants, and registered dental assistants in extended functions. The Board assures the initial and continued competence of its licensees through licensure, investigation of complaints against its licensees, and discipline of those found in violation of the Dental Practice Act (Business and Professions Code Sections 1600 et seq.), monitoring licensees whose licenses have been placed on probation, and managing the Diversion Program for licensees whose practice may be impaired due to abuse of dangerous drugs or alcohol.

The Board's objective is to protect and promote the health and safety of consumers in the State of California. To accomplish this objective, the Board must ensure that only those persons possessing the necessary education, examination and experience qualifications receive licenses; all licentiates obtain the required continuing dental education training; consumers are informed of their rights and how complaints may be directed to the Board; consumer complaints against licentiates are promptly, thoroughly and fairly investigated; and appropriate action is taken against licentiates whose care or behavior is outside of acceptable standards.

The composition of the Board is defined in Business & Professions Code Section 1603 to be fifteen (15) members and includes eight dentists, one licensed Registered Dental Hygienist, and one licensed Registered Dental Assistant, all appointed by the Governor; and five public members, three appointed by the Governor, one by the Speaker of the Assembly and one by the Senate President ProTempore. The Board appoints the Executive Officer who oversees a staff of 70. In 2012, the Dental Assisting Council was established as a result of the Board's 2011 Sunset Review (Senate Bill 540, Chapter 385, Statutes of 2011) The Council is comprised of seven members: the Registered Dental Assistant member of the Board, another member of the Board, and five Registered Dental Assistants.

RECENT ACCOMPLISHMENTS

As a part of the strategic planning process the Board evaluated the goals set forth in its previous strategic plan, identifying the objectives they were able to accomplish, and making note of any items that still require attention for carry over into the new plan. The following are the significant Board accomplishments since the last strategic plan was adopted in 2010:

- Development of a new licensure examination system (Portfolio Examination).
- Development and dissemination of an annual newsletter to inform Board stakeholders of significant Board decisions and activities.
- Update of the Board's website to improve ease-of-use.
- Creation of an outreach program for students in dental education programs.
- Establishment of local dental society contacts to facilitate dissemination of Board programs and services.
- Successful completion of the Legislative Sunset Review process.
- Improvement of enforcement case reporting and tracking through the creation of the Enforcement Investigative Analysis unit and implementation of a new investigative activity reporting system.
- Reduction in processing time for enforcement investigations by 7%.
- Successful amendment of statute to resolve legal issues related to specialty advertising.
- Achievement of full staffing levels in the enforcement and diversion programs.
- Facilitated technical amendments to the Dental Practice Act.
- Printed updated copies of the Dental Practice Act annually.
- Renewed approval of the University De La Salle's Dental Program.
- Establishment and appointment of the Dental Assisting Council.
- Hired additional Subject Matter Experts (SMEs) to assist staff in the review of dental assisting educational programs and courses.
- Adopted regulations regarding notice to consumers that dentists are licensed by the Dental Board of California.
- Adopted regulations for sponsored free healthcare events that allow participation by dentists with licenses from other states.
- Release of statement for the Board's website regarding use of Botox and dermal filler by dentists.
- All sworn investigative staff at the Board are compliant with the Peace Officer Standards and Training requirements.

OUR MISSION

The Dental Board of California's mission is to protect and promote the oral health and safety of California consumers by ensuring the quality of dental health care within the State.

OUR VISION

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

OUR VALUES

Consumer Protection – We make effective and informed decisions in the best interest and for the safety of Californians.

Accountability – We are accountable to the people of California and each other as stakeholders. We operate transparently and encourage public participation in our decision-making whenever possible.

Professionalism – We strive to maintain qualified, proficient and skilled staff to provide services to the state of California.

Efficiency – We diligently identify the best ways to deliver high-quality services with the most efficient use of our resources.

Fairness – We apply all rules and make all decisions in a consistent and unbiased manner.

Diversity – We draw strength from our organizational diversity as well as California's ever-changing cultural and economic diversity.

GOAL 1: LICENSING

Provide a licensing process that permits applicants timely access to the workforce without compromising consumer protection.

1.1 Reduce the processing time for initial licensure.*

1.2 Reduce the processing time for license renewal.

1.3 Develop an outreach strategy to educate potential applicants on the Board's licensure process, including information on the circumstances that could result in licensure delays and possible denials.

1.4 Develop and implement an outreach plan to educate licensees and consumers on the new web access tools that will be available as part of the Breeze system.

1.5 Revise the Board's regulatory requirements regarding the abandonment of applications to clearly specify that any applicant for a license who fails to complete application requirements within a specified amount of time shall be deemed abandoned and will be required to file a new application.

**Objectives are listed in priority order within each established goal.*

GOAL 2: EXAMINATIONS

Administer fair, valid, timely, comprehensive, and relevant licensing examinations.

2.1 Complete the Portfolio Examination Requirements regulatory package and implement the program.

2.2 Review the existing dental assisting program written examinations and make modifications as necessary to maintain relevant and comprehensive examinations.

2.3 Review the content of the law and ethics examination and make modifications, if necessary, to ensure the examination is valid and legally defensible.

2.4 Complete a feasibility study on the benefits of the Board's participation in additional regional clinical examinations for dental licensure.

GOAL 3: COMMUNICATION AND EDUCATION

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

3.1 Establish and foster relationships with our external partners, including the Legislature, to increase understanding of Board processes and needs.

3.2 Explore the use of Public Service Announcements, in partnership with the Department of Consumer Affairs, to broadcast relevant information to consumers and licensees.

3.3 Improve our working relationship with the Dental Hygiene Committee of California and advocate for dental hygiene representation on the Board.

3.4 Improve communication with dental schools, local organizations and professional societies to educate these stakeholders on current and relevant Board activities, including enforcement trends.

3.5 Increase visits to the Board's website by improving its ease of navigation and layout.

3.6 Develop and distribute an annual newsletter, with information relevant to stakeholders, for posting on the Board's website.

3.7 Evaluate development of a social media outreach plan to increase public awareness of the Board's programs and services.

GOAL 4: CONSUMER PROTECTION AND ENFORCEMENT

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

4.1. Seek additional legislation to enhance the number and degree of the Board's enforcement tools to address administrative violations.

4.2 Reduce cycle times for investigations.

4.3 Recruit and calibrate additional Board Experts to assist with the Board's enforcement efforts.

4.4 Develop an in-house training program to improve employee skills and knowledge in the performance of administrative and criminal investigations.

4.5 Perform random continuing education audits to ensure licensee compliance throughout the State.

4.6 Recruit and maintain fully staffed Northern and Southern California Diversion Evaluation Committees.

GOAL 5: LEGISLATION AND REGULATION

Advocate legislation and promulgate regulations that advance the vision and mission of the Dental Board of California.

5.1 Establish a process to identify necessary regulatory changes and set regulatory priorities for each fiscal year.

5.2 Identify and actively monitor legislation that may impact the Dental profession and/or the Board and respond in a timely manner.

5.3 Create an annual review process to identify and make non-controversial and technical changes to the Dental Practice Act (DCA Omnibus Bill).

5.4 Review the educational standards required to obtain Board approval of a dental school and update if necessary.

GOAL 6: SERVICE

Provide quality customer service to consumers and licensees.

6.1 Research and implement a telephone system to reduce call wait times and improve customer service.

6.2 Create a Board communication standards policy and conduct staff training to ensure implementation.

6.3 Explore alternative hiring solutions to augment staffing needs.

6.4 Foster stakeholder relationships and enhance regular exchange of information.

6.5 Develop a workforce and succession plan to address key position retirements.

GOAL 7: DENTAL WORKFORCE

Maintain awareness of the changes and challenges within the Dental community and serve as a resource to the Dental workforce.

7.1 Identify areas where the Board can assist with workforce development, including the dental loan repayment program, and publicizing such programs to help underserved populations.

7.2 Explore methods for promoting diversity within the dental community.

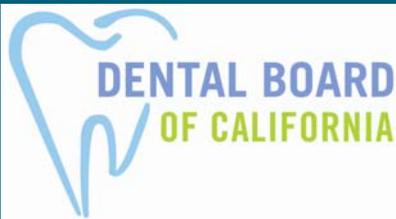
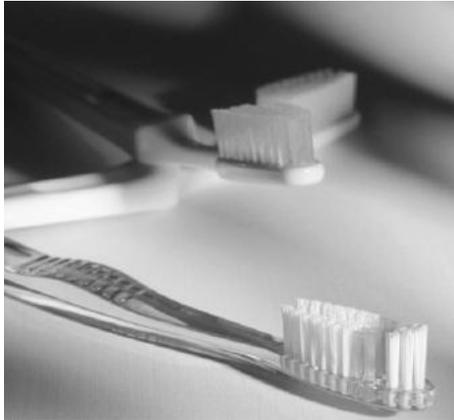
7.3 Conduct surveys and collect workforce data to inform the Board as to existing workforce capacity (Office of Statewide Health Planning and Development (OSPHD), Assembly Bill 269, Chapter 262, Statutes of 2007).

GOAL 8: DENTAL ASSISTING

Ensure licensed dental assistants in California practice with integrity, professionalism and proficiency.

8.1 The Dental Assisting Council will review existing laws and regulations that govern dental assisting and provide recommendations to the Board on necessary updates and changes.

8.2 Examine the dental assisting written exam, with the assistance of the Dental Assisting Council, to determine factors that may influence pass/fail rates and make adjustments if necessary to ensure fair and valid testing.



DENTAL BOARD OF CALIFORNIA
2005 EVERGREEN STREET, SUITE 1550
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Agenda Item 16

**Discussion and Possible
Action Regarding 2014
Board Meeting Dates**



MEMORANDUM

DATE	August 7, 2013
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant
SUBJECT	Agenda Item 16: Discussion and Possible Action Regarding 2014 Board Meeting Dates

The Board will need to set the 2014 meeting schedule in order for Board members to plan accordingly and enable staff ample time to negotiate contracts for future meeting space locations. A 2014 calendar is attached for your reference.

Pursuant to Business and Professions Code, Section 1607, the Board shall meet regularly once each year in San Francisco and Los Angeles and at such other times and places as the Board may designate, for the purpose of transacting its business. Historically, the Board meets quarterly.

Staff has taken into account holidays, association meetings and legislative and legal deadlines.

As such, the following are dates for your consideration:

San Diego:

March 6-7 or
March 13-14

Sacramento:

August 21-22 or
August 25-26 or
August 28-29

San Francisco:

June 5-6 or
June 12-13

Los Angeles:

Nov 6-7 or
Nov 20-21 or
Dec 4-5

January

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	
Jan 20: M L King Day						

March

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15 ADEA Texas
16 ADEA Texas	17 ADEA Texas	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

2014

February

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	
Feb 17: Presidents' Day						

April

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6 AADB Chicago	7 AADB Chicago	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25 CDA Cares	26 CDA Cares
27	28	29	30			
Apr 18: Good Friday Apr 20: Easter Sunday						

2014

May

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15 CDA Anaheim	16 CDA Anaheim	17 CDA Anaheim
18	19	20	21	22	23	24
25	26	27	28	29	30	31

May 11: Mother's Day
May 26: Memorial Day

July

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Jul 04: Independence Day

2014

June

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18 ADHA Las Vegas	19	20	21
22	23	24	25	26 AGD Detroit	27 AGD Detroit	28 AGD Detroit
29	30					

Jun 15: Father's Day

August

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

2014

September

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4 CDA SF	5 CDA SF	6 CDA SF
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				
Sep 01: Labor Day						

November

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14 CDA H of D	15 CDA H of D
16 CDA H of D	17	18	19	20	21	22
23	24	25	26	27	28	29
30	Nov 11: Veterans Day Nov 27: Thanksgiving Day					

2014

October

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	
Oct 13: Columbus Day Oct 31: Halloween Oct. TBD: AADB						

December

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			
Dec 25: Christmas Day						

2014



Agenda Item 17

**Discussion and Possible Action
Regarding Updating and Revising
the Board Member Administrative
Procedure Manual**



MEMORANDUM

DATE	August 8, 2013
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant
SUBJECT	Agenda Item 17: Discussion and Possible Action Regarding Updating and Revising the Board Member Administrative Procedure Manual

The Board Member Administrative Procedure Manual is a handbook designed for Board members as a ready reference of important laws, regulations, DCA policies and Board policies in order to guide the actions of the Board members and ensure Board effectiveness and efficiency.

The manual was last adopted by the Board in January 2006.

In an effort to prepare for the Legislative oversight process which will begin next year, staff will be reviewing and revising, as necessary, this document. If any Board member would like to suggest modifications to this information, please submit your comments to Linda Byers (Linda.Byers@dca.ca.gov) by September 30, 2013. Staff will prepare and submit the revised document to legal for review before presenting it to the Board for adoption at the November 2013 meeting.

Board Member Administrative Procedure Manual



Dental Board of California



Adopted by the Board
1/27/2006

Dental Board of California
2005 Evergreen Street, Ste 1550
1432 Howe Avenue, Suite 85
Sacramento, CA 95825-3241 95815-3831
www.dbc.ca.gov

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DRAFT

CHAPTER 1. INTRODUCTION

Overview

The Dental Board of California (DBC) was created by the California Legislature in 1885. Today the DBC is one of the boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the ~~State and Consumer Services Agency~~ Business, Consumer Services, and Housing Agency under the aegis of the Governor. DCA is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services. While the DCA provides administrative oversight and support services, DBC has policy autonomy and sets its own policies, procedures, and initiates its own regulations.

The DBC is presently comprised of 44 15 members. The composition of the Board is defined in Business and Professions Code Sections 1601 and 1603 as follows: of the eight dentists appointed by the Governor, one must be a member of a faculty of any California dental college and one shall be a dentist practicing in a nonprofit community clinic; ~~four~~ five public members, ~~two~~ three appointed by the Governor, one by the Speaker of the Assembly and one by the Senate Rules Committee; one licensed dental hygienist appointed by the Governor; and one licensed dental assistant appointed by the Governor. Board members may serve up to two four-year terms. Board members fill non-salaried positions, but are paid \$100 per day for each meeting day and are reimbursed travel expenses (B&P Code § 1615).

This procedure manual is provided to Board members as a ready reference of important laws, regulations, DCA policies, and Board policies in order to guide the actions of the Board members and ensure Board effectiveness and efficiency.

Definitions:

B&P	Business and Professions Code
CCR	California Code of Regulation
CLEAR	Council on Licensure Enforcement and Regulations
DCA	Department of Consumer Affairs
EO	Executive Officer
SAM	State Administrative Manual
President	Where the term “President” is used in this manual, it will be assumed to include “his or her designee”

General Rules of Conduct:

Board members shall not speak or act for the Board without proper authorization.

Board members shall maintain the confidentiality of confidential documents and information.

Board members shall commit the time and prepare for Board responsibilities.

Each Board member shall recognize the equal role and responsibilities of all Board members.

Board members shall act fairly, be nonpartisan, impartial and unbiased in their role of protecting the public.

Board members shall treat all applicants and licensees in a fair and impartial manner.

Board members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.

Board members shall not use their positions on the Board for personal, familial or financial gain.

CHAPTER 2. BOARD MEETING PROCEDURES

Frequency of Meetings

(B&P Code Section 1607)

The board shall meet regularly once each year in San Francisco and once each year in Los Angeles and at such other times and places as the board may designate, for the purpose of transacting its business.

Special meetings may be held at such times as the board may elect or on the call of the president of the board, or of not less than four members thereof. (B&P Code Section 1608)

Due notice of each meeting and the time and place thereof shall be given in accordance with the Bagley-Keene Open Meeting Act (Gov. Code § 11120 et seq).

Board Member Attendance at Board Meetings

(Board Policy)

Board members shall attend each meeting of the Board. If a member is unable to attend, he or she must contact the Board President or the Executive Officer and request to be excused from the meeting.

Board Meetings

(Government Code Section 11120 et seq.)

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This act governs meetings of the state regulatory boards and meetings of committees of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda.

The Examination and Enforcement Committees meet on the first day of the board meeting to consider issues and make recommendations to the full Board. Executive Committee meetings, ad hoc, or task force committee meetings, regulatory, or informational hearings may be at the call of the Board President as deemed necessary.

Public Participation

Public participation is encouraged throughout the public portion of the meetings. The chairs of the respective committees, as well as the Board President, acknowledge comments from the audience during general discussion of agenda items. In addition, each Board agenda includes public comment as a standing item of the agenda. This standing agenda item allows the public to request

Board Member Administrative Procedure Manual Dental Board of California

issues to be placed on future agendas, or to discuss any issue of concern to them.

If the agenda contains matters that are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Quorum

(B&P Code Section 1610)

Eight of the members of the Board constitute a quorum of the Board for the transaction of business. The concurrence of a majority of those members of the Board present and voting at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the Board.

Agenda Items

(Board Policy)

Board meetings generally involve:

- Changes in general policy and statutes
- Content and administration of examinations
- Adoption or deletion of regulations
- Approval of fee schedules
- Appeals
- Changes to procedural and operational activities
- Enforcement issues such as, acceptance/denial of Administrative Law Judge decisions, stipulations and advancement of cases to the Office of Administrative Hearings
- Committee member approval
- Acceptance or denial of committee recommendations

Any Board member may submit items for a Board meeting agenda to the Board President and Executive Officer 30 days prior to the meeting.

Notice of Meetings

(Government Code Section 11120 et seq.)

According to the Open Meeting Act, meeting notices (including agendas for Board meetings) shall be sent to persons on the Board's mailing list at least 10 calendar days in advance. The notice shall include a staff person's name, work address and work telephone number who can provide further information prior to the meeting.

Notice of Meetings to be posted on the Internet

(Government Code Section 11125)

Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone

Board Member Administrative Procedure Manual Dental Board of California

number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices are available.

Record of Meetings (Board Policy)

The minutes are a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review by the Board members at the next Board meeting. Board minutes shall be approved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting.

Board meetings are webcast in real time. Archived copies of the webcast are available on the Board's website approximately 30 days after the meeting is held.

Tape Recording (Board Policy)

The open meetings are ~~tape~~-recorded for staff purposes. ~~Tape r~~Recordings may be ~~disposed of~~ erased upon Board approval of the minutes or 30 days after the recording. ~~Tapes~~ CD copies are available, upon request, for Board members not able to attend a meeting.

Meeting Rules (16 CCR § 1002)

The Board uses Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act), as a guide when conducting the meetings.

Use of Electronic Devices During Meetings (Bagley-Keene)

Board members should not text or email one another during an open meeting on any matter within the Board's jurisdiction. Using electronic devices to communicate secretly in such a manner would violate the Open Meeting Act. Where laptops are used by the Board members at the meeting because the Board provides materials electronically, the Board President shall make an announcement at the beginning of the meeting as to the reason for the use of laptops.

CHAPTER 3. TRAVEL AND SALARY POLICIES AND PROCEDURES

Travel Approval

(DCA Memorandum 96-01)

Board members shall have Board President approval for all travel except for regularly scheduled Board and committee meetings to which the Board member is assigned.

Travel Arrangements

(Board Policy)

Board members are encouraged to coordinate with the Executive Assistant on travel arrangements and lodging accommodations.

Out-of-State Travel

(SAM Section 700 et seq.)

For out-of-state travel, Board members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the State of California is controlled and must be approved by the Governor's Office.

Travel Claims

(SAM Section 700 et seq. and DCA Memorandum 96-01)

Rules governing reimbursement of travel expenses for Board members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Executive Assistant maintains these forms and completes them as needed. It is advisable for Board members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

In order for the expenses to be reimbursed, Board members shall follow the procedures contained in DCA Departmental Memoranda which are periodically disseminated by the Director and are provided to Board members.

Per Diem Salary

(B&P Code Section 103)

B&P Code Section 103 regulates compensation in the form of per diem salary and reimbursement of travel and other related expenses for Board members. In relevant part, this section provides for the payment of per diem salary for Board members "for each day actually spent in the discharge of official duties," and provides that the Board member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

Per Diem Salary
(Board Policy)

Accordingly, the following general guidelines shall be adhered to in the payment of per diem salary, or reimbursement for travel:

1. No per diem salary or reimbursement for travel-related expenses shall be paid to Board members except for attendance at official Board or committee meetings. Attendance at gatherings, events, hearings, conferences or meetings other than official Board or committee meetings shall be approved in advance by the Board President. The Executive Officer shall be notified of the event and approval shall be obtained from the Board President prior to Board member's attendance.
2. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board meeting or committee meeting to the conclusion of that meeting.

Where it is necessary for a Board member to leave early from a meeting, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

For Board-specified work, Board members will be compensated for actual time spent performing work authorized by the Board President. That work includes, but is not limited to, authorize attendance at other gatherings, events, meetings, hearings, or conferences, and committee work. That work does not include preparation time for Board or committee meetings. Board members cannot claim per diem salary for time spent traveling to and from a Board or committee meeting.

CHAPTER 4. SELECTION OF OFFICERS AND COMMITTEES

Officers of the Board (B&P Code Section 1606)

The Board shall elect from its members a President, a Vice President, and a Secretary.

Election of Officers (Board Policy)

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.

Officer Vacancies (Board Policy)

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the President becomes vacant, the Vice President shall assume the office of the President. Elected officers shall then serve the remainder of the term.

Committee Appointments (Board Policy)

The President shall establish committees, whether standing or special, as he or she deems necessary. The composition of the committees and the appointment of the members shall be determined by the Board President in consultation with the Vice President, Secretary and the Executive Officer. When committees include the appointment of non-Board members, all impacted parties should be considered.

Attendance at Committee Meetings (Board Policy)

If a Board member wishes to attend a meeting of a committee of which he or she is not a member, that Board member cannot participate or vote during the committee meeting, and must not sit on the dais.

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Creation of Task Forces (Board Policy)

It is the policy of the Board that:

- 1) task forces will be appointed sparingly as the exception rather than the rule and only when the Board finds it cannot address a specific and well defined issue through the existing committee structure;
- 2) task force members may be appointed by a committee chair but must be approved by the full Board;
- 3) the charge given to the task force will be clear, specific, in writing and presented to the Board at the time of appointment;
- 4) task forces, of three or more members, appointed by the Board are subject to the same open meeting laws as the Board (as required by Government Code Section 11121);
- 5) all task forces shall give staff at least 20 days advance notice of the time, place and general agenda for any task force meeting;
- 6) task forces will report regularly and provide the Board with minutes after every meeting;
- 7) no task force recommendation will be the basis for Board action in the absence of a formal written report from the task force to the Board.

CHAPTER 5. BOARD ADMINISTRATION AND STAFF

Board Administration

(DCA Reference Manual)

Board members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer.

Board Budget

(Board Policy)

The Executive Officer shall serve as the Board's budget liaison with staff and shall assist staff in the monitoring and reporting of the budget to the Board. The Executive Officer or the Executive Officer's designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Strategic Planning

(Board Policy)

The Executive Committee shall have overall responsibility for the Board's Strategic Planning Process. The Vice President shall serve as the Board's strategic planning liaison with staff and shall assist staff in the monitoring and reporting of the strategic plan to the Board. The Board will conduct an annual strategic planning session and may utilize a facilitator to conduct the strategic planning process.

Legislation

(Board Policy)

In the event time constraints preclude Board action, the Board delegates to the Executive Officer and the Chair of the Legislative Committee the authority to take action on legislation that would change the Dental Board of California's Dental Practice Act, which impacts a previously established Board policy or affects the public's health, safety or welfare. Prior to taking a position on legislation, the Executive Officer shall consult with the Board President and Legislative Committee Chair. The Board shall be notified of such action as soon as possible.

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Communications with Other Organizations and Individuals (Board Policy)

The official spokesperson for the Dental Board of California is the President. The President may designate the Executive Officer, the Chief of Enforcement or other board members to speak to the media on behalf of the Board. **The Department of Consumer Affairs should be notified of any contacts by the media.**

It is the policy of the Dental Board of California to accommodate speaking requests from all organizations, schools, consumer groups, or other interested groups, whenever possible. If the Board representative is addressing a dental school or group of potential candidates for licensure, the program must be open to all interested parties. The President may authorize board members to speak to schools, organizations, consumer groups, or other interested groups upon request by members or written requests from said schools, organizations or groups.

Executive Officer Evaluation (Board Policy)

The Board shall evaluate annually the performance of the Executive Officer.

Board Staff (DCA Reference Manual)

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer. Consequently, the Executive Officer shall solely be responsible for all day-to-day personnel transactions.

Business Cards (Board Policy)

Business cards will be provided to each Officer of the Board member with the Board's office address, telephone and fax number, and Web site address. A Board member's Officer's business address, telephone and fax number, and e-mail address may be listed on the card at the member's request.

CHAPTER 6. OTHER POLICIES AND PROCEDURES

Mandatory Training
(DCA Policy)

State law requires board members within the Department of Consumer Affairs to complete training in several important areas, including ethics, conflict of interest laws, sexual harassment prevention and Board Member Orientation Training.

Ethics Orientation
(Government Code §53234)

California law requires all appointees to take an ethics orientation within the first six months of their appointment and to repeat this ethics orientation every two years throughout their term.

The training includes important information on activities or actions that are inappropriate or illegal. For example, generally public officials cannot take part in decisions that directly affect their own economic interests. They are prohibited from misusing public funds, accepting free travel and accepting honoraria. There are limits on gifts.

An online, interactive version of the training is available on the Attorney General's Web site at <http://oag.ca.gov/ethics>. An accessible, text-only version of the materials is also available at the Attorney General's Web site.

Conflict of Interest
(Government Code §81000)(California Code of Regulations, §18730)

The Department of Consumer Affairs will make and retain a copy of the statements from members of the boards, commission, committees and subcommittees and make them available for public inspection. It will forward the original statement to the Fair Political Practices Commission.

Information on specific topics can be found at:
http://www.dcaboardmembers.ca.gov/member_info/conflict_interest.shtml

Sexual Harrassment Prevention
(Government Code §12950.1)

All new board members are required to attend at least two hours of classroom or other interactive training and education regarding sexual harassment prevention within six months of their appointment. The Equal Employment Opportunity (EEO) Office is responsible for ensuring that all board members complete their required training. A copy of your certificate of proof of training must be sent to the EEO Office. Please identify which Board/Committee/Commission you serve on.

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For information on how to receive Sexual Harrassment Prevention Training contact:

Equal Employment Opportunity Office
1625 N. Market Blvd, Ste N330
Sacramento, CA 95834
(916) 574-8280 (916) 574-8604 Fax

Board Member Orientation
(B & P Code Section 453)

Every newly appointed board member is required to complete a training and orientation program offered by the Department of Consumer Affairs (DCA) within one year of assuming office. The training covers the functions, responsibilities and obligations that come with being a member of a DCA board.

For more information and assistance with scheduling training, please contact:

Deanna Marino Robinson
SOLID Training Solutions
1747 North Market Blvd, Ste. 270
Sacramento, CA 95834
(916) 574-8320
deanna.marino.robinson@dca.ca.gov

Board Member Disciplinary Actions
(Board Policy)

The Board may censure a member if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The President of the Board shall sit as President of the hearing unless the censure involves the President's own actions, in which case the Vice President of the Board shall sit as President. In accordance with the Open Meeting Act, the censure hearing shall be conducted in open session.

Removal of Board Members
(B&P Code Section 1605)

The Governor has the power to remove from office at any time any member of any Board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. The Governor may also remove from office a Board member whom directly or indirectly discloses examination questions to an applicant for examination for licensure. That member would also be subject to a misdemeanor violation (B&P Code 123).

Resignation of Board Members
(Government Code Section 1750)

In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. State law requires written notification. A copy of this letter shall also be sent to the director of the Department, the Board President, and the Executive Officer.

Conflict of Interest
(Government Code Section 87100)

No Board member may make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision. Any Board member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer, or the Board's legal counsel.

Contact with Candidates
(Board Policy)

Board members shall not intervene on behalf of a candidate for licensure for any reason. They should forward all contacts or inquiries to the Executive Officer or Board staff.

Gifts from Candidates
(Board Policy)

Gifts of any kind to Board members or the staff from candidates for licensure with the Board shall not be permitted.

Request for Records Access
(Board Policy)

No Board member may access the file of a licensee or candidate without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the DBOC's office.

Ex Parte Communications
(Government Code Section 11430.10 et seq.)

The Government Code contains provisions prohibiting *ex parte* communications. An "ex parte" communication is a communication to the decision-maker made by

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one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.”

Board members are prohibited from an *ex parte* communication with Board enforcement staff while a proceeding is pending.

Occasionally an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board members. If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Chief of Enforcement.

If a Board member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter. If the person insists on discussing the case, he or she should be told that the Board member would be required to excuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board member believes that he or she has received an unlawful *ex parte* communication, he or she should contact the agency's assigned Legal Office attorney.



Agenda Item 18

Update on University De La Salle



MEMORANDUM

DATE	August 20, 2013
TO	Dental Board of California
FROM	Karen Fischer, Executive Officer
SUBJECT	Agenda Item 18: Update on University De La Salle

At the May 2013 Board meeting held in Oakland, California, a student attending the dental school at the University De La Salle, Bajio in Mexico came before the Board to draw attention to issues between the schools administration and the class of 2012 which includes seven students. He indicated that changes had been made to the curriculum making it impossible for his colleagues and him to graduate within five (5) years. He indicated that the administration had not been responsive to repeated requests to discuss the issues.

The student's comments were received during the public comment period for items not on the agenda. Therefore, Board members were not able to ask additional questions or to speak with the student about his concerns during or after the meeting.

As Executive Officer, I notified the dean of the University De La Salle Dental School to apprise her of this public testimony and asked that she look into the concerns of the seven students. The dental school administration has been meeting with the students to identify the issues and is attempting to reach resolution. To date, this process is ongoing.

Background Information Relating to Foreign Dental Schools

Effective January 1, 1998 and pursuant to Assembly Bill 1116 (Chapter 792, Statutes of 1997), the California Legislature recognized the need to ensure graduates of foreign dental schools who receive an education equivalent to that of accredited institutions in the United States and who are adequately prepared for the practice of dentistry are subject to the same licensure requirements as graduates of approved dental schools or colleges. This would mean these graduates would not need to complete two years of accredited studies prior to taking the dental licensure examination, commencing January 1, 2003.

The Dental Board of California was legislatively directed to conduct evaluations of foreign dental schools and to approve those who provide an education equivalent to that of accredited institutions in the United States and adequately prepare their students for the practice of dentistry. Pursuant to the law, the approval criteria *may be* based on curriculum, faculty qualifications, student attendance, plant and facilities and other relevant factors.

In developing prescribed standards and procedures regarding this approval process, the Board has relied significantly on existing standards of the Commission on Dental Accreditation. However, approval of a foreign dental school by the Dental Board of California is **not accreditation by the Commission on Dental Accreditation**

Under the Board's authorization to approve foreign dental schools, the University De La Salle Bajio was approved in December 2004.

In accordance with Business & Professions Code Section 1636.4(g) foreign dental schools shall submit a renewal application every seven years. The University De La Salle School of Dentistry submitted its application for re-approval to the Dental Board and it was accepted as complete in February 2012. An on-sight inspection and evaluation was conducted in March 2012 and the University was granted re-approval by the Board in May 2012.



Agenda Item 19

Report from the Dental Assisting Council



MEMORANDUM

DATE	August 2, 2013
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant
SUBJECT	Agenda Item 19: Report from the Dental Assisting Council

Judith Forsythe, RDA, Chair of the Dental Assisting Council, will provide a report from the Dental Assisting Council meeting.



Agenda Item 20

**Discussion and Possible Action
Regarding Fiscal Year 2013/14
Regulatory Priorities**



MEMORANDUM

DATE	August 19, 2013
TO	Dental Board Members
FROM	Sarah Wallace, Legislative & Regulatory Analyst
SUBJECT	Agenda Item 20: Discussion and Possible Action Regarding Fiscal Year 2013/14 Regulatory Priorities

Background:

At the beginning of each Fiscal Year (FY), staff requests the Dental Board of California (Board) set its priorities for the promulgation of new regulatory proposals for the duration of the year so that staff may manage the workload associated with meeting the Board's goals accordingly. In 2012, the Board set the following priorities, in priority order, for FY 2012-13:

- (1) Dentistry Fee Increase (Cal. Code of Regs., Title 16, Section 1021)
- (2) Portfolio Examination Requirements (Cal. Code of Regs., Title 16, Sections 1028 to 1039):
- (3) Uniform Standards for Substance Abusing Licensees (Cal. Code of Regs., Title 16, Sections 1018 and 1018.01)
- (4) Abandonment of Application Requirements (Cal. Code of Regs., Title 16, Section 1004)

In addition to establishing the regulatory priorities, the Board directed staff to work with a subcommittee on the required annual review of the Minimum Standards for Infection Control (Cal. Code of Regs., Title 16, Section 1005).

Over the last year, the Board and staff have been working diligently to ensure that the regulatory proposals move forward to maintain maximum public protection. In addition to the regulatory priorities established for FY 2012-13, regulatory proposals from priorities established for FY 2011-12 were completed. The following is a list of regulatory proposals that staff has been working on over the last year:

- (1) Notice to Consumers (Cal. Code of Regs., Title 16, Section 1065):
 The Board's Notice to Consumers regulatory file was approved by the Office of Administrative Law and filed with the Secretary of State on October 29, 2012. The regulation became effective on November 28, 2012. **Status: Complete**

- (2) Sponsored Free Health Care Events (Cal. Code of Regs., Title 16, Sections 1023.15, 1023.16, 1023.17, 1023.18, and 1023.19):
The Board's Sponsored Free Health Care Events regulatory file was approved by the Office of Administrative Law and filed with the Secretary of State on November 7, 2012. The regulation became effective on December 7, 2012.
Status: Complete
- (3) Dentistry Fee Increase (Cal. Code of Regs., Title 16, Section 1021):
The Board's Dentistry Fee Increase proposed rulemaking was submitted to the Office of Administrative Law for publication in the California Regulatory Notice Register on Tuesday, July 30th. The rulemaking was published on Friday, August 9th and was noticed on the Board's web site and mailed to interested parties. The 45-day public comment period began on August 9th and will end on September 23rd. A regulatory hearing has been scheduled in Sacramento on Monday, September 23rd to receive verbal and written testimony. The Board will need to respond to any adverse comments received during the 45-day public comment period or during the regulatory hearing. If no adverse comments are received, then the proposal would be adopted by the Board and the rulemaking may be finalized. The final rulemaking file is required to be approved by the Director of the Department, the Secretary of the Agency, and the Director of the Finance. Once approval signatures are obtained, the final rulemaking file will be submitted to the Office of Administrative Law. The Office of Administrative Law will have thirty (30) working days to review the file. Once approved, the rulemaking will be filed with the Secretary of State. Beginning January 1, 2013, new quarterly effective dates for regulations will be dependent upon the timeframe an OAL approved rulemaking is filed with the Secretary of State, outlined in Agenda Item 7(E). The deadline to submit this final rulemaking file to the Office of Administrative Law review and determination of approval is August 9, 2014. **Status: Pending 45-day public comment period**
- (4) Portfolio Examination Requirements (Cal. Code of Regs., Title 16, Sections 1028 to 1039):
Board staff and Board Legal Counsel have developed proposed regulatory language relative to the portfolio examination requirements for the Board's consideration for initiation of a rulemaking. The proposed language has been developed from the information contained in the following documents: (1) *Development and Validation of a Portfolio Examination for Initial Dental License, Dated May 1, 2013*, (2) *Portfolio Examination Examiner Training Manual*, and (3) *Portfolio Examination Candidate Handbook*. The Board will be reviewing the proposed regulatory language during this Board meeting. **Status: Pending Board approval to initiate the rulemaking process.**
- (5) Uniform Standards for Substance Abusing Licensees (Cal. Code of Regs., Title 16, Sections 1018 and 1018.01):
The Board's Uniform Standards for Substance Abusing Licensees final rulemaking was submitted to the Department of Consumer Affairs (Department) on June 28, 2013. The final rulemaking file is required to be approved by the Director of the Department, the Secretary of the Business, Consumer Services and Housing Agency (Agency), and the Director of the Department of Finance

(Finance). Once approval signatures are obtained, the final rulemaking file will be submitted to the Office of Administrative Law. The Office of Administrative Law will have thirty (30) working days to review the file. Once approved, the rulemaking will be filed with the Secretary of State. Beginning January 1, 2013, new quarterly effective dates for regulations will be dependent upon the timeframe an OAL approved rulemaking is filed with the Secretary of State, as outlined in Agenda Item 7(E). The deadline to submit this final rulemaking file to the Office of Administrative Law review and determination of approval is March 15, 2014. **Status: Pending Department of Consumer Affairs Review**

(6) Abandonment of Application Requirements (California Code of Regulations, Title 16, Section 1004):

At its May 18, 2012 meeting, the Board discussed and approved proposed regulatory language relative to the abandonment of applications and the splitting of the RDAEF exam for re-examination candidates. The Board directed staff to initiate a rulemaking. Staff is currently drafting the initial rulemaking documents and will be filing the proposed language with the Office of Administrative Law in the near future. **Status: Staff is in the process of drafting initial rulemaking documents.**

(7) Minimum Standards for Infection Control (Cal. Code of Regs., Title 16, Section 1005):

In the fall of 2012, a subcommittee was formed consisting of one representative from the Dental Board, Dental Assisting Council and the Dental Hygiene Committee of California to conduct the required annual review of the regulation relative to the minimum standards for infection control. The subcommittee met on February 4, 2013 via teleconference to review Section 1005 and established a consensus to bring the following findings forward to the Board and Committee for review. The Executive Officers of the Board and Committee worked to form a consensus on staff recommendations regarding the subcommittee's findings. At its February 28, 2013 meeting, the Board voted to accept the subcommittee's findings and recommendations that that no formal regulatory amendments be promulgated this year. **Status: 2013 Review of Minimum Standards of Infection Control (Cal. Code of Regs., Title 16, Section 1005) complete.**

Board staff maintains a list of needed regulations for the Board to consider when prioritizing regulatory proposals each fiscal year. This list includes regulatory proposals that would not need legislative amendments prior to promulgation. The following is a list of needed regulatory proposals for the Board's consideration; a complete listing with summaries may be found in Attachment 1:

- Continuing Education Requirements (Cal. Code of Regs., Title 16, Sections 1016 and 1017)
- Licensure by Credential Application Requirements (New Regulation)
- Elective Facial Cosmetic Surgery Permit Requirements (New Regulation)
- Change of Address Requirements (New Regulation)
- Retention of Inactive Patient Dental Records (New Regulation)

- Oral Conscious Sedation Forms (CCR, Title 16, §§ 1044.1, 1044.3(c), and 1044.4(a))

Beginning this year, the Dental Assisting Council (Council) will be providing recommendations to the Board regarding needed dental assisting regulations for the Board's consideration when prioritizing the regulatory proposals for the fiscal year. The Council will be reviewing the following three regulatory packages and will be forwarding a recommendation to the Board for a needed dental assisting regulation to be considered:

- Dental Assisting Educational Programs and Courses, including:
 - General Provisions Governing All Dental Assistant Educational Programs and Courses (Cal. Code of Regs., Title 16, Section 1070);
 - Educational Program and Course Definitions and Instructor Ratios (Cal. Code of Regs., Title 16, Section 1070.1);
Approval of Registered Dental Assistant Educational Programs (Cal. Code of Regs., Title 16, Section 1070.2);
 - Approval of Pit and Fissure Sealant Courses (Cal. Code of Regs., Title 16, Section 1070.3);
 - Approval of Coronal Polishing Courses (Cal. Code of Regs., Title 16, Section 1070.4);
 - Approval of Ultrasonic Scaling Courses (Cal. Code of Regs., Title 16, Section 1070.5);
 - Approval of Infection Control Courses (Cal. Code of Regs., Title 16, Section 1070.6);
 - Approval of Orthodontic Assistant Permit Courses (Cal Code of Regs., Title 16, Section 1070.7);
 - Approval of Dental Sedation Assistant Permit Courses (Cal Code of Regs., Title 16, Section 1070.8);
 - Radiation Safety Course Requirements (Cal. Code of Regs., Title 16, Section 1014 and 1014.1
 - Approval of Registered Dental Assistant in Extended Functions (RDAEF) Educational Programs (Cal. Code of Regs., Title 16, Section 1071); and
 - Educational Methodology Course Requirements (New Regulation).
- Dental Assisting Program Application and Examination Requirements, including:
 - General Application Requirements (Cal. Code of Regs., Title 16, Section 1076)
 - RDA Applications (Cal. Code of Regs., Title 16, Section 1077)
 - RDAEF Applications (Cal. Code of Regs., Title 16, Section 1077.1)
 - General Procedures for Dental Auxiliary Written and Practical Examinations (Cal. Code of Regs., Title 16, Section 1080)
 - General Procedures for Dental Auxiliary Clinical Examinations (Cal. Code of Regs., Title 16, Section 1080.1)
 - Conduct of Dental Auxiliary Examinations (Cal. Code of Regs., Title 16, Section 1080.2)

- Dental Auxiliary Licensure Examination Review Procedures; Appeals (Cal. Code of Regs., Title 16, Section 1080.3)
 - RDA Examination (Cal. Code of Regs., Title 16, Section 1081)
 - RDA Practical Examination-Requirements (Cal. Code of Regs., Title 16, Section 1081.1)
 - RDAEF Examination Requirements (Cal. Code of Regs., Title 16, Section 1081.2)
 - Passing Scores (Cal. Code of Regs., Title 16, Section 1083)
 - Orthodontic Assistant Application, Examination and Renewal Requirements (New Regulation)
 - Dental Sedation Assistant Application, Examination and Renewal Requirements (New Regulation)
 - Establish Minimum Criteria for Non-Board Approved Programs for RDA Application Qualification per Business and Professions Code Section 1752.1(c) (New Regulation)
 - Equivalency Standards for CPR Courses (New Regulation)
- Dental Assisting Program Duties and Settings, including:
 - Dental Assistant Duties and Settings (Cal. Code of Regs., Title 16, Section 1085)
 - RDA Duties and Settings (Cal. Code of Regs., Title 16, Section 1086)
 - RDAEF Duties and Settings (Cal. Code of Regs., Title 16, Section 1087)

Action Requested:

Staff requests the Board review the list of needed regulatory proposals rulemakings and consider the Council's recommendation related to needed dental assisting regulations, and establish a priority list to assist staff with determining workload for FY 2012/2013.

ATTACHMENT 1

Board staff has identified several regulations that need to be added or require updating. Staff requests the Board review the following subject matters that require rulemakings, and establish a priority list to assist staff with determining workload for FY 2013/2014:

Needed Regulations:

- **Continuing Education Requirements (Cal. Code of Regs., Title 16, §§1016-1017):** In March 2013, the Board's Executive Officer received a letter from Mr. Ralph Shenefelt, Senior Vice President of the Health and Safety Institute, petitioning the Board to amend California Code of Regulations, Title 16, Sections 1016(b)(1)(C) and 1017(d) such that a Basic Life Support (BLS) certification issued by the American Safety and Health Institute (ASHI), which is a brand of the Health and Safety Institute, would satisfy the mandatory BLS certification requirement for license renewal, and the required advanced cardiac life support course required for the renewal of a general anesthesia permit. Additionally, the letter requested an amendment to Section 1017(d) to specify that an advanced cardiac life support course which is approved by the American Heart Association or the ASHI include an examination on the materials presented in the course or any other advanced cardiac life support course which is identical in all respects, except for the omission of materials that relate solely to hospital emergencies or neonatology, to the most recent "American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care" published by the American Heart Association.
- **Licensure by Credential Application Requirements (New Regulation):** The Board does not currently have regulations specifying the application requirements for licensure by credential as authorized by Business and Professions Code Section 1635.5.
- **Elective Facial Cosmetic Surgery Permit Requirements (New Regulation) –** Regulations are necessary to interpret and specify the provisions contained in Business and Professions Code Section 1638.1 relating to the application and approval process requirements for the issuance of an Elective Facial Cosmetic Surgery permit.
- **Change of Address Requirements (New Regulation) –** The Board may wish to consider a new regulation to incorporate the Dental Board's Address Change form and require notarization of address changes, at least for dentists, per the suggestion of the Board's Enforcement Unit Investigators and Enforcement Chief. Legal counsel advised staff to not accept change of address requests by phone, but only accept it in writing. In order to require the licensees to use a specific form or notarize it, it has to be in regulation to make it legally enforceable. This may, also, be an opportunity to mirror the Dental Hygiene Committee of California's statute, Business and Professions Code Section 1934 requiring that "A licensee who changes his or her address of record shall notify the committee within 30 days of the change."

- **Retention of Inactive Patient Dental Records (New Regulation)** – At the May 2011 meeting, Dr. Morrow and Dr. Olinger, appointed subcommittee, recommended the Board complete a rulemaking to institute a requirement that inactive patient records be retained for at least seven years from the date of an adult patient's last visit and that dental records of an un-emancipated minor must be maintained for at least one year after the minor has reached age seventeen but not less than seven years from the date of the patient's last visit.
- **Oral Conscious Sedation Forms (CCR, Title 16, §§ 1044.1, 1044.3(c), and 1044.4(a))** – Several of the OCS program's forms need minor updating and corrections.

Dental Assisting Regulations:

- **Dental Assisting Educational Programs and Courses (CCR, Title 16, §§ 1070, 1070.1, 1070.2, 1070.3, 1070.4, 1070.5, 1070.6, 1070.7, 1070.8 and 1014, 1014.1)** The Board's Dental Assisting Educational Programs and Courses regulations became effective on November 11, 2011. These regulations were implemented to maintain consistency with the provision contained in AB 2637 (Chapter 499, Statutes of 2008), however Board staff has identified numerous issues with consistency and compatibility with statute and other dental assisting regulations. In order to maintain consistency and clarity throughout all of the Dental Assisting Educational Programs and Courses Requirements, staff believes it would be better to move forward with one large regulatory proposal amending and updating all of the Dental Assisting Programs and Course Requirements at one time.
- **Dental Assisting Program Application and Examination Requirements (CCR, Title 16, §§ 1076 – 1081.2, and 1083)** – In November 2009, the Board reviewed and approved two proposals for regulatory changes relative to dental assisting. The first proposal implemented the requirements for Dental Assisting Educational Programs and Courses to maintain consistency with the provision contained in AB 2637 (Chapter 499, Statutes of 2008). The second proposal made necessary amendments to the Dental Assisting Program Application and Examination Requirements to ensure compliance with AB 2637 (Chapter 499, Statutes of 2008). The Board promulgated the Dental Assisting Educational Programs and Courses regulations, with the understanding that once they became effective, the Board would then promulgate the regulations relating to the Dental Assisting Program Application and Examination Requirements. The Board's Dental Assisting Educational Programs and Courses regulation became effective on November 11, 2011. Staff believes in order to maintain consistency and clarity throughout all of the Dental Assisting Application and Examination Requirements that it would be better to move forward with one large regulatory proposal amending and updating all of the Dental Assisting Program Application and Examination Requirements at one time.

- **Dental Assisting Program Duties and Settings (CCR, Title 16, § 1085, 1086, and 1087)** – These regulations have not been updated to reflect the new duties set forth in AB 2637 (Chapter 499, Statutes of 2008). The duties and settings for the RDA and RDAEF need to be revised to ensure consistency and compatibility with statute.



Agenda Item 21(A)

Enforcement Program Status



MEMORANDUM

DATE	August 1, 2013
TO	Dental Board Members
FROM	Kim Trefry, Enforcement Chief
SUBJECT	Agenda Item 21A: Enforcement Program Status

Process Improvements – Administrative Citations

Enforcement managers are working together to review our current administrative citation practices and develop comprehensive and consistent internal policies for issuance. This includes:

- Standardized Inspection Citation, report format, and procedures,
- Standardized Administrative Citation format and procedures, and
- Standardized internal tracking procedures to measure our outcomes.

Consumer Protection Enforcement Initiative (CPEI) Audit

In July, the Executive Officer, Karen Fischer, and I met with Department of Consumer Affairs Deputy Director of Enforcement, Mike Gomez, and a representative from the Department of Finance (DOF) on the first phase of a comprehensive audit of CPEI positions.

Beginning in January 2011, the Dental Board of California received:

- One Dental Consultant position
- One Staff Services Manager I (Oversees the Investigative Analysis Unit or IAU)
- 2 sworn Investigator positions (One in Sacramento, One in Orange)
- 4 Special Investigator positions (Two in Sacramento, two in Orange)
- 3.5 journey-level analyst positions (all in Sacramento)

During the meeting, Karen and I provided an overview of the progress the enforcement program has made in terms of case closures and aging; due in large part to the IAU and CPEI staffing increases. We also provided feedback on the need for vehicles for the additional investigator positions along with office support positions to process the increased paperwork associated with the increase in investigative closures. The DOF indicated they will be considering these needs, along with reviewing specific classifications used to perform enforcement-related work, and the resulting productivity from these positions.

Introduction to Probation Intake Procedure

In response to an inquiry by board member Dr. Stewart, Investigator Stephen Nicas from our Southern California office met with Dr. Stewart and provided him with an overview of the steps our enforcement staff perform when a licensee's probation is initiated. Investigator Nicas has been actively involved in the development of the Enforcement Program's Probation Manual and probation training for staff.

Evidence Fund Audit

The Enforcement Program also participated in an audit of its evidence fund account as a part of a DCA-wide assessment. Evidence funds are used by sworn personnel to purchase documents, drugs and other contraband in various settings in conjunction with their investigative efforts. Periodic audits are a routine part of the State's Administrative Manual.

Vehicles

Beginning in July, the Board received the first of five replacement vehicles for the Enforcement Program. In response to Executive Order B-2-11, state agencies were required to justify the "necessity of a fleet asset" before any existing vehicles could be replaced. During this two year process, the board provided mileage and usage data combined with repair histories to the Department of General Services to gain approval to purchase replacement vehicles for field investigations.

Staffing

In late June, the Enforcement Program hired two new staff. Joan Robbins was hired as a half time Associate Government Program Analyst (AGPA) to fill the position vacated by Karen Fischer. Joan brings over 23 years of state experience and is quickly learning the duties associated with the disciplinary process. Joan will also be responsible for producing reports to track our AG costs and timelines, and working with the management team on special projects.

In the Southern California office, Fernando Espinoza was hired as a sworn Investigator. Fernando has worked for both municipal and state agencies in various law enforcement capacities, and recently completed his Masters in Social Work. The Enforcement Program looks forward to having his assistance in tackling our Southern California cases.

I will be available during the Board meeting to answer any questions or concerns you may have.



Agenda Item 21(B)

Enforcement Program Statistics



MEMORANDUM

DATE	August 3, 2013
TO	Dental Board Members
FROM	Kim Trefry, Enforcement Chief
SUBJECT	Agenda Item 21B: Enforcement Statistics (Complaints, Investigations, and Discipline)

Attached please find Charts 1 – 3, displaying Complaint, Investigation, and Discipline statistics for the previous four fiscal years, and the current fiscal year to date. Below is a summary of the program’s trends:

Complaint & Compliance Unit

Complaints Received: The total number of complaints received during the previous 12 months was **2868**, averaging **239** per month (a 5% decrease from the previous four-year average).

Pending Cases (as of 6/30/2013): **1070**

Average caseload per Consumer Services Analyst (CSA) = **146** complaint cases

Case Aging (as of 6/30/2013)

# Months Open	# of Cases	% of Total Cases
0 – 3 Months	620	59%
4 – 6 Months	258	25%
7 – 9 Months	134	12%
10 – 12 Months	38	3%
1 – 3 Years	20	1%

Cases Closed: The total number of complaint files closed between July 1, 2012 and June 30, 2013 was **3067**, averaging **255** per month. The previous four-year average is 240 closures per month.

The average number of days a complaint took to close within the last year was **88** days (a 22% increase from last year’s average of 72 days). Chart 2 displays the average complaint closure age over the previous four fiscal years.

Investigations

Current Open Caseload (as of 6/30/13)

There are currently approximately **767** open investigative cases, **275** probation cases, and **64** open inspection cases.

Average caseload per full time Investigator = 41 (32.5 in North, 47 in South)

Average caseload per Special Investigator = 34.25

Average caseload per Analyst = 25

Case Aging (as of 6/30/13)

# Months Open	# of Cases	% of Total Cases
0 – 3 Months	83	10%
4 – 6 Months	113	15%
6 - 12 Months	201	26%
1 – 2 Years	282	36%
2 – 3 Years	78	10%
3+ Years	21	3%

Since our last report in May 2013, the number of cases over one year old has decreased from 51% to 49%. The number of cases in the oldest category (three years and older) has increased from 20 to 21.

Case Closures

The total number of investigation cases closed, filed with the Attorney General's Office (AGO) or filed with the District/City Attorney during the last year is **813**, an average of **68** per month. The previous four-year average was 74 per month. Chart 2 displays the average closure age over the previous four fiscal years.

Of the closures, approximately 13% were referred for criminal action or administrative discipline.

The average number of days an investigation took to complete within the last 12 months was **400** days. The previous four-year average number of days to close a case is 445 days. Refer to Chart 2.

Cases Referred for Discipline

The total number of cases referred to the Attorney General's Office during the last year was **85** (approximately 7 referrals per month). The 12-month average for a disciplinary case to be completed was **893** days. Chart 2 displays the average closure age over the previous four fiscal years for cases referred for discipline.

Charts 3 & 4

Chart 3 provides a breakdown of case distribution by allegation type. Chart 4 provides an overview of licensees by County.

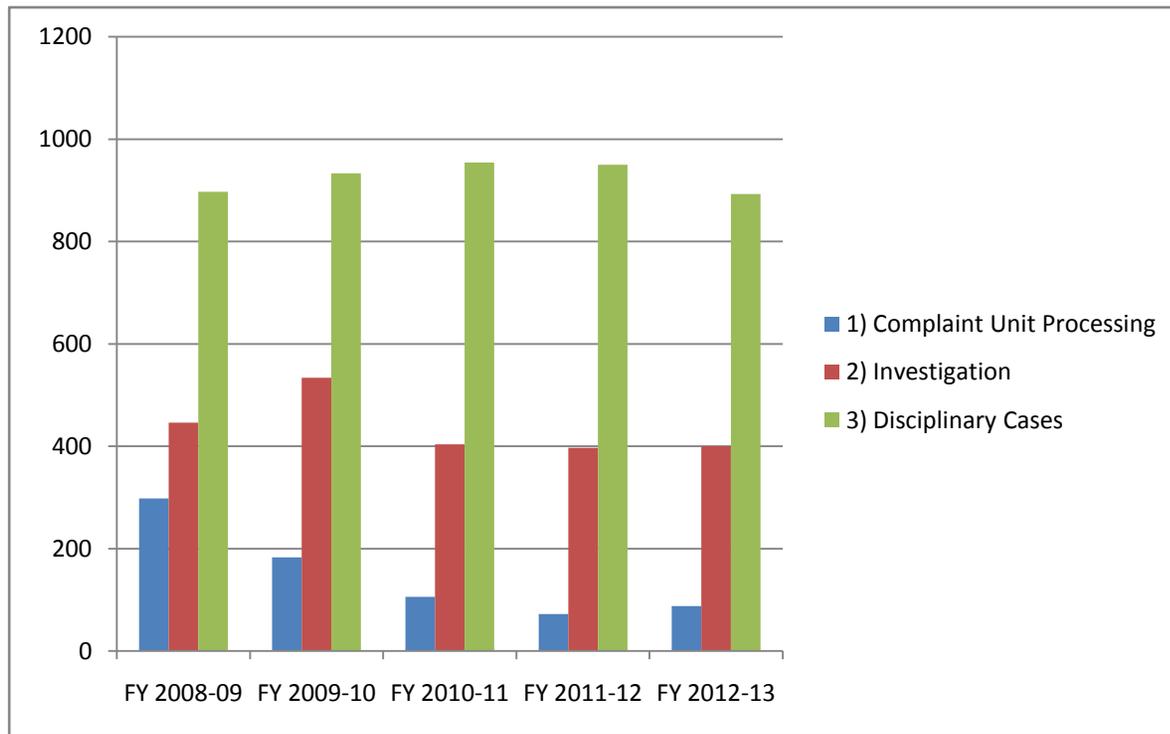
I will be available during the Board meeting to answer any questions or concerns you may have.

Dental Board of California Chart 1 Complaints, Investigations, and Discipline

STATISTICAL DESCRIPTION	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13				
					Jul-Sep	Oct - Dec	Jan - Mar	Apr - Jun	Year End
COMPLAINT & COMPLIANCE UNIT									
Complaints Received	3254	3013	3056	2813	659	668	782	759	2868
Complaints Closed	2915	3246	2987	2409	642	686	764	975	3067
Convictions/Arrests	290	177	678	750	220	345	222	423	1210
Pending at End of Period	1678	1078	491	734	777	919	1027	1070	
INVESTIGATIONS									
Cases Opened	755	769	1241	916	182	168	173	196	719
Cases Closed	831	651	997	1094	231	162	203	217	813
Referred to AG	195	138	144	174	19	35	18	13	85
Referred for Criminal Action	20	11	8	12	11	0	4	4	19
Pending at End of Period	661	779	995	1025	799	805	780	767	
Citations Issued	11	48	42	15	6	3	7	11	27
ATTORNEY GENERAL'S OFFICE									
Cases Pending at AG	232	191	199	229	210	216	189	183	
Administrative Actions:									
Accusation	98	97	90	99	25	5	11	11	52
Statement of Issues	36	27	23	41	5	0	1	3	9
Petition to Revoke Probation	6	5	5	9	1	2	0	1	4
Licensee Disciplinary Actions:									
Revocation	23	39	24	30	12	4	6	5	27
Probation	41	66	65	68	14	8	18	11	51
Suspension/Probation	1	0	0	2	0	0	0	0	0
License Surrendered	6	9	10	6	3	2	4	1	10
Public Reprimand	1	8	9	13	4	4	1	2	11
Other Action (e.g. exam required, education course, etc.)	6	10	11	8	3	2	1	1	7
Accusation Withdrawn	3	8	9	8	2	2	5	1	10
Accusation Declined	8	6	6	1	0	0	2	0	2
Accusation Dismissed	0	5	0	0	0	1	1	0	2
Total, Licensee Discipline	89	151	134	136	38	23	38	21	120
Other Legal Actions:									
Interim Suspension Order Issued	1	1	1	6	1	1	2	1	5
PC 23 Order Issued	2	0	0	0	1	1	0	0	2

Dental Board of California Enforcement Program Chart 2 - Average Case Age

Average Days to Close	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13
1) Complaint Unit Processing	298	183	106	72	88
2) Investigation	446	534	404	397	400
3) Disciplinary Cases	897	933	954	950	893



Dental Board of California Enforcement Program Chart 3 - Case Distribution by Allegation Types

Allegations	Prior Years				2012-13					
	2008-09	2009-10	2010-11	2011-12	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Total	% of Total
Substance Abuse, Mental/Physical Impairment	21	10	12	4	1	1	4	1	7	0%
Drug Related Offenses	29	29	29	38	7	5	15	6	33	1%
Unsafe/Unsanitary Conditions	81	76	70	79	23	22	19	28	92	2%
Fraud	102	188	299	123	36	22	32	34	124	3%
Non-Jurisdictional	374	438	393	251	44	43	60	70	217	6%
Incompetence/Negligence	2211	2123	2076	1540	361	317	358	423	1459	39%
Other	315	336	181	266	64	86	86	59	295	8%
Unprofessional Conduct	330	385	352	205	48	29	50	92	219	6%
Sexual Misconduct	10	21	15	13	3	6	2	3	14	0%
Discipline by Another State	15	15	31	25	13	1	2	0	16	0%
Unlicensed/Unregistered	126	119	127	111	29	16	36	43	124	3%
Criminal Charges	405	206	456	854	243	299	172	423	1137	30%
Total	4019	3946	4041	3509	872	847	836	1182	3737	

Dental Board of California Enforcement Program Chart 4 - Licensee Totals by County

# of Licensees Summary				
	DDS	RDA	DDS and RDA	% of Total
Southern Region	18,770	16,060	34,830	53%
Northern Region	12,797	17,725	30,522	47%
Combined Total*	31,567	33,785	65,352	100%

County	Licensees		County	Licensees	
	DDS	RDA		DDS	RDA
Alameda	1445	1366	Orange	3683	2234
Alpine	0	0	Placer	443	613
Amador	27	60	Plumas	16	20
Butte	165	296	Riverside	1080	1993
Calaveras	23	67	Sacramento	1098	1778
Colusa	3	20	San Benito	22	95
Contra Costa	1046	1532	San Bernardino	1312	1707
Del Norte	16	43	San Diego	2679	2895
El Dorado	164	280	San Francisco	1211	490
Fresno	567	786	San Joaquin	378	786
Glenn	7	53	San Luis Obispo	236	303
Humboldt	92	218	San Mateo	862	859
Imperial	43	82	Santa Barbara	340	328
Inyo	13	13	Santa Clara	2194	1893
Kern	349	624	Santa Cruz	197	255
Kings	62	129	Shasta	126	300
Lake	26	77	Sierra	3	3
Lassen	31	61	Siskiyou	32	44
Los Angeles	8417	5258	Solano	299	618
Madera	49	156	Sonoma	397	795
Marin	346	229	Stanislaus	281	677
Mariposa	7	13	Sutter	59	139
Mendocino	62	97	Tehama	29	64
Merced	91	193	Trinity	5	8
Modoc	5	10	Tulare	203	396
Mono	2	9	Tuolumne	54	91
Monterey	294	408	Ventura	631	636
Napa	121	151	Yolo	119	252
Nevada	94	132	Yuba	11	85

*Totals do not include Out of State Licensees



Agenda Item 21(C)

**Review of Department of
Consumer Affairs Fiscal Year
2012/13 Fourth Quarter
Performance Measures**



MEMORANDUM

DATE	August 5, 2013
TO	Dental Board Members
FROM	Kim Trefry, Enforcement Chief
SUBJECT	Agenda Item 21C: Fourth Quarter Performance Measures

Performance measures are linked directly to an agency's mission, vision and strategic objectives/initiatives. In some cases, each Board, Bureau, and program was allowed to set their individual performance targets, or specific levels of performance against which actual achievement would be compared. In other cases, some standards were established by DCA. As an example, a target of an average of 540 days for the cycle time of formal discipline cases was set by the previous Director of DCA. Data is collected quarterly and reported on the Department's website at: http://www.dca.ca.gov/about_dca/cpei/index.shtml

Fourth Quarter (Q4) (April through June 2013)

Volume: 1,180 Total (757 Consumer complaints, 423 Conviction reports)
 Number of complaints and convictions received per quarter.

Cycle Time:

- Intake – Target: 10 Days** **Q4 Average: 5 Days**
 Average cycle time from complaint receipt to the date the complaint was acknowledged and assigned to an analyst in the Complaint Unit for processing. This 10 day time frame is mandated by Business and Professions Code section 129 (b).
- Intake & Investigation – Target: 270 Days** **Q4 Average: 145 Days**
 Average time from complaint receipt to closure of the investigation process (does not include cases sent to the Attorney General (AG) or other forms of formal discipline).
- Formal Discipline – Target: 540 Days** **Q4 Average: 1075 Days**
 Average number of days to complete the entire enforcement process for cases resulting in formal discipline. This includes intake and investigation by the Board and prosecution by the AG.

A number of factors (both internally and externally) can contribute to case aging at the Attorney General's office. Board actions may extend case aging when additional investigations are combined with a pending accusation and can set back the overall time to resolve. Amending an accusation or requesting additional expert opinions may also cause delays in case adjudication. Other matters outside the control of the Board

include: availability of hearing dates, continuance of hearing dates, changes to opposing party counsel, and requests for a change of venue.

- **Probation Intake – Target: 10 Days** **Q4 Average: 22 Days**
Average number of days from probation monitor assignment to the date the monitor makes first contact with the probationer; and

Probation Intake measures the time between when the probation monitor is assigned the case and the date he/she meet with the probationer to review monitoring terms and conditions. The Board's probation monitors are assigned a case within a few days of the probationary order being signed by the probationer. Monitors attempt to schedule their initial meeting on or soon after the effective date of the decision; thereby resulting in a 10 – 20 day intake average. We believe the Q4 average of 22 days is reasonable. In some cases, probation monitoring may not begin until an applicant has completed all his/her licensing requirements, or returned to California (if the applicant is out-of-state). These exceptions may skew this average.

- **Probation Violation Response – Target: 10 Days** **Q4 Average: 5 Days**
Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

In general, once a violation is discovered, the probation monitor takes immediate action. However, the monitor must collect any supporting evidence (arrest/conviction records, positive drug test results) and document the event in a report. Once the report is referred for discipline, "appropriate action" has been initiated and the clock stops. Factors which may affect the turnaround time on this measure include how the violation is reported (incoming complaints or arrest/conviction reports from the Department of Justice may take several days to be processed) and how quickly the monitor can write up and file the violation.

- **Consumer Satisfaction Survey** Data was not provided during this reporting period.

Dental Board of California

Performance Measures

Q4 Report (April - June 2013)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

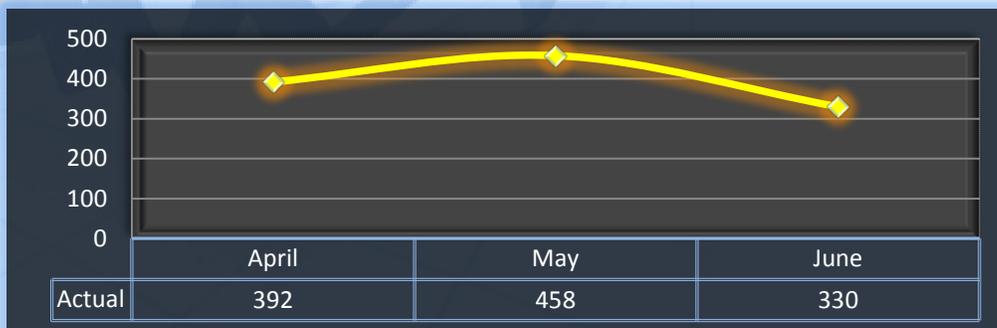
Volume

Number of complaints and convictions received.

Q4 Total: 1,180

Complaints: 757 Convictions: 423

Q4 Monthly Average: 393



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 10 Days

Q4 Average: 5 Days



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 270 Days

Q4 Average: 145 Days

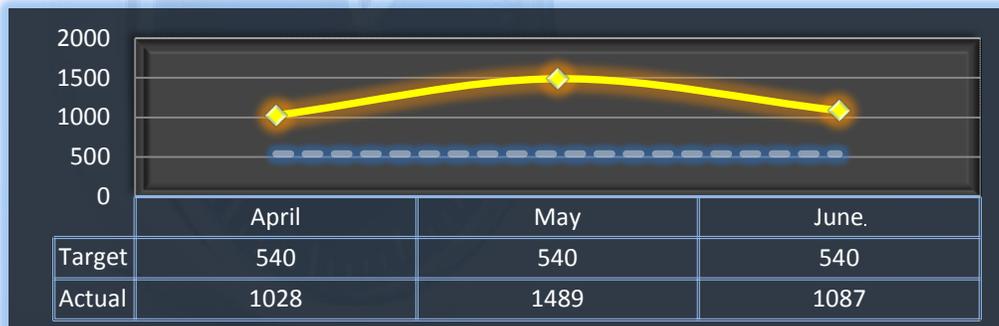


Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q4 Average: 1,075 Days

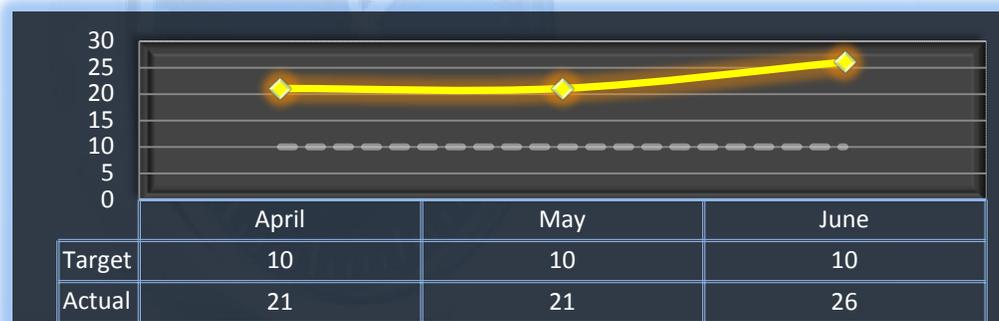


Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q4 Average: 22 Days

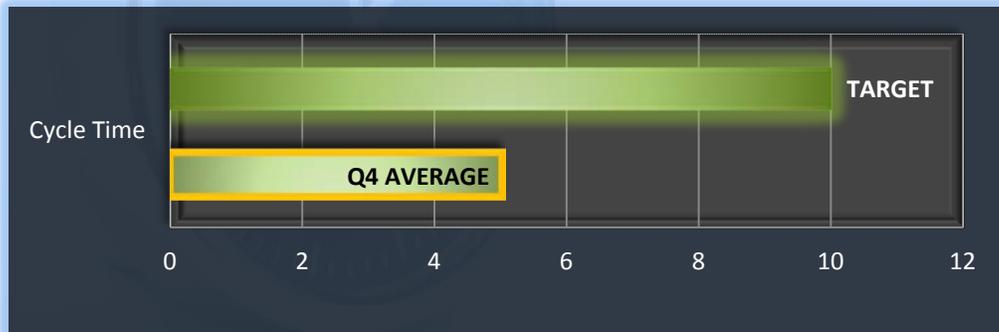


Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 10 Days

Q4 Average: 5 Days





Agenda Item 21(D)

**Impact of Senate Bill 809
(DeSaulnier) Controlled
Substances: Reporting**



MEMORANDUM

DATE	August 16, 2013
TO	Dental Board Members
FROM	Kim Trefry, Enforcement Chief Sarah Wallace, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 21D: Impact of Senate Bill 809 (DeSaulnier) Controlled Substances: Reporting

Background:

This memorandum is to provide the Board members with an overview of the Department of Justice (DOJ) database called Controlled Substance Utilization Review and Evaluation System (CURES) and its value within the enforcement program.

Beginning in 1939, California initiated a Triplicate Prescription Program to regulate the distribution of controlled substances. This initial program was not automated, and was labor intensive. In 1996, the Legislature initiated the development of the CURES system in an attempt to identify solutions to the programmatic challenges facing the monitoring and enforcement of triplicate prescription requirements. The CURES program provided meaningful prescribing data to DOJ and other agencies in an organized and more timely manner. Effective in 2005, Health and Safety Code section 11165 was established to provide funding for CURES, "contingent upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the Board of Registered Nursing Fund, the State Dentistry Fund and the Osteopathic Medical Board." The Dental Board has contributed \$40,000 annually in compliance with this statute to support the existence of this system. In addition, the DOJ relied upon the General Fund for staff support and operating expenses.

In 2009, the DOJ initiated the Prescription Drug Monitoring Program (PDMP) to compliment the CURES access provided to enforcement entities. The PDMP was designed to allow licensed prescribers and dispensers to access data at the point of care in order to prevent and intervene with patients under their care who may be abusing controlled substances. These two programs have been accessible online to our sworn Investigators, who run reports on prescribers and patients. CURES and the PDMP are fundamental resources in our drug diversion investigations.

According to the DOJ, the California Budget Act of 2011 eliminated the General Fund support and forced the agency to restrict expenditures to critical functions only.

Although DOJ states publicly that these restrictions have resulted in backlogs (four-weeks to process a new application), the Board has encountered greater reductions in service that include our inability to register new investigators as users, along with emails and phone calls that have never been returned. In July of 2012, the Department of Consumer Affairs (DCA) was advised that there would not be adequate funding to support the continuation of the program without support for emergency legislation.

In conjunction with funding to reinstate staffing levels, the DOJ is proposing *CURES 2.0* to combine CURES and the PDMP into one system, while upgrading and enhancing the features. Among the many improvements, *CURES 2.0* is anticipated to:

- Integrate with other health information systems (including BreEZe)
- Improve the user experience to increase enrollment and use of the system
- Improve security requirements to meet current web-based and HIPAA protocols
- Provide prescribers and dispensers with a directory of prescribers and dispensers to facilitate information sharing.

In early 2013, the Board was notified of new appropriations for the funding of *CURES 2.0*. The Board will appropriate \$299,000 in 2013-14 and \$279,000 in 2014-15 for the development of *CURES 2.0*. The DOJ created a plan for the *replacement* of the current system to include a two year transition between the old system and the new system. This is separate from the proposal in SB 809 which only addressed ongoing maintenance needs of the system. Currently, there are five healing arts boards within DCA that provide the Department of Justice funding for CURES. The Dental Board's portion is \$578,000 over two years.

In terms of our drug diversion investigations, *CURES 2.0* is projected to offer the following:

- Provide “robust” reports on patients, prescribers, and dispensers based on time and geographic parameters
- Respond to parameter-based searches by law enforcement users within 1 minute
- Provide investigators and regulatory boards with the ability to create “on-demand variable parameter based reports.”
- Provide law enforcement and criminal justice agencies with a directory of other law enforcement and criminal justice agency users to facilitate information sharing

Senate Bill 809 (DeSaulnier) Controlled Substances: Reporting:

Senate Bill 809 establishes a funding mechanism to update and maintain the CURES and PDMP. This bill requires all prescribing health care practitioners to apply to access CURES information, and establishes processes and procedures for regulating prescribing licensees through CURES and securing private information. Specifically, this bill:

1. Assesses an annual six dollar (\$6) fee on the following licensees to pay the reasonable costs associated with operating and maintaining CURES for the purpose of regulating those licensees:

- a. Physicians, dentists, podiatrists, veterinarians, naturopathic doctors, pharmacists, registered nurses, certified nurse-midwives, nurse practitioners, physician assistants, and optometrists, as specified;
 - b. Wholesalers and nonresident wholesalers of dangerous drugs, as specified;
 - c. Nongovernmental clinics, nonprofit clinics, and free clinics, as specified; and,
 - d. Nongovernmental pharmacies, as specified.
2. Requires the assessed fee to be billed and collected by the regulating agency of each licensee at the time of the licensee's license renewal, and states that if the reasonable regulatory cost of operating and maintaining CURES is less than six dollars per licensee, the Department of Consumer Affairs (DCA) may, by regulation, reduce the fee to the reasonable regulatory cost.
3. Requires the fees collected to be deposited in the CURES Fund, which is created within the State Treasury.
4. Requires moneys in the CURES Fund to be, upon appropriation by the Legislature, available to DCA to reimburse the Department of Justice (DOJ) for costs to operate and maintain CURES for the purposes of regulating the specified licensees.
5. Requires DCA to contract with DOJ on behalf of the Medical Board of California (MBC), the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Board of the Medical Board of California, the Osteopathic Medical Board of California, the Naturopathic Medicine Committee of the Osteopathic Medical Board, the State Board of Optometry, and the California Board of Podiatric Medicine to operate and maintain CURES for the purposes of regulating licensees.
6. Requires DOJ, in conjunction with DCA and the appropriate boards and committees, to do all of the following:
 - a. Identify and implement a streamlined application and approval process to provide access to the CURES PDMP database for pharmacists and licensed health care practitioners eligible to prescribe Schedule II, Schedule III, or Schedule IV controlled substances, and requires every reasonable effort be made to implement a streamlined application and approval process that a licensed health care practitioner or pharmacist can complete at the time that he or she is applying for licensure or renewing his or her license;
 - b. Identify necessary procedures to enable licensed health care practitioners and pharmacists with access to the CURES PDMP to delegate their authority to order reports from the CURES PDMP; and,

- c. Develop a procedure to enable health care practitioners who do not have a federal Drug Enforcement Administration (DEA) number to opt out of applying for access to the CURES PDMP.
7. Requires MBC to periodically develop and disseminate information and educational material regarding assessing a patient's risk of abusing or diverting controlled substances and information relating to CURES to each licensed physician and surgeon and to each general acute care hospital in this state; and further requires MBC to consult with the State Department of Public Health, appropriate boards and committees, and DOJ in developing the materials to be distributed.
8. Requires a California pharmacy to report dispensing a Schedule IV controlled substance issued by a prescriber in another state for delivery to a patient in another state to CURES.
9. Requires DOJ to maintain CURES to assist health care practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of controlled substances.
10. Deletes provisions stating that the reporting of Schedules III and IV controlled substances shall be contingent upon the availability of adequate funds from DOJ.
11. Requires DOJ to annually report to the Legislature and make available to the public the amount and source of funds it receives for support of CURES.
12. Permits DOJ to seek and use grant funds to pay the costs incurred by the operation and maintenance of CURES.
13. Requires CURES to comply with all applicable federal and state privacy and security laws and regulations.
14. Requires DOJ to establish policies, procedures, and regulations regarding the use, access, evaluation, disclosure, management, implementation, operation, storage, and security of the information within CURES.
15. Requires a pharmacy, clinic, or other dispenser to report specified information, including a prescribers national provider identifier number, to DOJ as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed.
16. Permits DOJ to invite stakeholders to assist, advise, and make recommendations on the establishment of rules and regulations necessary to ensure the proper administration and enforcement of the CURES database. All prescriber and dispenser invitees must be licensees, as specified, in active practice in California, and a regular user of CURES.
17. Requires DOJ, prior to upgrading CURES, to consult with prescribers licensed by one of the relevant boards or committees, the boards or committees themselves,

and any other stakeholders for the purpose of identifying desirable capabilities and upgrades to the CURES Prescription Drug Monitoring Program (PDMP).

18. Permits DOJ to establish a process to educate authorized subscribers of the CURES PDMP on how to access and use the CURES PDMP.
19. Requires a health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II-IV controlled substances or a pharmacist to, before January 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later, submit an application to DOJ to access information online regarding the controlled substance history of a patient, as specified.
20. Requires DOJ, upon approval of an application to access patient information, release to the practitioner or pharmacist the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES PDMP.
21. States that a health care practitioner authorized to prescribe Schedules II-IV controlled substances, or a pharmacist, shall be deemed to have completed the requirements to access individual patient information if he or she has applied to access CURES PDMP at the time he or she applied for licensure or renewal.
22. Permits DOJ to seek voluntarily contributed private funds from insurers, health care service plans, and qualified manufacturers for the purpose of supporting CURES. Insurers, health care service plans, qualified manufacturers, and other donors may contribute by submitting their payment to the Controller for deposit into the CURES Fund. Contributions to the CURES Fund shall be nondeductible for state tax purposes.
23. Defines the following terms:
 - a. "Controlled substance" means a drug, substance, or immediate precursor listed in any schedule in Section 11055, 11056, or 11057 of the Health and Safety Code (HSC);
 - b. "Health care service plan" means an entity licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of HSC);
 - c. "Insurer" means an admitted insurer writing health insurance, as defined in Section 106 of the Insurance Code, and an admitted insurer writing workers' compensation insurance, as defined in Section 109 of the Insurance Code; and,
 - d. "Qualified manufacturer" means a manufacturer of a controlled substance, but does not mean a wholesaler or nonresident wholesaler of dangerous drugs, as specified, a veterinary food-animal drug retailer, as specified, or an individual regulated by the MBC, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the

Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, or the California Board of Podiatric Medicine.

The DCA has been working collaboratively with the boards that will be impacted by this legislation. We have been participating in work groups to ensure the functional requirements for these proposed changes fully meets the regulatory and enforcement needs of each board.

The timeline from funding approval until the system will be fully operational is estimated to be 16 months.

Registered Support /Opposition:

Support:

California Attorney General's Office (sponsor)
ALPHA Fund
American Cancer Society Cancer Action Network
American Medical Association
Association of California Healthcare Districts
Association of California Insurance Companies
Association of California Life and Health Insurance Companies
Association of Northern California Oncologists
California Academy of Family Physicians
California Association for Nurse Practitioners
California Association of Joint Powers Authorities
California Association of Oral and Maxillofacial Surgeons
California Board of Pharmacy
California Chapter of the American College of Emergency Physicians
California Coalition on Workers' Compensation
California Department of Insurance
California Hospital Association
California JPIA
California Labor Federation
California Medical Association
California Narcotic Officers Association
California Pharmacists Association
California Police Chiefs Association
California Professional Association of Specialty Contractors
California Retailers Association
California Self-Insurers Association
California Society of Health-System Pharmacists
California Special Districts Association
California State Association of Counties
California State Sheriff's Association
Center for Public Interest Law
City and County of San Francisco
CompPharma
County Alcohol and Drug Program Administrators Association of California
County of San Diego

CSAC Excess Insurance Authority
Deputy Sheriffs' Association of San Diego County
Employers Group
Gallagher Bassett Services, Inc.
Golden Oak Cooperative Corporation
Grimmway Farms
Health Officers Association of California
Independent Insurance Agents and Brokers of California
Los Angeles District Attorney's Office
Medical Board of California
Medical Oncology Association of Southern California, Inc.
Metro Risk Management
Michael Sullivan & Associates
National Association of Chain Drug Stores
National Coalition Against Prescription Drug Abuse
Nordstrom
Safeway
Schools Insurance Authority
Schools Insurance Group
Sedgwick Claims Management Services
Shaw, Jacobsmeyer, Crain, and Claffey
South Orange County Coalition
Troy and Alana Pack Foundation
University of California
Western Occupational & Environmental Medical Association
Western Propane Gas Association

Opposition:

California Optometric Association

Staff Recommendation:

Staff recommends the Board take a “neutral” position.

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN ASSEMBLY JUNE 26, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE MAY 1, 2013

SENATE BILL

No. 809

Introduced by Senators DeSaulnier and Steinberg
(Coauthors: Senators Hancock, Lieu, Pavley, and Price)
(Coauthor: Assembly Member Blumenfield)

February 22, 2013

An act to add Sections ~~805.8~~ 208, 209, and 2196.8 to the Business and Professions Code, and to amend Sections 11164.1, 11165, and 11165.1 of, and to add Section 11165.4 to, the Health and Safety Code, relating to controlled ~~substances, and declaring the urgency thereof, to take effect immediately.~~ *substances.*

LEGISLATIVE COUNSEL'S DIGEST

SB 809, as amended, DeSaulnier. Controlled substances: reporting.

(1) Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

Existing law requires dispensing pharmacies and clinics to report, on a weekly basis, specified information for each prescription of Schedule II, Schedule III, or Schedule IV controlled substances, to the department, as specified.

This bill would establish the CURES Fund within the State Treasury to receive funds to be allocated, upon appropriation by the Legislature, to the Department of Justice for the purposes of funding CURES, and would make related findings and declarations.

~~This bill would require the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the Naturopathic Medicine Committee of the Osteopathic Medical Board of California, the State Board of Optometry, and the California Board of Podiatric Medicine to charge practitioners under their supervision who are authorized to prescribe, order, administer, furnish, or dispense controlled substances a fee of up to 1.16% of the renewal fee that the licensee was subject to as of July 1, 2013, an annual fee of \$6 to be assessed on specified licensees, including licensees authorized to prescribe, order, administer, furnish, or dispense controlled substances, and require the regulating agency of each of those licensees to bill and collect that fee at the time of license renewal. The bill would authorize the Department of Consumer Affairs to reduce, by regulation, that fee to the reasonable cost of operating and maintaining CURES for the purpose of regulating those licensees, if the reasonable regulatory cost is less than \$6 per licensee. The bill would require the proceeds of which would the fee to be deposited into the CURES Fund for the support of CURES, as specified. This bill would also require the California State Board of Pharmacy to charge wholesalers, nonresident wholesalers, and veterinary food-animal drug retailers under their supervision a fee of up to 1.16% of the renewal fee that the wholesaler, nonresident wholesaler, or veterinary food-animal drug retailer was subject to as of July 1, 2013, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified. The bill would require each of these fees to be due and payable at the time the license is renewed and require the fee to be submitted with the renewal fee. The bill would also permit specified insurers, health care service plans, and qualified manufacturers, and other donors to voluntarily contribute to the CURES Fund, as described.~~

(2) Existing law requires the Medical Board of California to periodically develop and disseminate information and educational materials regarding various subjects, including pain management techniques, to each licensed physician and surgeon and to each general acute care hospital in California.

This bill would additionally require the board to periodically develop and disseminate to each licensed physician and surgeon and to each general acute care hospital in California information and educational materials relating to the assessment of a patient's risk of abusing or diverting controlled substances and information relating to CURES.

(3) Existing law permits a licensed health care practitioner, as specified, or a pharmacist to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care. Existing law also authorizes the Department of Justice to provide the history of controlled substances dispensed to an individual to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

~~This bill would require licensed health care practitioners, require, by January 1, 2016, or upon receipt of a federal Drug Enforcement Administration registration, whichever occurs later, health care practitioners authorized to prescribe, order, administer, furnish, or dispense controlled substances, as specified, and pharmacists to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care, and, upon the happening of specified events, to be strongly encouraged to access and consult that information prior to prescribing or dispensing Schedule II, Schedule III, or Schedule IV controlled substances: their care. The bill would require the Department of Justice, in conjunction with the Department of Consumer Affairs and certain licensing boards, to, among other things, develop a streamlined application and approval process to provide access to the CURES database for licensed health care practitioners and pharmacists.~~ The bill would make other related and conforming changes.

~~(4) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The Controlled Substance Utilization Review and Evaluation
4 System (CURES) is a valuable preventive, investigative, and
5 educational tool for health care providers, ~~regulatory boards,~~
6 *regulatory agencies*, educational researchers, and law enforcement.
7 Recent budget cuts to the Attorney General’s Division of Law
8 Enforcement have resulted in insufficient funding to support ~~the~~
9 CURES *and its* Prescription Drug Monitoring Program (PDMP).
10 The CURES PDMP is necessary to ensure health care professionals
11 have the necessary data to make informed treatment decisions and
12 to allow law enforcement to investigate diversion of prescription
13 drugs. Without a dedicated funding source, the CURES PDMP is
14 not sustainable.

15 (b) Each year CURES responds to more than 800,000 requests
16 from practitioners and pharmacists regarding all of the following:

17 (1) Helping identify and deter drug abuse and diversion of
18 prescription drugs through accurate and rapid tracking of Schedule
19 II, Schedule III, and Schedule IV controlled substances.

20 (2) Helping practitioners make ~~better~~ prescribing decisions.

21 (3) Helping reduce misuse, abuse, and trafficking of those drugs.

22 (c) Schedule II, Schedule III, and Schedule IV controlled
23 substances have had deleterious effects on private and public
24 interests, including the misuse, abuse, and trafficking in dangerous
25 prescription medications resulting in injury and death. It is the
26 intent of the Legislature to work with stakeholders to fully fund
27 the operation of CURES which seeks to mitigate those deleterious
28 effects and serve as a tool for ensuring safe patient care, and which
29 has proven to be a cost-effective tool to help reduce the misuse,
30 abuse, and trafficking of those drugs.

31 (d) The following goals are critical to increase the effectiveness
32 and functionality of CURES:

33 (1) Upgrading the CURES PDMP so that it is capable of
34 accepting real-time updates and is accessible in real-time, 24 hours
35 a day, seven days a week.

36 (2) Upgrading ~~all prescription drug monitoring programs the~~
37 CURES PDMP in California so that ~~they are~~ *it is* capable of

1 operating in conjunction with all national prescription drug
2 monitoring programs.

3 (3) Providing subscribers to prescription drug monitoring
4 programs access to information relating to controlled substances
5 dispensed in California, including those dispensed through the
6 United States Department of Veterans Affairs, the Indian Health
7 Service, the Department of Defense, and any other entity with
8 authority to dispense controlled substances in California.

9 (4) Upgrading the CURES PDMP so that it is capable of
10 accepting *the reporting of* electronic prescriptions, *prescription*
11 *data*, thereby enabling more reliable, complete, and timely
12 prescription monitoring.

13 ~~SEC. 2.~~ Section 805.8 is added to the Business and Professions
14 Code, to read:

15 805.8. (a) (1) ~~In addition to the fees charged for licensure,~~
16 ~~certification, and renewal, at the time those fees are charged, the~~
17 ~~Medical Board of California, the Dental Board of California, the~~
18 ~~California State Board of Pharmacy, the Veterinary Medical Board,~~
19 ~~the Board of Registered Nursing, the Physician Assistant~~
20 ~~Committee of the Medical Board of California, the Osteopathic~~
21 ~~Medical Board of California, the Naturopathic Medicine Committee~~
22 ~~of the Osteopathic Medical Board of California, the State Board~~
23 ~~of Optometry, and the California Board of Podiatric Medicine shall~~
24 ~~charge each licensee authorized pursuant to Section 11150 of the~~
25 ~~Health and Safety Code to prescribe, order, administer, furnish,~~
26 ~~or dispense Schedule II, Schedule III, or Schedule IV controlled~~
27 ~~substances a fee of up to 1.16 percent of the renewal fee that the~~
28 ~~licensee was subject to as of July 1, 2013, to be assessed annually.~~
29 ~~This fee shall be due and payable at the time the licensee renews~~
30 ~~his or her license and shall be submitted with the licensee's renewal~~
31 ~~fee. In no case shall this fee exceed the reasonable costs associated~~
32 ~~with operating and maintaining CURES for the purpose of~~
33 ~~regulating prescribers and dispensers of controlled substances~~
34 ~~licensed or certificated by these boards.~~

35 (2) ~~In addition to the fees charged for licensure, certification,~~
36 ~~and renewal, at the time those fees are charged, the California State~~
37 ~~Board of Pharmacy shall charge wholesalers and nonresident~~
38 ~~wholesalers of dangerous drugs, licensed pursuant to Article 11~~
39 ~~(commencing with Section 4160) of Chapter 9, a fee of up to 1.16~~
40 ~~percent of the renewal fee that the wholesaler or nonresident~~

1 wholesaler was subject to as of July 1, 2013, to be assessed
2 annually. This fee shall be due and payable at the time the
3 wholesaler or nonresident wholesaler renews its license and shall
4 be submitted with the wholesaler's or nonresident wholesaler's
5 renewal fee. In no case shall this fee exceed the reasonable costs
6 associated with operating and maintaining CURES for the purpose
7 of regulating wholesalers and nonresident wholesalers of dangerous
8 drugs licensed or certificated by that board.

9 (3) In addition to the fees charged for licensure, certification,
10 and renewal, at the time those fees are charged, the California State
11 Board of Pharmacy shall charge veterinary food-animal drug
12 retailers, licensed pursuant to Article 15 (commencing with Section
13 4196) of Chapter 9, a fee of up to 1.16 percent of the renewal fee
14 that the drug retailer was subject to as of July 1, 2013, to be
15 assessed annually. This fee shall be due and payable at the time
16 the drug retailer renews its license and shall be submitted with the
17 drug retailers' renewal fee. In no case shall this fee exceed the
18 reasonable costs associated with operating and maintaining CURES
19 for the purpose of regulating veterinary food-animal drug retailers
20 licensed or certificated by that board.

21 (b) The funds collected pursuant to subdivision (a) shall be
22 deposited in the CURES accounts, which are hereby created, within
23 the Contingent Fund of the Medical Board of California, the State
24 Dentistry Fund, the Pharmacy Board Contingent Fund, the
25 Veterinary Medical Board Contingent Fund, the Board of
26 Registered Nursing Fund, the Naturopathic Doctor's Fund, the
27 Osteopathic Medical Board of California Contingent Fund, the
28 Optometry Fund, and the Board of Podiatric Medicine Fund.
29 Moneys in the CURES accounts of each of those funds shall, upon
30 appropriation by the Legislature, be available to the Department
31 of Justice solely for operating and maintaining CURES for the
32 purposes of regulating prescribers and dispensers of controlled
33 substances. All moneys received by the Department of Justice
34 pursuant to this section shall be deposited in the CURES Fund
35 described in Section 11165 of the Health and Safety Code.

36 *SEC. 2. Section 208 is added to the Business and Professions*
37 *Code, to read:*

38 *208. (a) A CURES fee of six dollars (\$6) shall be assessed*
39 *annually on each of the licensees specified in subdivision (b) to*
40 *pay the reasonable costs associated with operating and maintaining*

1 CURES for the purpose of regulating those licensees. The fee
2 assessed pursuant to this subdivision shall be billed and collected
3 by the regulating agency of each licensee at the time of the
4 licensee's license renewal. If the reasonable regulatory cost of
5 operating and maintaining CURES is less than six dollars (\$6)
6 per licensee, the Department of Consumer Affairs may, by
7 regulation, reduce the fee established by this section to the
8 reasonable regulatory cost.

9 (b) (1) Licensees authorized pursuant to Section 11150 of the
10 Health and Safety Code to prescribe, order, administer, furnish,
11 or dispense Schedule II, Schedule III, or Schedule IV controlled
12 substances or pharmacists licensed pursuant to Chapter 9
13 (commencing with Section 4000) of Division 2.

14 (2) Wholesalers and nonresident wholesalers of dangerous
15 drugs licensed pursuant to Article 11 (commencing with Section
16 4160) of Chapter 9 of Division 2.

17 (3) Nongovernmental clinics licensed pursuant to Article 13
18 (commencing with Section 4180) and Article 14 (commencing with
19 Section 4190) of Chapter 9 of Division 2.

20 (4) Nongovernmental pharmacies licensed pursuant to Article
21 7 (commencing with Section 4110) of Chapter 9 of Division 2.

22 (c) The funds collected pursuant to subdivision (a) shall be
23 deposited in the CURES Fund, which is hereby created within the
24 State Treasury. Moneys in the CURES Fund shall, upon
25 appropriation by the Legislature, be available to the Department
26 of Consumer Affairs to reimburse the Department of Justice for
27 costs to operate and maintain CURES for the purposes of
28 regulating the licensees specified in subdivision (b).

29 (d) The Department of Consumer Affairs shall contract with
30 the Department of Justice on behalf of the Medical Board of
31 California, the Dental Board of California, the California State
32 Board of Pharmacy, the Veterinary Medical Board, the Board of
33 Registered Nursing, the Physician Assistant Board of the Medical
34 Board of California, the Osteopathic Medical Board of California,
35 the Naturopathic Medicine Committee of the Osteopathic Medical
36 Board, the State Board of Optometry, and the California Board
37 of Podiatric Medicine to operate and maintain CURES for the
38 purposes of regulating the licensees specified in subdivision (b).

39 SEC. 3. Section 209 is added to the Business and Professions
40 Code, to read:

1 209. *The Department of Justice, in conjunction with the*
2 *Department of Consumer Affairs and the boards and committees*
3 *identified in subdivision (d) of Section 208, shall do all of the*
4 *following:*

5 (a) *Identify and implement a streamlined application and*
6 *approval process to provide access to the CURES Prescription*
7 *Drug Monitoring Program (PDMP) database for licensed health*
8 *care practitioners eligible to prescribe Schedule II, Schedule III,*
9 *or Schedule IV controlled substances and for pharmacists. Every*
10 *reasonable effort shall be made to implement a streamlined*
11 *application and approval process that a licensed health care*
12 *practitioner or pharmacist can complete at the time that he or she*
13 *is applying for licensure or renewing his or her license.*

14 (b) *Identify necessary procedures to enable licensed health care*
15 *practitioners and pharmacists with access to the CURES PDMP*
16 *to delegate their authority to order reports from the CURES*
17 *PDMP.*

18 (c) *Develop a procedure to enable health care practitioners*
19 *who do not have a federal Drug Enforcement Administration (DEA)*
20 *number to opt out of applying for access to the CURES PDMP.*

21 ~~SEC. 3.~~

22 *SEC. 4.* Section 2196.8 is added to the Business and Professions
23 Code, to read:

24 2196.8. The board shall periodically develop and disseminate
25 information and educational material regarding assessing a patient’s
26 risk of abusing or diverting controlled substances and information
27 relating to the Controlled Substance Utilization Review and
28 Evaluation System (CURES), described in Section 11165 of the
29 Health and Safety Code, to each licensed physician and surgeon
30 and to each general acute care hospital in this state. The board
31 shall consult with the State Department of ~~Health-Care Services~~
32 *Public Health, the boards and committees specified in subdivision*
33 *(d) of Section 208,* and the Department of Justice in developing
34 the materials to be distributed pursuant to this section.

35 ~~SEC. 4.~~

36 *SEC. 5.* Section 11164.1 of the Health and Safety Code is
37 amended to read:

38 11164.1. (a)—(1) Notwithstanding any other provision of law,
39 a prescription for a controlled substance issued by a prescriber in
40 another state for delivery to a patient in another state may be

1 dispensed by a California pharmacy, if the prescription conforms
2 with the requirements for controlled substance prescriptions in the
3 state in which the controlled substance was prescribed.

4 (2)

5 (b) All prescriptions for Schedule ~~H~~ and ~~II~~, Schedule ~~III~~ ~~III~~, and
6 Schedule ~~IV~~ controlled substances dispensed pursuant to this
7 subdivision shall be reported by the dispensing pharmacy to the
8 Department of Justice in the manner prescribed by subdivision ~~(e)~~
9 (d) of Section 11165.

10 ~~(b) Pharmacies may dispense prescriptions for Schedule III,~~
11 ~~Schedule IV, and Schedule V controlled substances from~~
12 ~~out-of-state prescribers pursuant to Section 4005 of the Business~~
13 ~~and Professions Code and Section 1717 of Title 16 of the California~~
14 ~~Code of Regulations.~~

15 ~~(e) This section shall become operative on January 1, 2005.~~

16 ~~SEC. 5.~~

17 ~~SEC. 6.~~ Section 11165 of the Health and Safety Code is
18 amended to read:

19 11165. (a) To assist health care practitioners in their efforts
20 to ensure appropriate prescribing, ordering, administering,
21 furnishing, and dispensing of controlled substances, law
22 enforcement and regulatory agencies in their efforts to control the
23 diversion and resultant abuse of Schedule II, Schedule III, and
24 Schedule IV controlled substances, and for statistical analysis,
25 education, and research, the Department of Justice shall, contingent
26 upon the availability of adequate funds in ~~the CURES accounts~~
27 ~~within the Contingent Fund of the Medical Board of California,~~
28 ~~the Pharmacy Board Contingent Fund, the State Dentistry Fund,~~
29 ~~the Board of Registered Nursing Fund, the Naturopathic Doctor's~~
30 ~~Fund, the Osteopathic Medical Board of California Contingent~~
31 ~~Fund, the Veterinary Medical Board Contingent Fund, the~~
32 ~~Optometry Fund, the Board of Podiatric Medicine Fund, and the~~
33 CURES Fund, maintain the Controlled Substance Utilization
34 Review and Evaluation System (CURES) for the electronic
35 monitoring of, and Internet access to information regarding, the
36 prescribing and dispensing of Schedule II, Schedule III, and
37 Schedule IV controlled substances by all practitioners authorized
38 to prescribe, order, administer, furnish, or dispense these controlled
39 substances.

1 ~~(b) The reporting of Schedule III and Schedule IV controlled~~
2 ~~substance prescriptions to CURES shall be contingent upon the~~
3 ~~availability of adequate funds for the Department of Justice for~~
4 ~~the purpose of funding CURES.~~

5 ~~(e)~~

6 ~~(b) The Department of Justice may seek and use grant funds to~~
7 ~~pay the costs incurred by the operation and maintenance of~~
8 ~~CURES. The department shall annually report to the Legislature~~
9 ~~and make available to the public the amount and source of funds~~
10 ~~it receives for support of CURES. Grant funds shall not be~~
11 ~~appropriated from the Contingent Fund of the Medical Board of~~
12 ~~California, the Pharmacy Board Contingent Fund, the State~~
13 ~~Dentistry Fund, the Board of Registered Nursing Fund, the~~
14 ~~Naturopathic Doctor's Fund, the Osteopathic Medical Board of~~
15 ~~California Contingent Fund, the Veterinary Medical Board~~
16 ~~Contingent Fund, the Optometry Fund, or the Board of Podiatric~~
17 ~~Medicine Fund, for the purpose of funding CURES.~~

18 ~~(d)~~

19 ~~(c) (1) The operation of CURES shall comply with all~~
20 ~~applicable federal and state privacy and security laws and~~
21 ~~regulations.~~

22 ~~(2) CURES shall operate under existing provisions of law to~~
23 ~~safeguard the privacy and confidentiality of patients. Data obtained~~
24 ~~from CURES shall only be provided to appropriate state, local,~~
25 ~~and federal public agencies for disciplinary, civil, or criminal~~
26 ~~purposes and to other agencies or entities, as determined by the~~
27 ~~Department of Justice, for the purpose of educating practitioners~~
28 ~~and others in lieu of disciplinary, civil, or criminal actions. Data~~
29 ~~may be provided to public or private entities, as approved by the~~
30 ~~Department of Justice, for educational, peer review, statistical, or~~
31 ~~research purposes, provided that patient information, including~~
32 ~~any information that may identify the patient, is not compromised.~~
33 ~~Further, data disclosed to any individual or agency as described~~
34 ~~in this subdivision shall not be disclosed, sold, or transferred to~~
35 ~~any third party. The Department of Justice ~~may~~ shall establish~~
36 ~~policies, procedures, and regulations regarding the use, access,~~
37 ~~evaluation, management, implementation, operation, storage,~~
38 ~~disclosure, and security of the information within CURES,~~
39 ~~consistent with this subdivision.~~

40 ~~(e)~~

1 (d) For each prescription for a Schedule II, Schedule III, or
2 Schedule IV controlled substance, as defined in the controlled
3 substances schedules in federal law and regulations, specifically
4 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21
5 of the Code of Federal Regulations, the dispensing pharmacy,
6 clinic, or other dispenser shall report the following information to
7 the Department of Justice as soon as reasonably possible, but not
8 more than seven days after the date a controlled substance is
9 dispensed, ~~unless monthly reporting is permitted pursuant to~~
10 ~~subdivision (f) of Section 11190, and in a format specified by the~~
11 Department of Justice:

12 (1) Full name, address, and telephone number of the ultimate
13 user or research subject, or contact information as determined by
14 the Secretary of the United States Department of Health and Human
15 Services, and the gender, and date of birth of the ultimate user.

16 (2) The prescriber's category of licensure and license number,
17 *licensure, national provider identifier (NPI) number*, the federal
18 controlled substance registration number, and the state medical
19 license number of any prescriber using the federal controlled
20 substance registration number of a government-exempt facility.

21 (3) Pharmacy prescription number, license number, *NPI number*,
22 and federal controlled substance registration number.

23 (4) National Drug Code (NDC) number of the controlled
24 substance dispensed.

25 (5) Quantity of the controlled substance dispensed.

26 (6) International Statistical Classification of Diseases, 9th
27 revision (ICD-9) or 10th revision (ICD-10) Code, if available.

28 (7) Number of refills ordered.

29 (8) Whether the drug was dispensed as a refill of a prescription
30 or as a first-time request.

31 (9) Date of origin of the prescription.

32 (10) Date of dispensing of the prescription.

33 ~~(f)~~

34 (e) The Department of Justice may invite stakeholders to assist,
35 advise, and make recommendations on the establishment of rules
36 and regulations necessary to ensure the proper administration and
37 enforcement of the CURES database. All prescriber *and dispenser*
38 invitees shall be licensed by one of the boards or committees
39 identified in ~~subdivision (a) of Section 805.8 (d) of Section 208 of~~

1 the Business and Professions Code, in active practice in California,
2 and a regular user of CURES.

3 ~~(g)~~

4 (f) The Department of Justice shall, prior to upgrading CURES,
5 consult with prescribers licensed by one of the boards or
6 committees identified in subdivision ~~(a)~~ of ~~Section 805.8 (d) of~~
7 *Section 208* of the Business and Professions Code, one or more of
8 the ~~regulatory~~ boards or committees identified in subdivision ~~(a)~~
9 of ~~Section 805.8 (d) of Section 208~~ of the Business and Professions
10 Code, and any other stakeholder identified by the department, for
11 the purpose of identifying desirable capabilities and upgrades to
12 the CURES Prescription Drug Monitoring Program (PDMP).

13 ~~(h)~~

14 (g) The Department of Justice may establish a process to educate
15 authorized subscribers of *the CURES PDMP* on how to access
16 and use *the CURES PDMP*.

17 ~~(i) The CURES Fund is hereby established within the State~~
18 ~~Treasury. The CURES Fund shall consist of all funds made~~
19 ~~available to the Department of Justice for the purpose of funding~~
20 ~~CURES. Money in the CURES Fund shall, upon appropriation by~~
21 ~~the Legislature, be available for allocation to the Department of~~
22 ~~Justice for the purpose of funding CURES.~~

23 ~~SEC. 6.~~

24 *SEC. 7.* Section 11165.1 of the Health and Safety Code is
25 amended to read:

26 11165.1. (a) (1) A ~~licensed~~ health care practitioner ~~eligible~~
27 ~~to prescribe~~ *authorized to prescribe, order, administer, furnish,*
28 *or dispense* Schedule II, Schedule III, or Schedule IV controlled
29 substances *pursuant to Section 11150* or a pharmacist ~~shall~~ *shall,*
30 *before January 1, 2016, or upon receipt of a federal Drug*
31 *Enforcement Administration (DEA) registration, whichever occurs*
32 *later,* submit an application developed by the Department of Justice
33 to obtain approval to access information online regarding the
34 controlled substance history of a patient that is stored on the
35 Internet and maintained within the Department of Justice, and,
36 upon approval, the department shall release to that practitioner or
37 pharmacist the electronic history of controlled substances dispensed
38 to an individual under his or her care based on data contained in
39 the CURES Prescription Drug Monitoring Program (PDMP).

1 (A) An application may be denied, or a subscriber may be
2 suspended, for reasons which include, but are not limited to, the
3 following:

4 (i) Materially falsifying an application for a subscriber.

5 (ii) Failure to maintain effective controls for access to the patient
6 activity report.

7 (iii) Suspended or revoked federal ~~Drug Enforcement~~
8 ~~Administration (DEA) DEA~~ registration.

9 (iv) Any subscriber who is arrested for a violation of law
10 governing controlled substances or any other law for which the
11 possession or use of a controlled substance is an element of the
12 crime.

13 (v) Any subscriber accessing information for any other reason
14 than caring for his or her patients.

15 (B) Any authorized subscriber shall notify the Department of
16 Justice within 30 days of any changes to the subscriber account.

17 ~~(2) To allow sufficient time for licensed health care practitioners~~
18 ~~eligible to prescribe Schedule II, Schedule III, or Schedule IV~~
19 ~~controlled substances and a pharmacist to apply and receive access~~
20 ~~to PDMP, a written request may be made, until July 1, 2012, and~~
21 ~~the Department of Justice may release to that practitioner or~~
22 ~~pharmacist the history of controlled substances dispensed to an~~
23 ~~individual under his or her care based on data contained in CURES.~~

24 *(2) A health care practitioner authorized to prescribe Schedule*
25 *II, Schedule III, or Schedule IV controlled substances pursuant to*
26 *Section 11150 or a pharmacist shall be deemed to have complied*
27 *with paragraph (1) if the licensed health care practitioner or*
28 *pharmacist has been approved to access the CURES database*
29 *through the process developed pursuant to subdivision (a) of*
30 *Section 209 of the Business and Professions Code.*

31 (b) Any request for, or release of, a controlled substance history
32 pursuant to this section shall be made in accordance with guidelines
33 developed by the Department of Justice.

34 (c) ~~(1) Until the Department of Justice has issued the~~
35 ~~notification described in paragraph (3), in~~ *In* order to prevent the
36 inappropriate, improper, or illegal use of Schedule II, Schedule
37 III, or Schedule IV controlled substances, the Department of Justice
38 may initiate the referral of the history of controlled substances
39 dispensed to an individual based on data contained in CURES to

1 licensed health care practitioners, pharmacists, or both, providing
2 care or services to the individual.

3 ~~(2) Upon the Department of Justice issuing the notification~~
4 ~~described in paragraph (3), licensed health care practitioners~~
5 ~~eligible to prescribe Schedule II, Schedule III, or Schedule IV~~
6 ~~controlled substances and pharmacists shall be strongly encouraged~~
7 ~~to access and consult the electronic history of controlled substances~~
8 ~~dispensed to an individual under his or her care prior to prescribing~~
9 ~~or dispensing a Schedule II, Schedule III, or Schedule IV controlled~~
10 ~~substance.~~

11 ~~(3) The Department of Justice shall notify licensed health care~~
12 ~~practitioners and pharmacists who have submitted the application~~
13 ~~required pursuant to subdivision (a) when the department~~
14 ~~determines that CURES is capable of accommodating all users,~~
15 ~~but not before June 1, 2015. The department shall provide a copy~~
16 ~~of the notification to the Secretary of State, the Secretary of the~~
17 ~~Senate, the Chief Clerk of the Assembly, and the Legislative~~
18 ~~Counsel, and shall post the notification on the department’s Internet~~
19 ~~Web site.~~

20 (d) The history of controlled substances dispensed to an
21 individual based on data contained in CURES that is received by
22 a practitioner or pharmacist from the Department of Justice
23 pursuant to this section shall be considered medical information
24 subject to the provisions of the Confidentiality of Medical
25 Information Act contained in Part 2.6 (commencing with Section
26 56) of Division 1 of the Civil Code.

27 (e) Information concerning a patient’s controlled substance
28 history provided to a prescriber or pharmacist pursuant to this
29 section shall include prescriptions for controlled substances listed
30 in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code
31 of Federal Regulations.

32 ~~SEC. 7:~~

33 *SEC. 8.* Section 11165.4 is added to the Health and Safety
34 Code, to read:

35 11165.4. (a) The Department of Justice may seek *voluntarily*
36 *contributed* private funds from insurers, health care service plans,
37 ~~and qualified manufacturers~~ *manufacturers, and other donors* for
38 the purpose of supporting CURES. Insurers, health care service
39 plans, ~~and qualified manufacturers~~ *manufacturers, and other*
40 *donors* may contribute by submitting their payment to the

1 Controller for deposit into the CURES Fund established pursuant
2 to subdivision (e) of Section 11165: (c) of Section 208 of the
3 *Business and Professions Code*. The department shall make
4 information about the amount and the source of all private funds
5 it receives for support of CURES available to the public.
6 Contributions to the CURES Fund pursuant to this subdivision
7 shall be nondeductible for state tax purposes.

8 (b) For purposes of this section, the following definitions apply:

9 (1) “Controlled substance” means a drug, substance, or
10 immediate precursor listed in any schedule in Section 11055,
11 11056, or 11057 of the *Health and Safety Code*.

12 (2) “Health care service plan” means an entity licensed pursuant
13 to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
14 2.2 (commencing with Section 1340) of Division 2 of the *Health*
15 *and Safety Code*).

16 (3) “Insurer” means an admitted insurer writing health insurance,
17 as defined in Section 106 of the *Insurance Code*, and an admitted
18 insurer writing workers’ compensation insurance, as defined in
19 Section 109 of the *Insurance Code*.

20 (4) “Qualified manufacturer” means a manufacturer of a
21 controlled substance, but does not mean a wholesaler or nonresident
22 wholesaler of dangerous drugs, regulated pursuant to Article 11
23 (commencing with Section 4160) of Chapter 9 of Division 2 of
24 the *Business and Professions Code*, a veterinary food-animal drug
25 retailer, regulated pursuant to Article 15 (commencing with Section
26 4196) of Chapter 9 of Division 2 of the *Business and Professions*
27 *Code*, or an individual regulated by the *Medical Board of*
28 *California*, the *Dental Board of California*, the *California State*
29 *Board of Pharmacy*, the *Veterinary Medical Board*, the *Board of*
30 *Registered Nursing*, the *Physician Assistant Committee of the*
31 *Medical Board of California*, the *Osteopathic Medical Board of*
32 *California*, the *State Board of Optometry*, or the *California Board*
33 *of Podiatric Medicine*.

34 ~~SEC. 8. This act is an urgency statute necessary for the~~
35 ~~immediate preservation of the public peace, health, or safety within~~
36 ~~the meaning of Article IV of the Constitution and shall go into~~
37 ~~immediate effect. The facts constituting the necessity are:~~

38 ~~In order to protect the public from the continuing threat of~~
39 ~~prescription drug abuse at the earliest possible time, it is necessary~~
40 ~~that this act take effect immediately.~~



Agenda Item 21(E)

Diversion Program Report



MEMORANDUM

DATE	August 6, 2013
TO	Dental Board Members
FROM	Lori Reis, Diversion Program Manager
SUBJECT	Agenda Item 21E: Diversion Statistics

Background

The Dental Board of California (Board) acknowledges and recognizes that a professional's abilities may be impaired by alcoholism and other drug dependencies. In an effort to deal with this problem in a rehabilitative manner, the Board developed a Diversion Program and has contracted with MAXIMUS, Inc. to provide confidential intervention, assessment, referral, and monitoring services. Founded in 1975 with the single mission of "Helping Government Serve the People", MAXIMUS has served thousands of local, state, and federal government clients.

A California-licensed dental professional residing in the state and experiencing an alcohol and/or drug-abuse problem may apply for admission into the program. Licensees can voluntarily enter the program, be referred by a Board Investigator, or be directed to enter the program as part of a probation order. The Board has two Diversion Evaluation Committees (DECs), one in Northern California and the other in Southern California. Committees meet every three months to accept new, or reevaluate existing participants. The DEC members are Board appointed, consisting of six members each: three licensed dentists, one licensed dental auxiliary, one public member, and one licensed physician or psychologist.

Summary

There was one (1) Investigative referral into the Diversion Program during the month of April. In May, there was one (1) investigative and one (1) probation referral. In June, there were no intakes. For the quarter ending 06/30/13, there were a total of three (3) intakes.

The next DEC meeting is scheduled for September 5, 2013, at the Board's Sacramento Office.

Action Requested

None



Agenda Item 21(F)

**Recommendation for the
Appointment of a Northern
Diversion Evaluation
Committee Member**



MEMORANDUM

DATE	August 6, 2013
TO	Dental Board Members
FROM	Lori Reis, Diversion Program Manager
SUBJECT	Agenda Item 21F: Discussion and Possible Action Regarding Recommendations for the Appointment of a Northern California Diversion Evaluation Committee Member

Background

The Dental Board of California (Board) Diversion Program utilizes two Diversion Evaluation Committees (DECs), one North and one South, consisting of six members each: three licensed dentists, one licensed dental auxiliary, one public member, and one licensed physician or psychologist. The Northern DEC currently has one dental vacancy and the Southern DEC has one dental auxiliary vacancy. In addition, two members (one dental and one licensed psychologist) on the Northern DEC are currently serving their one year grace period and recruitment is ongoing for these two positions.

In accordance with California Code of Regulations (CCR), Title 16, Section 1020.4,

“(b) Each committee member shall have experience or knowledge in the evaluation or management of persons who are impaired due to alcohol or drug abuse.

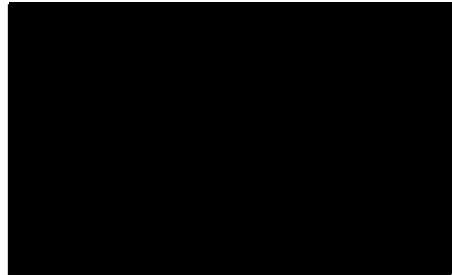
“(c) Each member of the committee shall be appointed by the board and shall serve at the board's pleasure. Members of a committee shall be appointed for a term of four years, and each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of; the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the committee for more than two terms.”

The Northern DEC panel interviewed two candidates on June 6, 2013. The panel is recommending appointment of James W. Frier, D. D. S., to fill the dental vacancy on the Northern DEC. Dr. Frier has established that he has the experience and knowledge in the evaluation and/or management of persons who are impaired due to alcohol or drug abuse.

Action Requested

The Board may take action to accept or reject the recommendation to appoint James W. Frier, D. D. S., to fill the dental vacancy on the Northern DEC.

Dr. James W. Frier



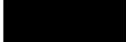
CURRICULUM VITAE

JAMES W. FRIER, D.D.S.

OBJECTIVE

To be appointed with the Dental Board of California as a Diversion Evaluation Committee member.

FUNCTIONAL SUMMARY

I have practiced General Dentistry for over 30 years. 



SUMMARY OF QUALIFICATIONS

1983-Present I have attended approximately 25 continuing education courses on Forensic Odontology. I have forensically identified dozens of people in Alpine, Amador, Calaveras, El Dorado, Sacramento and Marin Counties.

1983-Present I am a member of the ADA, CDA, and currently a member of the San Joaquin District Dental Society.

1983-1991 Dental staff member, Barton Memorial Hospital, South Lake Tahoe, CA. 1987; Chief of Dental Staff

1984 I wrote an article for the Journal *Anesthesia Progress*; Therapeutic Implications of Modifying Endogenous Serotonergic Analgesic Systems. It was published in the January/February 1985 issue, Volume 32.

In 1993 I helped establish the MUPS (Missing and Unidentified Persons) computerized Data Base for the state of California and received a letter of commendation from the State Attorney General, Dan Lundgren.

In 1993 I passed the CBEST exam and received my emergency teaching credentials. I taught school in the Amador County School District as a substitute teacher for one year.

1997 - 2008 I have worked part time as a substitute dentist in the Marin County Jail providing dental treatment for their inmates.

2008 - Present I am currently employed by the California Department of Corrections and Rehabilitation as a Dentist.

2008 - Substitute Facilitator for the Health Professional's Diversion Group in Stockton, CA. Pam Davis, MFT.

EMPLOYMENT

1983-1991 Private Practice, So. Lake Tahoe, CA
1991-1992 Associate with Alan J. Peters, Jackson, CA
1992-1993 Associate with Big Valley Dental Center
1995-1996 Locum Tenums, TLC Dental Staffers
1996-1997 Private Practice, Orangevale, CA
1997-2000 Managing Dentist with RC Dental, Rancho Cordova, CA
2001-2002 Associate with Phil Latham, Sacramento, CA
2002-2002 Supervising Dentist with Valley Dental, Stockton, CA
2002-2008 Managing Dentist with Valley Dental Consulting & Leasing, Hilmar, CA
2008-Present Dentist, CF with Sierra Conservation Center
Supervisor: Dr. Ted McDow [REDACTED]
2008-Present On Call for the Marin Co. Jail
2012-Present Dentist Part time, with MACT Dental
Supervisor: Dr. W. Ko [REDACTED]

EDUCATION

1969-1973 South Tahoe High School, South Lake Tahoe, CA
1973-1977 Gonzaga University, Spokane WA, BS in Biology with an Accounting minor.
1977-1979 San Jose State University, Masters Program, Molecular Biology, no degree.
1979-1983 Georgetown University, Washington DC, D.D.S.
[REDACTED]

With each Dental License renewal I average in excess of 80 hours of Continuing Education Credits.

I have regularly attended my component Dental Study Club

meetings until my hire at Sierra Conservation Center. I have worked primarily the 3rd watch shift and have been unable to participate in those valuable meetings.

LANGUAGES

Fluent in English
Studying Spanish, I have some basic dental fluency.



Agenda Item 21(G)

**Recognition of Dr. David Graham,
Board Subject Matter Expert**



MEMORANDUM

DATE	August 16, 2013
TO	Dental Board Members
FROM	Kim A. Trefry, Enforcement Chief
SUBJECT	Agenda Item 21G: Recognition of Dr. David Graham, Board Subject Matter Expert

Dr. Huong Le, Board President, will recognize Dr. David Graham for his outstanding dedication and service to the Dental Board of California and his commitment to protecting the public's safety on behalf of the State of California's dental health care consumers.



Agenda Item 22(A)

Review of Dental Licensure and Permit Statistics



MEMORANDUM

DATE	August 9, 2013
TO	Dental Board Members
FROM	Dawn Dill, Manager, Licensing and Examination Unit
SUBJECT	Agenda Item 22A: Licensing Certification and Permits Statistics

Following are statistics of current license/permits by type as of August 4, 2013.

	Dental License (DDS)	Registered Dental Assistant (RDA)	Registered Dental Assistant in Extended Functions (RDAEF)	Total Licenses
Active	36,186	34,389	1,292	71,867
Inactive	3,760	8,630	122	12,512
Retired	1,746	10	0	1,756
Disabled Non practice	118	N/A	N/A	118
Renewal in Process	251	528	16	795
Fingerprinting Hold	150	438	22	610
Delinquent	3,391	9,166	185	12,742
Suspended No Coronal Polish/X-ray	N/A	1,341	0	1,341
Total Current Population	45,602	54,502	1,637	101,741
Total Cancelled Since Implementation	12,359	35,132	160	47,651

New RDAEF licenses issued since January 1, 2010 = 141.

Existing RDAEF licenses enhanced since January 1, 2010 = 149.

Dental Licenses Issued via Pathway	Total Issued in 2013	Total Issued in 2012	Total Issued to Date	Date Pathway Implemented
California Exam	0	0	53,977	Prior to 1929
WREB Exam	496	697	5,289	January 1, 2006
Licensure by Residency	78	163	957	January 1, 2007
Licensure by Credential	88	148	2,498	July 1, 2002
LBC Clinic Contract	1	1	25	July 1, 2002
LBC Faculty Contract	0	0	3	July 1, 2002

License/Permit /Certification/Registration Type	Current Active Permits	Delinquent	Total Cancelled Since Implemented
Additional Office Permit	2,181	394	5,325
Conscious Sedation Permit	490	25	324
Continuing Education Registered Provider Permit	1,341	690	1,178
Elective Facial Cosmetic Surgery Permit	26	0	0
Extramural Facility Registration*	142	n/a	n/a
Fictitious Name Permit	5,518	1,044	3,812
General Anesthesia Permit	830	27	765
Mobile Dental Clinic Permit	25	11	25
Medical General Anesthesia Permit	67	27	131
Oral Conscious Sedation Certification (Adult Only 1,117; Adult & Minors 1,216)	2,333	498	135
Oral & Maxillofacial Surgery Permit	85	5	12
Referral Service Registration*	289	n/a	n/a
Special Permits	30	15	152
Dental Sedation Assistant Permit	21	0	0
Orthodontic Assistant Permit	92	2	0

*Current population for Extramural Facilities and Referral Services are approximated because they are not automated programs.

Active Licensed Dentists by County

County	Licensed Dentists (DDS)	Population
Alameda	1,458	1,554,720
Alpine	0	1,129
Amador	25	37,035
Butte	161	221,539
Calaveras	24	44,742
Colusa	3	21,411
Contra Costa	1,045	1,079,597
Del Norte	16	28,290
El Dorado	164	180,561
Fresno	562	947,895
Glenn	7	27,992
Humboldt	93	134,827
Imperial	43	176,948

County	Licensed Dentists (DDS)	Population
Inyo	13	18,495
Kern	339	856,158
Kings	64	151,364
Lake	26	63,983
Lassen	31	33,658
Los Angeles	8,454	9,962,789
Madera	50	152,218
Marin	346	256,069
Mariposa	7	17,905
Mendocino	64	87,428
Merced	96	262,305
Modoc	6	9,327
Mono	1	14,348
Monterey	297	426,762
Napa	117	139,045
Nevada	93	98,292
Orange	3,732	3,090,132
Placer	453	361,682
Plumas	16	19,399
Riverside	1,089	2,268,783
Sacramento	1,098	1,450,121
San Benito	23	56,884
San Bernardino	1,324	2,081,313
San Diego	2,697	3,177,063
San Francisco	1,238	825,863
San Joaquin	384	702,612
San Luis Obispo	234	274,804
San Mateo	859	739,311
Santa Barbara	340	431,249
Santa Clara	2,216	1,837,504
Santa Cruz	199	266,776
Shasta	131	178,586
Sierra	3	3,086
Siskiyou	31	44,154
Solano	303	420,757
Sonoma	413	491,829
Stanislaus	281	521,726
Sutter	62	95,022
Tehama	30	63,406
Trinity	4	13,526
Tulare	203	451,977
Tuolumne	56	54,008
Ventura	637	835,981
Yolo	117	204,118
Yuba	11	72,926

Population is from the US Census estimates for 2012. All California 38,041,430.



Agenda Item 22(B)

Review of General Anesthesia/Conscious Sedation Evaluation Statistics



MEMORANDUM

DATE	August 7, 2013
TO	Dental Board Members
FROM	Jessica Olney, Associate Governmental Program Analyst
SUBJECT	Agenda Item 22B: General Anesthesia/Conscious Sedation/Medical General Anesthesia Evaluation Statistics

2012-2013 Statistical Overview of the On-Site Inspections and Evaluations Administered by the Board

General Anesthesia Evaluations

	Pass Eval	Fail Eval	Permit Cancelled / Non Compliance	Postpone no evaluators	Postpone by request	Permit Canc by Request
July	10	0	0	1	1	1
August	10	0	0	1	0	4
September	10	0	3	2	4	2
October	18	0	0	0	5	1
November	13	0	0	3	3	0
December	5	0	0	3	1	2
January	12	0	0	1	5	2
February	9	0	0	1	4	0
March	13	0	3	4	1	1
April	11	1	2	2	1	2
May	15	0	2	3	1	2
June	2	0	0	0	1	0
July*	12	0	0	3	1	0
August*	12	0	0	0	1	0
Total	152	1	10	24	29	17

*Approximate schedule for July/August

Conscious Sedation Evaluations

	Pass Eval	Fail Eval	Permit Cancelled / Non Compliance	Postpone no evaluators	Postpone by request	Permit Canc by Request
July	0	0	0	3	2	1
August	2	0	0	3	1	2
September	4	0	1	2	4	1
October	1	0	1	2	1	4
November	5	1	2	1	0	0
December	1	0	0	0	2	5
January	5	0	0	3	1	1
February	5	0	1	2	0	1
March	4	0	3	0	2	0
April	8	0	1	1	1	4
May	3	0	1	1	1	3
June	0	0	0	0	0	1
July*	5	0	0	1	1	0
August*	6	0	0	2	0	0
Total	49	1	10	21	16	23

*Approximate schedule for July/August

There is a great need for conscious sedation evaluators throughout California. Several evaluations have been postponed recently due to a lack of available evaluators. The Board is actively recruiting for the evaluation program.

Medical General Anesthesia Evaluations

	Pass Eval	Fail Eval	Permit Cancelled / Non Compliance	Postpone no evaluators	Postpone by request	Permit Canc by Request
July	1	0	0	0	0	0
August	1	0	0	0	0	0
September	0	0	1	1	0	0
October	0	0	0	1	1	0
November	0	0	0	1	1	0
December	0	0	0	1	0	0
January	0	0	0	0	1	0
February	0	0	0	2	0	0
March	0	0	0	1	0	0
April	0	0	0	1	0	0
May	0	0	0	1	0	1
June	0	0	0	1	0	0
July*	1	0	0	0	0	0
August*	2	0	0	0	0	0
Total	5	0	1	10	3	1

*Approximate schedule for July/August

Evaluators Approved after May 2013

Region	GA	CS	MGA
Northern California	0	0	0
Southern California	0	0	0

Pending Evaluator Applications*

Region	GA	CS	MGA
Northern California	0	2	0
Southern California	6	2	0

*Deficient, or do not meet 3 year requirement.

Current Evaluators per Region

Region	GA	CS	MGA
Northern California	154	67	15
Southern California	201	91	14

Action Requested
No action requested.



Agenda Item 22(C)

**Update on General
Anesthesia/Conscious Sedation
Calibration Webinar**



MEMORANDUM

DATE	August 6, 2013
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant
SUBJECT	Agenda Item 22C: Update on General Anesthesia/Conscious Sedation Calibration Webinar

Dr. Witcher will provide a verbal update regarding the progress of the webinar for General Anesthesia/Conscious Sedation Calibration.