STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
DENTAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
P (916) 263-2300 F (916) 263-2140 www.dbc.ca.gov

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

Friday, November 5, 2010

Embassy Suites LAX/South
1440 E. Imperial Avenue
El Segundo, CA 90245
1-310-640-3600

Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. Time limitations for discussion and comment will be determined by the President. For verification of the meeting, call (916) 263-2300 or access the Board's Web Site at ***www.dbc.ca.gov****. This Board meeting is open to the public and is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Richard DeCuir, Executive Officer at 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815, or by phone at (916) 263-2300. Providing your request at least five business days before the meeting will help to ensure availability of the requested accommodation*

Friday, November 5, 2010

8:00 AM DENTAL BOARD OF CALIFORNIA – FULL BOARD

ROLL CALL.....Establishment of a Quorum

AGENDA ITEM 1.....Approval of the Full Board Meeting Minutes from May 5, 2010 and September 16, 2010

AGENDA ITEM 2.....President's Report

AGENDA ITEM 3.....Executive Officer's Report

AGENDA ITEM 4.....Update on Dental Hygiene Committee of California (DHCC) Activities

AGENDA ITEM 5.....Budget Reports: Dental Fund & Dental Assisting Fund

AGENDA ITEM 6.....Subcommittee Report on Office of Statewide Health Planning and Development (OSHPD) Health Workforce Pilot Project (WWPP#172) Application Relating to Training Current Allied Dental Personnel for New Duties in Community Settings.

AGENDA ITEM 7.....Discussion and Possible Action Regarding the Need to Review and Update the Dental Restorative Materials Fact Sheet

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

AGENDA ITEM 8.....Examination Committee Report
The Board may take action on any items listed on the attached Examination Committee agenda.

AGENDA ITEM 9.....Dental Assisting Committee Report
The Board may take action on any items listed on the attached Dental Assisting Committee agenda.

AGENDA ITEM 10.....Licensing, Certification & Permits Committee Report
The Board may take action on any items listed on the attached Licensing, Certification & Permits Committee agenda.

AGENDA ITEM 11.....Enforcement Committee Report
The Board may take action on any items listed on the attached Enforcement Committee agenda.

AGENDA ITEM 12.....Legislative and Regulatory Committee Report
The Board may take action on any items listed on the attached Legislative and Regulatory Committee agenda.

AGENDA ITEM 13.....Discussion and Possible Action to Recommend the Initiation of a Rulemaking to Implement the Portfolio Licensure Examination for Dentists (AB 1524, Stats 2010 ch 446)

AGENDA ITEM 14.....Reconsideration of and Possible Action Regarding Proposed Regulations to Implement the Department of Consumer Affairs Recommendations to Strengthen Enforcement Programs Pursuant to the Consumer Protection Enforcement Initiative (CPEI) – SB1111

AGENDA ITEM 15.....Discussion and Possible Action to Implement DCA's Recommendations of the Substance Abuse Coordination Committee, Pursuant to SB 1441 for the Board's Diversion and Probation Monitoring Programs

AGENDA ITEM 16.....Subcommittee's Report Regarding the Review of the Guidelines from the American Dental Association Relating to Use of Conscious Sedation, Use of Oral Conscious Sedation for Pediatrics Patients, and Use of Oral Conscious Sedation for Adult Patients to Determine if Statutory Amendments are Necessary

PUBLIC COMMENT

ADJOURNMENT

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Dental Board of California Meeting
Wednesday, May 5, 2010
South San Francisco, CA
DRAFT Meeting Minutes

Members Present:
John Bettinger, DDS, President
Bruce Whitcher, DDS, Vice President
Luis Dominicis, DDS, Secretary
Fran Burton, Public Member
Stephen Casagrande, DDS
Rebecca Downing, Public Member
Judith Forsythe, RDA
Thomas Olinger, DDS

Members Absent:
Huong Le, DDS
Suzanne McCormick, DDS

Staff Present:
Richard DeCuir, Executive Officer
Teri Lane, Acting Enforcement Chief
Nancy Butler, Supervising Investigator 1, Northern California
Dawn Dill, Dental Assisting Unit Manager
Donna Kantner, Licensing & Examination Unit Manager
Lori Reis, Complaint & Compliance Manager
Jocelyn Campos, Enforcement Coordinator
Karen Fischer, Administrative Analyst
Sarah Wallace, Legislative/Regulatory Analyst
Kristy Schieldge, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

President Bettinger called the meeting to order at 8:01 a.m. Secretary Dominicis called the roll and established a quorum. The Board immediately went into closed session to review disciplinary matters and litigation.

Returned to open session at 10:20 a.m.

Agenda Item 1: Review and Discuss Possible Updates to the Dental Board's Strategic Plan Adopted May 14, 2004.
While waiting to re-establish a quorum, Dr. Bettinger recognized Dr. Michael Lew, former Board member in the audience. Once a quorum was established, Evin Van Outryve and Tom Landry from the Department of Consumer Affairs' SOLID Unit began the discussion of the Board's strategic plan. The group reviewed the Board's Mission, Vision, and Values statements that were discussed at the February 2010 Board meeting. The Board adopted the following Mission, Vision, and Values statements:

MISSION:
To protect and promote the health and safety of consumer of the State of California.

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

VALUES:

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

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

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

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

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

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

The Board broke in to two working groups of four members to review the five goals that had been laid out at the February 2010 meeting; and to assign actions items or objectives to each goal for implementation during the next two years. There was lengthy discussion between Board members about each goal and objective and the following goals and objectives were formulated:

Goal 1: Licensing
Administer fair, valid, timely, comprehensive, and relevant licensing examinations to ensure public protection and provide a licensing process that permits applicants timely access to the workforce without compromising consumer protection.

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

Goal 2: Communication and Education
Provide the most current information and services to the Board's stakeholders; set standards to ensure high quality educational services and programs.

Objectives:
- Annually at minimum, release a newsletter to provide up-to-date disciplinary actions and other developments including legislative and regulatory changes and preventative enforcement suggestions.
- Maintain, augment, and improve ease-of-use of the Board's website.
- Implement Board representative outreach to students in dental educational programs.
- Use local component societies and school meetings as a venue to provide updates on Board activities and services.

- Maintain an open dialogue with stakeholders.
- Consider conducting outreach programs where public policy issues on health care are discussed.
- Maintain standards for Continuing Dental Education.
- Reprint laws and regulations on a regular basis.

Goal 3: Consumer Protection and Enforcement
Ensure the Board's enforcement and diversion programs provide timely and equitable consumer protection.

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

Goal 4: Dental Practice Act
Complete an ongoing review of the Dental Practice Act to update existing laws and regulations to ensure they continue to provide efficient and effective consumer protection.

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

In conclusion, SOLID staff are available to assist Dental Board staff in implementing the strategic plan and can review the plan in one year to ensure that Dental Board staff are on track.

Recess - Lunch Break
The Board recessed at 12:30 p.m. for lunch.

Committee Meetings
Dr. Bettinger, President reconvened the Board at 1:40 p.m Dr. Dominicis, Secretary called the roll and established a quorum. Dr. Bettinger announced the order in which the Committee's would be meeting: Examination Committee, Registered Dental Assistant Examination Committee, Registered Dental Assistant in Extended Functions Examination Committee, Dental Assisting Committee, Licensing, Certification, and Permit Committee, Enforcement Committee, and finally the Legislative and Regulatory Committee. Refer to individual Committee Meeting minutes.

Recess
The meeting recessed at 7:20 p.m.

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Dental Board of California Meeting
Thursday, September 16, 2010
Sacramento, CA
DRAFT Meeting Minutes

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

Members Absent:

Staff Present:
Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
Kim Trefrey, Enforcement Chief
Donna Kantner, Licensing & Examination Unit Manager
Jocelyn Campos, Enforcement Coordinator
Sarah Wallace, Legislative/Regulatory Analyst
Linda Byers, Executive Assistant
Kristy Schieldge, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

President Bettinger called the meeting to order at 8:59 a.m. Secretary Dominicis called the roll and established a quorum. Dr. Bettinger recognized that Board member participation at meetings is a huge commitment and he thanked the Board members for attending the meeting.

AGENDA ITEM 1: Administer Oath of Office to New Board Members – Steve Afriat and Steven Morrow, DDS
President Bettinger administered the oath of office to the two new Board members.

AGENDA ITEM 2: Approval of the Full Board Meeting Minutes from July 26, 2010.
Thomas Olinger, DDS,offered a correction to Item 9, on page 7 paragraph 3, strike the word 'Dental' within American Society of Anesthesiologists and California Society of Anesthesiologists. M/S/C (McCormick/Domnicis) to accept the Full Board Meeting Minutes from July 26, 2010 as amended. Legal Counsel suggested the 2 new members abstain since they were not at that meeting. The motion passed unanimously with 2 abstentions.

AGENDA ITEM 3: President's Report

Dr. Bettinger reported that the Dental Board sponsored AB 1524, the "Portfolio Bill' which creates a groundbreaking new pathway for licensure in California. He noted that today's Board Meeting will primarily to address the regulations related to the Dental Education Programs and requirements and approve the Staff Recommendations. Dr. Bettinger reported that he had received a letter from former Senate President Pro Tempore, Don Perata, who authored the bill creating the Dental Hygiene Committee of California, who stated that all parties who negotiated the Legislation agreed that the Dental Hygiene Committee of California would act autonomously except for the "Scope of Practice". Dr. Bettinger noted that California is the only state where Dental Hygiene has separated from the Dental Regulatory Board therefore, as legislation is periodically introduced involving Hygiene 'scope of practice', our Board should remind the parties about the legislative agreement that was made regarding public safety issues involved in the lack of Dental Board oversight for certain new duties that may be created.

AGENDA ITEM 4: Executive Officer's Report

Richard DeCuir, Executive Officer, introduced four new staff members, April Alameda, Tonya Weber, Linda Byers, and Sharon Langness. Mr. DeCuir stated that staff has been working diligently on the initial Sunset Review Report, due to the Senate Business, Professions and Economic Development (BP&ED) Committee on October 1, 2010. This initial report is predominantly a statistical and historical report, and Board Members have been given a Draft copy. He noted that he has participated in three previous Sunset Reviews, adding that Boards are normally reviewed every 4 years by the BP&ED who looks at what the Board has accomplished, the workload, revenue, and every aspect of how the Board conducts its business. He stated that the initial report is a "baseline" document upon which the Committee develops questions, and that the first hearing is scheduled for November 9th and 10th, 2010, followed by a second hearing in March of 2011. He added that the Dental Board is one of a number of Boards that are up for Sunset Review, and even though the last Sunset Review of this Board was in 2001, the Board has been Sunset twice since then. In response to an inquiry from Dr. Whitcher, Mr. DeCuir responded that it would be prudent to seek an author immediately for a bill to extend the Board's Sunset date. Mr. DeCuir welcomed the students from Sacramento City College in attendance and finished by reporting on Diversion.

AGENDA ITEM 5: Department of Consumer Affairs (DCA) Director's Report

Gil Deluna spoke on behalf of DCA Director, Brian Stiger, reporting that on August 31, 2010 DCA received a directive from the Governor to cease any hiring of employees. He noted that there may be limited circumstances where exceptions to hiring freeze may be necessary for the public protection and safety or mission critical functions. He also reported on the progress of the 'Breeze' project, an online license application and renewal process, which will include information on license status' and disciplinary actions. He stated that the project was created to expedite the licensing process and to create a transparency of licensee information for the public. Debbie Balaam, the project manager, is available for presentations. He added that the Director has asked boards to post Board meeting materials online and to webcast Board Meetings online.

AGENDA ITEM 6: Report, Discussion, and Possible Action on OSHPD Hearing Being Held 9-7-2010 in Sacramento on the Health Workforce Pilot Project Application Submitted by Pacific Center for Special Care at UOP School of Dentistry Relating to Training Current Allied Dental Personnel for New Duties in Community Settings.

Dr. Glassman, UOP, summarized the Pilot Project, stating that about 30% of the population does not have access to dental services. He said this project brings care to schools, nursing homes and residential care facilities by allowing RDA's and RDH's to independently take initial x-rays using a conservative, specifically developed set of protocols for a dentist's review. The other provision of the program is placement of an Interim Therapeutic Restoration (ITR), a temporary restoration designed to stop the progression of dental caries until the patient can receive care from a dentist. Dr. Bettinger noted that he was in attendance at the Office of Statewide Health Planning and Development (OSHPD) hearing and noted that OSHPD is authorized to approve Pilot Project duties that are outside the usual scope of practice for the duration of the study only. Dr. Bettinger pointed out that RDA's already have the ability to place temporary restorations and RDAEF's can place permanent restorations so we already have a workforce of assistants allowed to do this. He noted that this would be a new enhancement to the scope of practice for RDH and RDHAF, and additionally, the study would allow these auxiliaries, using metal instruments, to excavate decay. Dr. Bettinger wants the Board to know that the purpose of this agenda item is to ask the Board to give an opinion to OSHPD whether this study should proceed as is, not proceed or proceed with modifications. Dr. Bettinger voiced the concerns of many of the Board members regarding the excavation of carious material with no anesthetic and the inevitable pain this will cause, the limited training involved, the lack of supervision and suggestions for modification of the consent form. M/S/C (Whitcher/Burton) to appoint a subcommittee, Forsythe/Morrow, to meet with UOP and OSHPD and draft a letter addressing the concerns of the Board to go out next week.

Public Comment:
Ellen Stanley, CDHA feels this project has provisions for supervision and referral care. CDHA supports this project.

Dr. Guy Acheson, member of the Board of California Academy of General Dentistry (CAGD) and speaking on their behalf, said that it is CAGD's position that the utilization of expanded function dental assistants providing ONLY reversible dental procedures under direct supervision of the dentist is the most cost effective and safe way to increase capacity, increase efficiencies and increase access to care. Secondly, he stated that California Law must specify those duties which expanded function dental auxiliaries will NOT be permitted to perform, adding that CAGD feels strongly that all duties performed by dental auxiliaries MUST be performed under the direct supervision of a dentist. In light of these policies, he said CAGD advocates that this project NOT be approved as presented. He stated that CAGD feels that exposing patients to ionizing radiation through the taking of radiographs is an irreversible procedure and should be done only under the order of a dentist. He added that HWPP #172 is promoted primarily to increase access to care through telemedicine technology, therefore, dental auxiliaries in a remote area should be able to provide the collaborating dentist with adequate information to ascertain what radiographs are needed so that the dentist can provide this order. Allowing dental auxiliaries to take dental radiographs by protocol, rather than by order of a dentist, should not be needed since telemedicine technology allows the dentist to be in direct contact with the patient and the dental team. The CAGD also feels that excavation of carious tooth structure, which is part of the ITR procedure, is an irreversible procedure which should only be done by a dentist. CAGD urges the Dental Board of California to submit a letter to OSHPD in opposition to HWPP #172. He felt this is a wonderful effort to demonstrate the power of telemedicine to expand the ability of dental teams to provide dental care to remote, isolated and underserved populations, but telemedicine should not change the role of the dentist in leading the dental teams.

Lisa Okimoto, CDHA pointed out that there are already similar workforce models in existence, in other states, that are providing interim dental treatment and it has been proven safe and efficient.

AGENDA ITEM 7: Consideration of and Possible Action Regarding Recommendations Received From the Subcommittee:

(A) Proposed Regulatory Amendments Relating to Dental Assisting Duties, Educational Programs and Courses, and Examinations;

Dr. Whitcher reported that the subcommittee consisting of himself and Ms. Downing, found that most of the issues that were brought forward could be addressed through changes to the regulatory proposal currently before the Board and can be found under Agenda item 8A. Regarding RDAEF training in endodontics, he noted the main concern was that the duty of 'size and fit' not include condensation. A review of the statute found that the statutory description of RDAEF duties did not include condensation resulting in the determination that 'size, fit and cement' was a separate duty from condensation, allowing us to separate that out from the training of the RDAEF. He stated that the training language will read: 'Size, fit, and cement accessory and master cones in preparation for condensation by the dentist. This instruction shall not include obturator based techniques or other techniques that employ condensation.' The recommendation of the subcommittee is that the changes to the RDAEF endodontic training be clarified with changes to the appropriate section of the regulation.

(B) Statutory Changes Relating to Dental Assisting Duties, Educational Programs and Courses, and Examinations

The subcommittee addressed concerns of insufficient clinical training to cover all the RDAEF duties by considering different ways that this might be accomplished. The consensus was that with the existing programs in place; the most effective way to accomplish this was to allow the clinical training to be done in the externship setting. Dr. Whitcher reported that appropriate changes to the draft text were made to reflect this recommendation so the Board could consider three areas for clinical training which may be completed in the externship setting or in the intramural setting.

Dr. Whitcher said that statute currently states 'faculty teaching the RDAEF new duties, allowed in 2010, must be either a dentist or an RDAEF who has been licensed for 2 years and experienced in the subject matter.' He stated that if the Board takes no action, in 2012, RDAEF's would be licensed for the required 2 year period and capable of teaching, keeping in mind that the dentist is still required to supervise in the clinical training with the addition of that element. He noted that another option would be to consider extending the time period that RDAEFs would be required to be licensed prior to providing instruction, past 2 years. Or, he said a requirement could be added that the dentist would provide RDAEF instruction that would be ongoing in the new duties. He suggested that the Board accept the subcommittee's report and review the changes as the agenda items are discussed in detail.

He noted that three items that could not be addressed through regulatory change were:

1)RDA supervision levels can now be determined by the dentist. Previously, RDA supervision levels were all 'direct supervision.' Dr. Whitcher said that many expressed concern that this might not be in the best interest of public safety. He reported that the subcommittee proposed a new regulation under Section 1086, 'RDA Duties and settings,' which would require the dentist to determine the status of the RDA's license and their proficiency in three core duties (mouth mirror inspection and charting, indirect restoration and provisional restoration including stainless steel crowns) prior to determining the level of supervision.

He reported that the other option is to go back to the legislature and ask for a statutory amendment to remove the ability of the dentist to delegate based on his or her judgment.

2)Procedures on the RDA practical exam. He said the subcommittee felt that the addition of a posterior indirect restoration should be added, which may require a statutory change because the exam is specified in statute.

3)Whether the RDA should be authorized to adjust dentures outside the mouth, noting that a change would require going back to legislature if there is sufficient concern.

Dr. Olinger said that he finds the proposed regulations to address RDA supervision levels onerous. Dr. Morrow stated that cementing master cones is not considered irreversible, condensation can result in irreversible outcome as condensation results in permanence. Sealant (cement) does not set up for 24-48 hours.

M/S/C (Olinger/Afriat) to accept the subcommittee report.

Public Comment:
Carrie Gordon, CDA, regarding the supervision of RDA duties noted that a statute already addresses this issue. Business and Professions Code Section 1680 cites unprofessional conduct for aiding and abetting someone who is not properly licensed. This was noted by the subcommittee.

Dr. Bettinger, asked if there was a conclusion regarding the RDA exam and the anterior and posterior temporary crown. Dr. Whitcher stated that the question hinges on whether or not we achieve the goals within the framework of the existing statute or, is it of sufficient concern that we add a second procedure that we want to go back and change the law?

Dr. Bettinger asked Legal Counsel Schieldge for her opinion. Ms. Schieldge stated that her opinion remains that section 1752 sets forth what procedures can be tested and to change those in any way requires a statutory change to implement. Dr. Morrow felt after lengthy scrutinization, he would leave it the way it is. Dr. Olinger called for a vote on the previous motion to accept the subcommittee's report. The motion passed unanimously.

Agenda Item 8(A) Comments Received During the 45- Day Comment Period Relative to Amendments to Title 16, CCR, Sections 1070, 1070.1, 1070.2, 1071, and Proposed Additions to Title 16, CCR, Section 1070.6, 1070.7, 1070.8 for Dental Assisting Educational Programs and Courses

Assembly Bill 2637 was passed by the Legislature and signed into law on September 28, 2008. The provisions of this bill relate to the allowable duties and settings for dental assistants, Registered Dental Assistants (RDA), Registered Dental Assistants in Extended Functions (RDAEF) and the two new permit categories for Orthodontic Assistant (OA) and Dental Sedation Assistant (DSA) become effective on January 1, 2010. AB 2637 included an expiration date on the Sections of law pertaining to educational program and course approvals, with the understanding that regulations would be pursued to clarify specific standards and criteria that these programs and course must meet to obtain Board approval to teach newly allowed duties and conform to the statutory changes. The Board adopted proposed regulatory language at the November 2009 meeting. The proposed regulatory language regarding Dental Assisting Educational Programs and Courses was noticed on the Board's website and mailed on June 4, 2010 for the 45-day comment period. The comment period began on June 4, 2010 and ended on July 19, 2010. The regulatory hearing was held on July 19, 2010. The Board received public comments from the Dental

Assisting Alliance, Dr. Albert Gardi, DDS, the California Dental Association (CDA), the California State Association of Endodontists (CSAE), the California Society of Anesthesiologists (CSA), Dr. Ned L. Nix, DDS from the California Association of Oral and Maxillofacial Surgeons (CALAOMS), and the California Association of Dental Assisting Teachers (CADAT). Staff prepared recommendations for the Board in response to comments received during the 45-day comment period.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070(a) with a few modifications. Staff recommended changing the reevaluation timeline from five years to seven years. Staff recommended adding technical language to provide consistency with other regulatory language. Staff recommended deleting CADAT's proposed sentence: "The Board may, in lieu of conducting its own investigation/re-evaluation for RDA education programs, accept the findings of any commission or accreditation agency approved by the Board without the need for a re-evaluation every five years and must submit required documentation as outlined in Section 1070.2." This sentence is specific only to registered dental assisting (RDA) and registered dental assisting in extended functions (RDAEF) programs covered in Sections 1070.1 and 1070.2. Section 1070 is specific to general provisions of all dental assisting educational programs and courses. Staff also recommended adding subsection (a)(6) pertaining to provisional approval. CADAT recommended the addition of this regulatory language in subsequent sections. However, staff believed that the condition of provisional approval applies to all dental assisting educational programs and courses and should be included in Section 1070 in order to avoid redundancy throughout the regulatory language.

Public Comment:
Dr. Lori Gagliardi, CADAT concurs completely with what the staff and subcommittee recommends. M/S/C (Whitcher/Dominicis) to accept staff's recommendations. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070(b). There were no public comments. M/S/C (Bettinger/McCormick) to accept staff's recommendation. The motion passed unanimously.

Staff recommended adding new subsection 1070(c). The addition of this subsection specifies that the program or course director will authorize the course faculty or instructional staff to provide instruction. The terms are synonymous and the distinction between course faculty and instructional staff depends on the institution. The addition of the subsection was also recommended to provide consistency with other staff recommendations in response to comments received from CADAT. There were no public comments. M/S/C (Olinger/McCormick) to accept staff's recommendation. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070(c) with modifications to correct a grammatical error and to renumber the subsection to conform the text.

Public Comment:
Dr. Lori Gagliardi, CADAT, said adding the word "clinical" would limit faculty. Some things can be taught, such as ultrasonic scaling, that do not have a clinical component. M/S/C (Burton/Afriat) to accept staff's recommendations. The motion passed unanimously.

Staff recommended rejection of CADAT's proposed amendments to subsection 1070(d) because it is necessary for evidence of completion to specifically indicate the student's name, the name of the program or course competed, the date of completion, and the signature of the director. However, staff recommended modifying the text to incorporate CADAT's suggestion to strike the total

number of program or course hours included on the evidence of completion. Staff recommended renumbering the subsection to conform the text. There were no public comments. M/S/C (McCormick/Downing) to accept staff's recommendations. The motion passed unanimously.

Staff recommended rejection of CADAT's proposed amendments to subsection 1070(e)(1). The provision is necessary to specify that it is the provider's option to provide the specified equipment or require the students to provide the equipment. This subsection authorizes a dental office that has the required equipment to be used for laboratory instruction. The regulations do not currently contain any such requirements anywhere else in regulation or in the Act. Staff recommended renumbering the subsection to conform the text. There were no public comments. M/S/C (Whitcher/Forsythe) to accept staff's recommendations. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070(e)(2). The minimum standards for infection control are currently specified in California Code of Regulations (CCR) Section 1005. It would be superfluous to include subsection (e)(2) in this regulatory package. There were no public comments. M/S/C (Downing/Whitcher) to accept staff's recommendation. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070(e)(3) with a few modifications to provide specificity. Staff recommended adding the term "handpiece adaptation" under functional equipment in each operatory, and specifying that students are required to demonstrate minimum competence in "laboratory and preclinical performance of" procedures prior to clinical assignments.

Public Comment:
Carrie Gordon, CDA, indicated that she is comfortable with the changes but would like to have a committee of dentists from CDA review the changes.

Dr. Earl Johnson, CAO, recommended the words 'handpiece adaptation' be changed to 'handpiece connection'. M/S/C (Whitcher/Dominicis) to accept staff's recommendations with an amendment to change "handpiece adaptation" to "handpiece connection". The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070(f). Staff recommended renumbering the subsection to conform the text.

Public Comment:
Carrie Gordon, CDA, had concerns about the striking of the word 'appropriate' before instructional staff. M/S/C (Forsythe/Afriat) to accept staff's recommendations. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070(g) with modifications. Staff recommended rejecting the use of the term "human subject" because the term "patient" is consistently used throughout the Dental Practice Act. The addition of a new term is superfluous. Staff recommended renumbering the text to conform the text. There were no public comments. M/S/C (Olinger/McCormick) to accept staff's recommendations.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070(h) with modifications. Staff recommended deletion of CADAT's proposed language: "Standards of performance shall be adjusted upward as student's progress through the curriculum." and "that is adjusted upward as students progress through the curriculum." These provisions are vague, difficult to enforce, and do not add any additional public protection. The current minimum criteria are sufficient to address the educational standards. Staff recommended renumbering the

subsection to conform the text. There were no public comments. M/S/C (Whitcher/Olinger) to accept staff's recommendations. The motion passed unanimously.

Staff recommended the addition of new subsection 1070(i)(1) to provide a definition for the term "extramural dental facility" that is used throughout this regulatory language. In order to provide consistency with comments received from interested parties, staff recommended adding a definition that more clearly explains what an "extramural dental facility" is for the purposes of the dental assisting educational programs. Staff recommended renumbering the subsection to conform the text.

Public Comment:
Carrie Gordon, said that CDA will have to review this definition as it pertains to dental facilities to be sure that there is a common understanding as to what the 'primary campus' is going to be.

Dr. Lori Gagliardi, said CADAT's main concern is that these individuals have 'preclinical lab training' prior to doing any of these extra duties in their extramural sites. M/S/C (Burton/Whitcher) to accept staff's recommendation. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsections 1070(i) through 1070(i)(4) with modifications. Staff recommended replacing the term "extramural clinical dental healthcare facility" with "extramural dental facility" to conform language with the definition for "extramural dental facility" pertaining to dental assisting educational programs and courses. Staff recommended that the program or course director should be responsible for selecting extramural dental facilities and instructional staff should not be responsible for the selection of the extramural dental facilities. Staff recommended renumbering the subsection to conform the text.

Public Comment:
Carrie Gordon, CDA agrees with the change in requiring a Program or Course Director to select the site. However, striking 'instructional staff' from #3 would also strike 'instructional staff' from evaluating student competence, asking if these two sections should be separate? M/S/C (Whitcher/Dominicis) to accept staff's recommendations. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070(i)(5) with modifications. Staff recommended adding the following provision: "and shall include written affirmation of compliance with the regulations of this Article". Institutions are capable of determining the content of contracts of affiliation. Some school districts determine the content of the contracts by district policy. Contracts should include a written affirmation to the Board to assure facilities are in compliance with state regulations. There were no public comments. M/S/C (McCormick/Le) to accept staff's recommendations. The motion passed unanimously.

Staff recommends acceptance of CADAT's proposed amendments to subsections 1070.1(a) through 1070.1(c) with modifications. Staff recommended rejecting the use of the term "human subject" because the term "patient" is consistently used throughout the Dental Practice Act. The addition of a new term is superfluous.

Public Comment:
Karen Wyant, Dental Assisting Alliance (DAA), recommended amending the definition of preclinical instruction to: "(c) "Preclinical instruction" means instruction in which students receive supervised experience within the educational facilities performing procedures on patients limited to students, faculty, or instructional staff members. There shall be at least one instructor for every six students who are simultaneously engaged in instruction." She said that patients for preclinical instruction

should be limited to students, faculty, and instructional staff members to provide public protection, the use of simulated devices is during laboratory instruction. There were no additional public comments. M/S/C (Whitcher/Olinger) to accept staff's recommendations with the amended definition of "Preclinical instruction". The motion passed unanimously.

Staff recommended the addition of new subsection 1070.1(d) to provide a definition for the term "simulated clinical instruction" that is used throughout the regulatory language.

Public Comment:
Karen Wyant, DAA recommends adding the word 'laboratory' before the words clinical instruction. M/S/C (Whitcher/Afriat) to accept staff's recommendations. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070.1(d) with modifications. Staff recommended rejecting the use of the term "human subject" because the term "patient" is consistently used throughout the Dental Practice Act. The addition of a new term is superfluous. Staff recommended striking "which may be patients in an extramural facility or in the educational facility" and "during laboratory and preclinical instruction" to eliminate the constraint on programs and courses. The schools should determine where clinical instruction occurs. Staff recommended renumbering the subsection to conform the text. There were no public comments. M/S/C (McCormick/Olinger) to accept staff's recommendations. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070.2(a) with modification. Staff recommended rejection of CADAT's recommendation to delete the provision to "receive Board approval prior to operation" and recommends replacing the language with "apply and receive Board approval prior to operation". Programs are required to apply and receive Board approval prior to operation to protect the public from unlawful practices. Staff recommended moving the following language to subsection 1070(a)(6): "The Board may approve, provisionally approve, or deny approval to any such program. Provisional approval shall not be granted for a period which exceeds the length of the program and in no event for more than 30 days. When the Board provisionally approves a program, it shall state the reasons therefore. Provisional approval shall be limited to those programs which substantially comply with all existing standards for full approval. A program given provisional approval shall immediately notify each student of such status. If the Board denies approval of a program, the specific reasons therefore shall be provided to the program by the Board in writing within 90 days after such action." This language should be included under the General Provisions Section 1070 because this language applies to all programs and courses in these regulations, and is not limited to RDA programs. There were no public comments. M/S/C (Downing/Afriat) to accept staff's recommendations. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed addition of new subsection 1070.2(b) with modifications. The language of this subsection was included in CADAT's recommended modifications to subsection 1070.2(a). Staff recommended moving this language to a new subsection 1070.2(b). Staff recommended deleting "Adoption of the report of findings is at the pleasure of the Board and does not in any way prevent the Board from exercising its right to site evaluate a program." and recommends replacing this sentence with "Acceptance of the Commission or any accrediting agencies findings is at the discretion of the Board and does not prohibit the Board from exercising its right to sight evaluate a program." to provide consistency with other regulatory language to and include other accrediting agencies. The board recommended adding an apostrophe after "agencies" to correct a grammatical error. There were no public comments. M/S/C (Whitcher/Olinger) to accept staff's recommendations with the amendment to add the apostrophe after the word "agencies". The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendment of new subsection 1070.2(a)(1) with modifications. Staff recommended renumbering the proposed subsection from 1070.2(a)(1) to subsection 1070.2(c) to conform text. Staff recommended specifying that the status of "Approved with Reporting Requirements" is granted by the Commission on Dental Accreditation (CODA). There were no public comments. M/S/C (Burton/McCormick) to accept staff's recommendations. The motion passed unanimously.

Staff recommended rejecting CADAT's proposed addition of new subsection 1070.2(a)(2). Staff found this language to be superfluous and duplicative and the addition of this language does not promote patient protection. There were no public comments. M/S/C (Le/Dominicis) to accept staff's recommendation. The motion passed unanimously.

Staff recommended rejection of CADAT's proposed addition of new subsection 1070.2(a)(3). Registered Dental Assisting educational programs fall under the Board's regulatory control. The Board does not enforce the CODA standards and Board standards, or cede its regulatory authority to a private accrediting agency. Therefore, CADAT's recommendation is not consistent with the Board's mandate to set minimum standards. Private accrediting agency findings may be used on a case-by-case basis, but their standards do not control board discretion in this area. There were no public comments. M/S/C (Morrow/McCormick) to accept staff's recommendation. The motion passed unanimously.

Staff recommended rejection of CADAT's proposed addition of new subsection 1070.2(a)(4) because the language is duplicative of language included in Section 1070(a)(5). There were no public comments. M/S/C (Downing/Forsythe) to accept staff's recommendation. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsections 1070.2(b)(1) through 1070.2(b)(2) with modifications. Staff recommended rejecting the proposed sentence "There must be an active liaison mechanism between the program and the dental and allied dental professionals in the community." because it is unnecessary and does not benefit the schools or better protect the public. Staff recommended rejecting the provision for advisory committees to meet "at regular intervals as defined by the institution" because it is vague, undefined, and legally unenforceable. Staff recommends maintaining the provision for the advisory committee to meet at least once each academic year to provide specificity. Staff recommended renumbering the subsection to conform the text.

Public Comment:
Carrie Gordon, CDA, recommended adding "In addition," before the following sentence: "Consideration shall be given to a student, a recent graduate or a public representative to serve on the advisory committee." to clarify the composition of the advisory committee. M/S/C (Olinger/Burton) to accept staff's recommendations with the amendment to add "In addition," before the following sentence: "Consideration shall be given to a student, a recent graduate or a public representative to serve on the advisory committee." The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070.2(b)(3)(A). There were no public comments. M/S/C (Downing/Afriat) to accept staff's recommendation. The motion passed unanimously.

Staff recommended that the Board discuss the policy issue of removing the requirement for course or certification program in educational methodology be "Board-approved" as written in CADAT's

proposed amendments to subsection 1070.2(b)(3)(B). Staff reported that there are professional associations for educators, Colleges and Universities that offer teaching certification programs and credentialing coursework that may be consistent with the intent of this regulation and may be considered a valid method of meeting the requirement. There were no public comments. M/S/C (Whitcher/Olinger) to accept CADAT's proposed amendments with the words "Board-approved" deleted. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsections 1070.2(b)(3)(C) through 1070.2(b)(3)(D). There were no public comments. M/S/C (Whitcher/McCormick) to accept staff's recommendation. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsections 1070.2(b)(4) through 1070.2(b)(5) with modifications. Staff recommended modifying the term "extramural dental healthcare clinical facilities" to provide consistency with the definition for "extramural dental facility" pertaining to dental assisting educational programs and courses. Staff recommended changing CADAT's proposed regulatory language regarding notice of compliance to "To maintain approval, programs approved prior to the effective date of these regulations shall submit a completed "Notice of Compliance with New Requirements for Registered Dental Assistant Educational Programs (New 9/10)" within ninety (90) days of the effective date of these regulations" to make it more consistent with other regulatory language and include a form. There were no public comments. M/S/C (Downing/Afriat) to accept staff's recommendations. The motion passed unanimously.

Staff recommended rejection of CADAT's proposed amendments to subsection 1070.2(b)(6). By adding a requirement that students be assigned to at least 2 externships may create a hardship on programs located in remote areas. The requirement for seminars could create difficulties with scheduling.

Public Comment:
Dr. Earl Johnson, CAO, questioned whether the verbage 'no more than 25% instruction can be in specialty areas' is included. M/S/C (McCormick/Dominicis) to accept staff's recommendation. The motion passed unanimously.

Staff recommended rejecting CADAT's proposed amendments to subsection 1070.2(b)(7)(A) because it is necessary to specify the minimum requirements for equipment and armamentaria . However, staff recommended modifying the text to incorporate some of CADAT's suggestions regarding the ownership of equipment. Staff's recommended adding "With the exception of patient monitoring equipment specific to EKG machine and pulse oximeter, the program shall own the necessary equipment and have it readily available upon inspection. Patient monitoring equipment owned by the institution and utilized by more than one program within the institution premises is acceptable and may be used by the RDA program as needed for instruction. Instruction by a licensed provider in patient monitoring is acceptable. In the event instruction in patient monitoring procedures is provided by an outside provider, the RDA program shall not be required to have available or own patient monitoring equipment." at the end of subsection 1070.2(b)(7)(A). A member of the public recommended amending the addition to read: "With the exception of patient monitoring equipment specific to EKG machine and pulse oximeter, the program shall own the necessary equipment and have it readily available upon inspection. Patient monitoring equipment owned by the institution and utilized by more than one program within the institution premises is acceptable and may be used by the RDA program as needed for instruction. Instruction by a licensed healthcare provider is acceptable. In the event instruction in patient monitoring procedures is provided by an outside provider, the RDA program shall not be required to have available or own patient monitoring equipment."

Public Comment:
Karen Wyant, DAA said that it is unclear what "licensed provider in patient monitoring" is. DAA suggests adding the word 'healthcare' between 'licensed and provider' and striking the words 'in patient monitoring'. M/S/C (McCormick/Afriat) to accept staff's recommendation with the DAA's amended language. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsections 1070.2(b)(7)(B) through 1070.2(b)(8) with modifications. Staff recommended the deleting "The curriculum must be designed to reflect the interrelationship of its biomedical sciences, dental sciences, clinical sciences and clinical practice." This sentence does not add any substantive requirements. There were no public comments. M/S/C (Downing/Forsythe) to accept staff's recommendations. The motion passed unanimously.

Staff recommends acceptance of CADAT's proposed amendments to new subsections 1070.2(b)(8)(A) through 1070.2(b)(9)(C) with modifications. Staff recommended rejecting the use of the term "human subject" because the term "patient" is consistently used throughout the Dental Practice Act. The addition of a new term is superfluous. There were no public comments. M/S/C (Olinger/Downing) to accept staff's recommendations. The motion passed unanimously.

Staff recommended the Board discuss CADAT's proposed amendments to subsections 1070.2(b)(9)(D) through 1070.2(b)(10)(D). Staff recommended that the Board discuss the policy issue of the Board accepting incorporated curriculum in a program in lieu of having the programs apply separately for course approval. Current law requires programs to "apply separately" for course approval even if they have a program. CADAT's proposed modifications authorize programs to not apply for separate approval.

Public Comment:
LaDonna Drury-Klein, CADAT, noted for clarification; it is not the intent to circumvent the current policy for 'stand alone' certification courses. All courses within the curriculum are still required. She asked that if, an existing RDA program wants to incorporate the curriculum for ultrasonic scaler for cement removal, the OAP or the DSAP that they may do so as an abridged application and seek approval by the Board without having to go through the entire application process. An existing RDA program could then incorporate that additional curriculum and at the completion of the RDA program, participants would not only receive the RDA certificate but also certificates showing completion of the additional courses. She felt that a "supplemental" form for Board approval could be used. Kristy Schieldge, Legal Counsel, stated that a "supplemental form" requires new policy making, adding that all courses must go through the same approval process unless regulatory changes are made.

M/S/C to reject CADAT's proposed amendments regarding incorporated curriculum to subsection 1070.2(b)(10) and accept CADAT's proposed amendments to subsections 1070.2(b)(9)(E), 1070.2(b)(10)(A), and 1070.2(b)(10)(B). The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsection 1070.2(b) with a few modifications. Staff recommended changing "application requirements" to "educational requirements" because it is up to the board to deem if the application requirements have been fulfilled. Staff recommended that CADAT's proposed changes be amended to read: "A Registered Dental Assisting educational program that includes instructional content for either the orthodontic assistant permit or dental sedation assistant permit or both shall provide a certificate or certificates of completion to the graduate. The certificate holder shall be deemed an eligible candidate for the permit examination process as having met all educational requirements for the permit

examination." M/S/C to accept staff's recommendations for 1070.2(b)(10)(D). The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsections 1070.2(b)(11) through 1070.2(d). There were no public comments. M/S/C (Le/Dominicis) to accept staff's recommendations. The motion passed unanimously.

Staff recommended rejection of CADAT's proposed amendments to subsection 1070.6(a). Unlicensed individuals should be permitted to teach infection control because a licensee or permit holder is not required to teach in this area. Unlicensed individuals trained with sufficient experience and having sufficient knowledge about the requirements should be able to be employed as faculty to teach infection control courses. However staff recommended modifying the last sentence of the proposed text for subsection 1070.6(a) to delete "to the requirements of Section 1070" to avoid conflict with teaching requirements. There were no public comments. M/S/C (Casagrande/Le) to accept staff's recommendations. The motion passed unanimously.

There were no comments provided for Sections 1070.6(b) through 1070.7(a).

Staff recommended acceptance of CADAT's proposed amendments to subsections 1070.7(b) through 1070.7(c) with modifications. Staff recommended rejection of the following language to avoid duplication: "Adequate provisions for the supervision and operation of the orthodontic assistant permit course shall be made in compliance with section 1070. Each faculty or instructional staff member shall possess a valid, active, and current license issued by the Board or the Dental Hygiene Committee of California, or an orthodontic assistant permit issued by the Board, and shall have been licensed or permitted for a minimum of two years. Faculty and instructional staff shall possess experience in the subject matter he or she is teaching and shall not teach in any subject area he or she is unlicensed or permitted to perform." There were no public comments. M/S/C (Whitcher/Forsythe) to accept staff's recommendations. The motion passed unanimously.

Staff recommended rejection of CADAT's proposed amendments to subsections 1070.7(d) through 1070.7(k). Staff recommended rejecting the use of the term "human subject" because the term "patient" is consistently used throughout the Dental Practice Act. The addition of a new term is superfluous. There were no public comments. M/S/C (Casagrande/Whitcher) to accept staff's recommendation. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsections 1070.8(a) through 1070.8(a)(1) with modifications. Staff recommended rejection of the following language to avoid duplication with Section 1070: "Adequate provisions for the supervision and operation of the dental sedation assistant permit course shall be made in compliance with section 1070. Each faculty or instructional staff member shall possess a valid, active, and current license issued by the Board or the Dental Hygiene Committee of California, or a dental sedation assistant permit issued by the Board, and shall have been licensed or permitted for a minimum of two years. Faculty and instructional staff shall possess experience in the subject matter he or she is teaching and shall not teach in any subject area he or she is unlicensed or permitted to perform." Board staff recommended adding the term "designated faculty member" as a licensed California physician and surgeon. Staff recommended deleting the provision for a California Licensed Certified Registered Nurse Anesthetist to be a faculty member instructing dental sedation assistants. Certified Nurse Anesthetists are not eligible to obtain a general anesthesia or conscious sedation permit. They would be eligible to provide instruction once they have held a dental sedation permit for two years.

There were no public comments. M/S/C (Whitcher/Casagrande) to accept staff's recommendations. The motion passed unanimously.

Staff recommended rejection of CADAT's proposed amendments to subsection 1070.8(a)(2) because it reduces the due diligence necessary to prepare to perform clinical evaluations for sedation. However, staff recommended modifying the text to read "The course director, designated faculty member, or instructional staff member responsible for clinical evaluation shall have completed a two-hour methodology course in clinical evaluation prior to conducting clinical evaluations of students." to specify who is responsible for completing the methodology course. There was no public comment. M/S/C (McCormick/Afriat) to accept staff's recommendations. The motion passed unanimously.

Staff recommended the proposed addition of subsection 1070.8(a)(3) in response to the letter received from CSA. Staff recommended adding subsection 1070.8(a)(3) to specify that clinical instruction will be administered under the direct supervision of the specified staff member to better protect the public. There was no public comment. M/S/C (Forsythe/Downing) to accept staff's recommendations. The motion passed unanimously.

Staff recommended proposed amendments to subsection 1070.8(b) in response to the letter received from CSA. Staff recommended modifying subsection 1070.8(b) to include the provision that "Clinical instruction shall require completion of the duties described in Section 1750.5 during no less than 20 supervised cases utilizing conscious sedation or general anesthesia" to provide better public protection. There was no public comment. M/S/C (Whitcher/Forsythe) to accept staff's recommendation. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsections 1070.8(c) through 1070.8(e). There was no public comment. M/S/C (Dominicis/Le) to accept staff's recommendation. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsections 1070.8(f) through 1070.8(i) with modifications. Staff recommended adding "The student shall demonstrate proficiency in all simulated emergencies during training and shall then be eligible to complete a practical examination on this section." as a provision that the student is required to demonstrate proficiency in simulated emergencies during training before being eligible to complete a practical examination. This amendment is proposed to provide better public protection. There was no public comment. M/S/C (Whitcher/Downing) to accept staff's recommendations. The motion passed unanimously.

Staff recommended proposed amendments to subsection 1070.8(j) in response to the letter received from CSA. Staff recommended adding a provision that the student is required to demonstrate proficiency in the tasks listed for preclinical instruction before being eligible to complete a practical examination. This amendment is proposed to provide better public protection. Staff recommended adding a provision that the student is required to demonstrate proficiency in the tasks listed for clinical instruction before being eligible to complete a practical examination. This amendment is proposed to provide better public protection. Staff recommended the deletion of the task "Use of an AED or AED trainer" under clinical training because the preclinical training is sufficient for this duty because it is unlikely that patients would be willing to have defibrillator leads attached. There was no public comment. M/S/C (Forsythe/Afriat) to accept staff's recommendations. The motion passed unanimously.

Staff recommended proposed amendments to subsection 1070.8(k) in response to the letter received from CSA. Staff recommended adding a provision that the student is required to demonstrate proficiency in the tasks listed for preclinical instruction before being eligible to complete a practical examination. This amendment is proposed to provide better public protection. Staff recommended adding a provision that the student is required to demonstrate proficiency in the tasks listed for clinical instruction before being eligible to complete a practical examination. This amendment is proposed to provide better public protection. There was no public comment. M/S/C (Le/Forsythe) to accept staff's recommendations. The motion passed unanimously.

Staff recommended proposed amendments to subsection 1070.8(l) in response to the letter received from CSA. Staff recommended adding a provision that the student is required to demonstrate proficiency in the withdrawal of fluids from a vial or ampule in the amount specified by faculty or instructional staff before being eligible to complete a practical examination. This amendment is proposed to provide better public protection. Staff recommended adding a provision that the student is required to demonstrate proficiency in the evaluation of vial or container labels for identification of content, dosage, and strength and in the withdrawal of fluids from a vial or ampule in the amount specified by faculty or instructional staff before being eligible to complete a practical examination. This amendment is proposed to provide better public protection. There was no public comment. M/S/C (Afriat/Forsythe) to accept staff's recommendations. The motion passed unanimously.

Staff recommended proposed amendments to subsection 1070.8(m) in response to the letter received from CSA. Staff recommended adding a provision that the student is required to demonstrate proficiency in the adding fluids to an existing IV line on a venipuncture training arm or in a simulated environment before being eligible to complete a practical examination. This amendment is proposed to provide better public protection. Staff recommended adding a provision that the student is required to demonstrate proficiency in the adding fluids to existing IV lines in the presence of course faculty or instructional staff before being eligible to complete a practical examination. This amendment is proposed to provide better public protection. There was no public comment. M/S/C (Morrow/Forsythe) to accept staff's recommendations. The motion passed unanimously.

Staff recommended proposed amendments to subsections 1070.8(n) through 1070.8(o) in response to the letter received from CSA. Staff recommended adding a provision that the student is required to demonstrate proficiency a venipuncture training arm or in a simulated environment for IV removal before being eligible to complete a practical examination. This amendment is proposed to provide better public protection. Staff recommended adding a provision that the student is required to demonstrate proficiency in removing IV lines in the presence of course faculty or instructional staff being eligible to complete a practical examination. This amendment is proposed to provide better public protection. There was no public comment. M/S/C (Afriat/Forsythe) to accept staff's recommendations. The motion passed unanimously.

Staff recommended that the Board discuss the policy issue of the Board accepting the findings of any commission or accrediting agency in lieu of conducting their own investigation as proposed by CADAT's proposed additions to Section 1071. Staff recommended acceptance of the remaining suggested amendments with modification. Staff recommended rejection of subsection 1071(a) to avoid duplication with subsection 1070.1. Staff recommended rejection of subsection 1071(b) to avoid duplication with subsection 1070.1. Staff recommended the deletion of the following sentences: "Provisional approval shall not be granted for a period which exceeds beyond the length of the program and in no event for more than 30 days. When the Board provisionally approves a program, it shall state the reasons therefore. Provisional approval shall be limited to

those programs which substantially comply with all existing standards for full approval. A program given provisional approval shall immediately notify each student of such status." and "If the Board denies approval of a program, the specific reasons therefore shall be provided to the program by the Board in writing within 90 days after such action " to eliminate duplication with the provisions in Section 1070". There was no public comment. M/S/C (Downing/Olinger) to accept staff's recommendations and maintain CADAT's proposed provisions for the Board to accept the findings of any commission or accrediting agency in lieu of conducting their own investigation. The motion passed unanimously.

Staff recommended acceptance of CADAT's proposed amendments to subsections 1071(a) through 1071(c) with modifications. Staff recommended renumbering the subsections to conform the text. Staff recommended deleting the following sentence to avoid duplication with the provisions in Section 1070: "Adequate provision for the supervision and operation of the program shall be made in compliance with section 1070. Notwithstanding the requirements of Sections 1070 and 1070.1, the program director and each faculty member of an approved RDAEF program shall possess a valid, active, and current license as a dentist or an RDAEF. Faculty and instructional staff shall possess experience in the subject matter he or she is teaching and shall not teach in any subject area he or she is unlicensed or permitted to perform." A member of the public requested that the educational methodology course be amended to be at least six hours, rather than at least 15 hours.

Public Comment:
Karen Wyant, DAA, recommended that the hourly portions and the next staff recommendation be held until the end because you are going to be looking at some increased clinical requirements that may affect the hours that you want to specify for these types of programs. She stated that these are two separate courses, one for the RDA who has not taken any EF courses and the other is an upgrade course for the RDAEF who has completed more extensive training.

Carrie Gordon, CDA, urged the Board to reject the change from a 6 hour methodology course to a 15 hour course. M/S/C (Whitcher/Downing) to accept staff's recommendations with the amendment to require the educational methodology course to be at least six hours. The motion passed unanimously

Staff recommended acceptance of CADAT's proposed amendments to subsections 1071(d) through 1071(g) with modifications. Staff recommended renumbering the subsection to conform text. Staff recommended specifying that all laboratory and simulated clinical instruction is requirement to be provided under the direct supervision of program instructional staff. Staff recommended specifying that clinical instruction may be completed in an extramural facility.

Public Comment:
Karen Wyant, DAA, requested regarding 1071(e)"direct supervision of a licensed dentist", that it be changed to "clinical instruction on patients" so that the licensed dentist doesn't have to oversee the simulated clinical instruction.

Carrie Gordon, CDA, doesn't want it taken as an assumption that the hours are going to be increased with the additional clinical training, believing that the current hours are sufficient.

Barbara Blade, DAA, gave an overview of her experience with the outcomes of these programs. She felt that there are significant changes and recommendations to make, should those be brought up as we go through. M/S/C (Forsythe/Olinger) to accept staff's recommendations. The motion passed unanimously.

Staff recommended that the Board discuss the possible policy issue of using the term "assessment" as provided in CADAT's proposed amendments to subsection 1071(h). Staff recommended acceptance of CADAT's remaining proposed amendments to subsection 1071(h) with modifications. Staff recommended rejecting the use of the term "human subject" because the term "patient" is consistently used throughout the Dental Practice Act. The addition of a new term is superfluous. Staff recommended renumbering the subsection to conform text.

Public Comment:
Karen Wyant, DAA, stated that this section, as proposed doesn't reflect the duty that RDAEF's are allowed to perform, and that neither of those amendments should be made to this section.

Carrie Gordon, CDA, supported this amendment because of the conclusion that is being stated. She felt the statute is being interpreted to include probing and we would like to see this clarification within the education requirements. M/S/C (Whitcher/Dominicis) to delete "caries risk assessment" from CADAT's suggested amendments and to accept the remaining staff recommendations. The motion passed unanimously.

Staff recommended the following amendments to subsection 1071(i) in response to the letter from CSAE:

(~~i~~j) With respect to sizing, fitting, and cementing endodontic master points and accessory points:

(1) Didactic instruction shall include the following:

(A) Review of objectives, canal preparation, filling of root canal space, including the role of the RDAEF as preparatory to condensation which is to be performed by the licensed dentist.

(B) Description and goals of filling technique using lateral condensation techniques.

(C) Principles and techniques of fitting, cementing master and accessory points using lateral condensation including, characteristics, manipulation, use of gutta percha and related materials, and criteria for an acceptable master and accessory points technique using lateral condensation.

(2) Laboratory instruction shall include fitting master and cementing cones on extracted teeth or ~~assimilated~~ simulated teeth with canals in preparation for condensation by the dentist, with at a minimum two experiences each on a posterior and anterior tooth. This instruction shall not include obdurator based techniques or other techniques that employ condensation.

(3) Simulated clinical instruction shall include fitting, cementing master and accessory points in preparation for condensation by the dentist with extracted teeth mounted in simulated patient heads mounted in appropriate position and accommodating and articulated typodont in an enclosed intraoral environment, or mounted on a dental chair in a dental operatory. This instruction shall not include obdurator based techniques that employ condensation.

(4) Clinical instruction shall include fitting master cones and accessory points for condensation by the dentist in at least four teeth, one of which shall be used for a clinical exam.

Staff recommended specifying that the duties and the training of the RDAEF, as it pertains to endodontics, does not include condensation. Condensation should only be performed by licensed dentists because it is an irreversible step in the process of performing a root canal. This provides better protection to the public. Staff recommended renumbering the subsection to conform text.

The Board recommended the following amendments to simulated clinical instruction and clinical instruction:

(3) Simulated clinical instruction shall include fitting, cementing master and accessory points in preparation for condensation by the dentist with extracted or simulated teeth prepared for lateral condensation mounted in simulated patient heads mounted in appropriate position and accommodating and articulated typodont in an enclosed intraoral environment, or mounted on a dental chair in a dental operatory. This instruction shall not include obdurator based techniques that employ condensation. Simulated clinical instruction

~~(4) Clinical instruction~~ shall include fitting master cones and accessory points for lateral condensation by the dentist in at least four teeth, one of which shall be used for a practical exam.

Public Comment:
Karen Wyant, DAA, noted that programs do not have access to extracted teeth, adding that there would be a detrimental cost increase to the program if dentists have to prep the canals of three teeth per student. She felt that allowing simulated teeth would solve this problem.

Barbara Blade, DAA, noted that she contacted the supplier who assured her that these simulated teeth are being produced and will be available. M/S/C (Morrow/Olinger) to accept staff's recommendations with the amendment proposed by the Board. The motion passed unanimously.

Staff recommended acceptance to CADAT's proposed amendments to subsections 1071(j) through 1071(k) with modifications. Staff recommended renumbering the subsection to conform text. Staff recommended rejecting the use of the term "human subject" because the term "patient" is consistently used throughout the Dental Practice Act. The addition of a new term is superfluous. There was no public comment. M/S/C (Burton/Downing) to accept staff's recommendations. The motion passed unanimously.

Staff recommended rejection of CADAT's proposed amendments to subsections 1071(l) through 1071(o). Staff recommended rejecting the use of the term "human subject" because the term "patient" is consistently used throughout the Dental Practice Act. The addition of a new term is superfluous. There was no public comment. M/S/C (Dominicis/Downing) to accept staff's recommendations. The motion passed unanimously.

Staff recommended the deletion of "Clinical simulation and" in subsections 1071(l)(3) and 1071(m)(3) to avoid redundancy. There was no public comment. M/S/C (Dominicis/Downing) to accept staff's recommendations. The motion passed unanimously.

Staff recommended the following amendments in response to comments received from the California State Association of Endodontists:

(~~l~~m) With respect to placing, contouring, finishing, and adjusting direct restorations:

(1) Didactic instruction shall include the following:

(A) Review of cavity preparation factors and restorative material.

(B) Review of cavity liner, sedative, and insulating bases.

(C) Characteristics and manipulation of direct filling materials.

(D) Amalgam restoration placement, carving, adjusting and finishing, which includes principles, techniques, criteria and evaluation, and description and goals of amalgam placement, adjusting and finishing in children and adults.

(E) Glass-ionomer restoration placement, carving, adjusting, contouring and finishing, which includes, principles, techniques, criteria and evaluation, and description and goals of glass-ionomer placement and contouring in children and adults.

(F) Composite restoration placement, carving, adjusting, contouring and finishing in all cavity classifications, which includes, principles, techniques, criteria, and evaluation.

(2) Laboratory instruction shall include typodont experience on the following:

(A) Placement of Class I, II, and V amalgam restorations in eight prepared permanent teeth for each classification, and in four deciduous teeth for each classification.

(B) Placement of Class I, II, III, and V composite resin restorations in eight prepared permanent teeth for each classification, and in four deciduous teeth for each classification.

(C) Placement of Class I, II, III, and V glass-ionomer restorations in four prepared permanent teeth for each classification, and in four deciduous teeth for each classification.

(3) ~~Clinical simulation and~~ Simulated clinical instruction shall include experience with typodonts mounted in simulated heads on a dental chair or in a simulation laboratory as follows:

(A) Placement of Class I, II, and V amalgam restorations in four prepared permanent teeth for each classification, with one of each classification used for a clinical examination.

(B) Placement of Class I, II, III, and V composite resin restorations in four prepared permanent teeth for each classification, with one of each classification used for a clinical examination.

(C) Placement of Class I, II, III, and V glass-ionomer restorations in four prepared permanent teeth for each classification, with one of each classification used for a clinical examination.

(4) Clinical instruction shall include experience with the following techniques:

(A) Placement of Class I, II, and V amalgam restorations in two prepared permanent teeth for each classification, with one of each classification used for a clinical examination.

(B) Placement of Class I, II, III, and V composite resin restorations in two prepared permanent teeth for each classification, with one of each classification used for a clinical examination.

(C) Placement of Class I, II, III, and V glass-ionomer restorations in two prepared permanent teeth for each classification, with one of each classification used for a clinical examination.

(~~m~~n) With respect to polishing and contouring existing amalgam restorations:

(1) Didactic instruction shall include principles, techniques, criteria and evaluation, and description and goals of amalgam polishing and contouring in children and adults.

(2) Laboratory instruction shall include typodont experience on polishing and contouring of Class I, II, and V amalgam restorations in three prepared permanent teeth for each classification, and in two deciduous teeth for each classification.

(3) ~~Clinical simulation and~~ Simulated clinical instruction shall include experience with typodonts mounted in simulated heads on a dental chair or in a simulation laboratory in the polishing and contouring of Class I, II, and V amalgam restorations in two prepared permanent teeth for each classification, with one of each classification used for a clinical examination.

(~~n~~o) With respect to adjusting and cementing permanent indirect restorations:

(1) Didactic instruction shall include the following:

(A) Review of fixed prosthodontics related to classification and materials for permanent indirect restorations, general crown preparation for permanent indirect restorations, and laboratory fabrication of permanent indirect restorations.

(B) Interocclusal registrations for fixed prosthesis, including principles, techniques, criteria, and evaluation.

(C) Permanent indirect restoration placement, adjustment, and cementation, including principles, techniques, criteria, and evaluation.

(2) Laboratory instruction shall include:

(A) Interocclusal registrations using elastomeric and resin materials. Two experiences with each material are required.

(B) Fitting, adjustment, and cementation of permanent indirect restorations on one anterior and one posterior tooth for each of the following materials, with one of each type used for a practical examination: ceramic, ceramometal, and cast metallic.

(3) Clinical experience for interocclusal registrations shall be performed on four patients who are concurrently having final impressions recorded for permanent indirect restorations, with one experience used for a clinical examination.

(4) Clinical instruction shall include fitting and adjustment and cementation of permanent indirect restorations on at least one anterior and one posterior tooth for each of the following materials, with one of each type used for a clinical examination: ceramic, ceramometal, and cast metallic.

(~~e~~p) Each student shall pass a written examination that reflects the curriculum content, which may be administered at intervals throughout the course as determined by the course director.

Staff recommended that these amendments were necessary to specify the experiences and training necessary for the clinical training with respect to placing, contouring, finishing, and adjusting direct restorations and for the clinical training with respect to adjusting and cementing permanent indirect restorations.

Public Comment:
Karen Wyant, DAA, noted concerns with the requirements for clinical instruction and the numbers involved for each type of restoration.

Dr. Patricia Ryan, clinical course director for RDA programs in Southern CA, believed that the amalgam restoration is an exceptional way to learn detail, however, unlike in a Dental School where you have people willing to accept an amalgam restoration, in a clinical setting most people prefer composite making it difficult to complete the necessary numbers. The majority of offices are amalgam free making it very difficult to complete this part of the program.

M/S/C (Dominicis/Downing) to accept staff's recommendations. The motion passed unanimously.

Agenda Item 8(B) Recommendations received from the sub-committee regarding possible Modifications to Existing Proposed Rulemaking for Dental Assisting Educational Programs and Courses;

Dr. Whitcher noted the consensus in the list of comments received: to increase patient safety by improving training. He stated that supportive comments were received from CDA, The Dental Assisting Alliance, CALAOMS and Dr. Albert Gardi, and regulatory changes to address these issues will be outlined and discussed in agenda item 8A.
M/S/C (Afriat/McCormick) accept the subcommittee report. The motion passed unanimously.

Agenda Item 8(C) Discussion and Possible Action to Consider Adoption of Amendments to Title 16, CCR, Sections 1070, 1070.1, 1070.2, 1071, and Proposed Additions to Title 16, CCR, Section 1070.6, 1070.7, 1070.8 for Dental Assisting Educational Programs and Courses

Following the Board's consideration of comments received during the required 45-day public comment period, comments received during the July 19, 2010 regulatory hearing, and staff's recommendations, the Board took action to accept changes made during Agenda Item 8(A). There was no public comment. M/S/C (McCormick/Afriat) to accept the Board's changes to the text in response to comments received and direct staff to take all steps necessary to complete the rulemaking process, including preparing modified text for an additional 15-day comment period, which includes the amendments accepted by the board at this meeting. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt amendments to Title 16, CCR, Sections 1070, 1070.1, 1070.2, 1071, and proposed additions to Title 16, CCR, Section 1070.6, 1070.7, 1070.8. The motion passed unanimously.

LUNCH BREAK

AGENDA ITEM 9: Update Regarding Regulatory Packages: Retroactive Fingerprinting Regulations, CCR, Title 16, Section 1007, 1008, and 1017.2.; Infection Control, CCR, Title 16 Section 1005(d)

Sarah Wallace, Legislative and Regulatory Analyst, reported that the proposed regulatory language regarding Retroactive Fingerprinting was noticed on the Board's website and mailed to interested parties on December 17, 2009. The public comment period began on December 18, 2009 and ended on February 4, 2010. The regulatory hearing was held on February 4, 2010. Recommendations and comments received at the regulatory hearing were considered by the Board at their February 26, 2010 meeting. A number of modifications were made to the regulatory language based upon comments received from the California Dental Association. The modified text was noticed on the Board's website and mailed on April 15, 2010 for 15-day public comment. The public comment period began on April 16, 2010 and ended on April 30, 2010. No comments were received during the public comment period. Ms. Wallace reported that the final rulemaking file to be submitted to the Office of Administrative Law (OAL). The rulemaking file was delivered to the Department of Consumer Affairs for the Director's review on July 9, 2010. The file is still being reviewed by the Department of Consumer Affairs (DCA). Once the DCA completes the review of the final rulemaking, staff will submit the file to OAL. Once submitted, OAL will have 30 working days to either approve or disapprove the Retroactive Fingerprinting rulemaking file.

Ms. Wallace reported that the board directed staff, at the July 26, 2010 meeting, to initiate the formal rulemaking process to amend Title 16, CCR, Section 1005 relative to the Minimum Standards for Infection Control. The proposed regulatory language was noticed on the Board's web site and mailed to interested parties on August 26, 2010. The 45-day public comment period began on August 27, 2010 and will close at 5 p.m. on October 11, 2010. The regulatory hearing is scheduled to be held at the Department of Consumer Affairs 1st Floor Hearing Room, 2005 Evergreen Street, Sacramento, California, at 10:00 a.m., on October 11, 2010. Any adverse comments received will be reviewed at the November 2010 Board meeting.

AGENDA ITEM 10: Discussion and Possible Action to Adopt Amendments to Title 16, CCR, Section 1018 Relating to Disciplinary Guidelines.

The Board's Disciplinary Guidelines were disapproved by the Office of Administrative Law (OAL) on March 19, 2010. The Board re-submitted the rulemaking package to OAL on July 15, 2010. While reviewing the re-submitted file, OAL found inconsistencies between the modified text and

meeting minutes from the November 9, 2009 Board meeting. The Board has been granted an additional 120 days to make corrections and notice the modified text for public comment. Board staff made the corrections to the text based on the Board's direction as specified in the November 9, 2009 meeting minutes. The modified text was mailed and posted on the Board's web site for 15-day public comment from August 31, 2010 to September 14, 2010. The Board did not receive any public comment.
M/S/C (Burton/Olinger) to accept the changes made by staff to the proposed text as directed by the Board at the November 9, 2009 meeting and direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt 16 CCR Section 1018 and the Disciplinary Guidelines of the proposed regulations with the modified text. The motion passed unanimously.

AGENDA ITEM 11: Discussion and Possible Action Regarding the Need for the Election of New Officers at an Upcoming Board Meeting
Fran Burton, public member, stated that she asked for this item to be placed on the agenda. She said that as a new member last year she did not understand the election process at all, and noted that the Board is in the second year of a 2 year legislative session. She stated that she doesn't see anything in the Board policy that says there must be an election every year and would like to ask the Board to consider retaining the current officers, assuming they want to serve, in order to expedite unfinished business. She noted that due to the unprecedented number of changes in the past few years there were many legislative changes that impacted the Board that the Board never weighed in on. She stated there is current legislation that needs to be addressed right away, so with all the upcoming changes, she feels that this is not the time to make any changes within the Board. There is finally the opportunity to have some continuity and she feels we need to carry that forward.

Dr. Olinger agreed with having the current leadership continue.

Legal Counsel Schieldge informed the Board that they can move to not hold elections and retain the current Board through the next year. M/S/C (Burton/Casagrande) to suspend the November election of officers and keep the same officers until November 2011. The motion passed unanimously with one abstention.

Public Comment:
Dr. Earl Johnson, CAO, complimented the Board, stating that this was the best Board meeting he had ever been to. He thought a lot got done but more importantly, everyone was heard.

***CLOSED SESSION – FULL BOARD**
The board went into closed session at 4:05pm to review disciplinary matters and litigation.

RETURN TO OPEN SESSION
The Board returned to open session at 4:45pm.

PUBLIC COMMENT
None.

ADJOURNMENT
4:50pm.

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MEMORANDUM

DATE	November 5, 2010
TO	Dental Board Members
FROM	Karen Fischer, Administrative Analyst Dental Board of California
SUBJECT	**Agenda Item 2:** President's Report

Dr. John Bettinger, President of the Dental Board will give a verbal report.

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MEMORANDUM

DATE	November 5, 2010
TO	Dental Board Members
FROM	Karen Fischer, Administrative Analyst Dental Board of California
SUBJECT	**Agenda Item 3:** Executive Officer's Report

Richard DeCuir, Executive Officer of the Dental Board will give a verbal report.

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MEMORANDUM

DATE	November 5, 2010
TO	Dental Board Members
FROM	Karen Fischer, Administrative Analyst Dental Board of California
SUBJECT	**Agenda Item 4:** Update on Dental Hygiene Committee of California (DHCC) Activities

Rhona Lee, RDH, President of Dental Hygiene Committee of California (DHCC) will give a verbal report on the Committee's activities.

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MEMORANDUM

DATE	November 5, 2010
TO	Dental Board Members
FROM	Sharon Langness Budget Analyst
SUBJECT	**Agenda Item 5: Budget Report: Dental Fund & Dental Assisting Fund**

For the current fiscal year (FY 10/11) total combined expenditure authorization, from both the Dentistry Fund, and the Dental Assisting Fund, is $12.892 million; $11.159 million from the Dentistry Fund and $1.733 million from the Dental Assisting Fund. Current law does not provide for the comingling of funds, so I have attached two separate fund conditions for your review. Due to the lengthy budget impasse, we only recently received authorization to resume purchasing, so we have no current expenditure report to submit. We do offer below, a more detailed breakdown of each fund activity.

DENTAL: For the prior fiscal year (FY 09/10) the Board budget was reduced to $9.541 million due primarily to furlough salary savings, followed by an additional 5% salary savings. Board expenditures were less than anticipated giving us a $1.8 million reversion. The under expenditure is largely attributed to salary savings due to a high vacancy rate during the fiscal year, in addition to less than anticipated costs to the Attorney General's Office, and the Office of Administrative Hearing. We also realized substantial savings in examinations; however, we anticipate a significant increase in expenditures for all these areas, this fiscal year, as we implement the Consumer Protection Enforcement Initiative (CPEI), and the Portfolio examination. For the current fiscal year, there were no furlough adjustments, so we begin with our full authorization of $10.164 million. That amount is augmented by roughly $1 million for CPEI, increasing the Board's expenditure authorization to $11.159 million for FY 10/11.

DENTAL ASSISTING: For fiscal year 09/10, the Dental Assisting Program started the year with an expenditure authorization of $1.715 million. After expenditures they reverted $439,000 back to our Dental Assisting fund. For the current fiscal year (FY 10/11) the Dental Assisting fund begins with an expenditure authorization of $1.733 million. The increase is attributed to their portion of CPEI funding.

Richard will be glad to answer any additional questions regarding this budget information at the Board meeting.

0741 - Dental Board of California
Analysis of Fund Condition

Prepared 9/16/10

(Dollars in Thousands)

FY 2009-10 Month 13 w/ Agency BCP Decisions + Potential Leg BCP	Actual 2009-10	CY 2010-11	Governor's Budget BY 2011-12	BY + 1 2012-13
BEGINNING BALANCE	$ 7,320	$ 7,865	$ 4,399	$ 731
Prior Year Adjustment	$ 183	$ -	$ -	$ -
Adjusted Beginning Balance	$ 7,503	$ 7,865	$ 4,399	$ 731
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	$ 22	$ 34	$ 34	$ 34
125700 Other regulatory licenses and permits	$ 834	$ 918	$ 907	$ 907
125800 Renewal fees	$ 6,919	$ 6,595	$ 6,688	$ 6,688
125900 Delinquent fees	$ 70	$ 82	$ 84	$ 84
131700 Misc. Revenue from Local Agencies				
141200 Sales of documents	$ -	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ -	$ -	$ -	$ -
150300 Income from surplus money investments	$ 55	$ 44	$ 7	$ -
150500 Interest Income From Interfund Loans	$ -	$ -	$ -	$ -
160400 Sale of fixed assets	$ 4	$ 4	$ 4	$ 4
161000 Escheat of unclaimed checks and warrants	$ 3	$ 3	$ 3	$ 3
161400 Miscellaneous revenues	$ 13	$ 13	$ 13	$ 13
164300 Penalty Assessments	$ -	$ -	$ -	$ -
Totals, Revenues	$ 7,920	$ 7,693	$ 7,740	$ 7,733
Transfers from Other Funds				
F00001 Rpymt of GF loans per Item 1250-011-0741, BAs of 2002/2003				
F00683 Teale Data Center (CS 15.00, Bud Act of 2005)				
FXXXXX Proposed GF loan Repayment				
Transfers to Other Funds				
T00001 GF loan per Item 1250-011-0741, BA of 2002	$ -	$ -	$ -	$ -
T00001 GF loan per Item 1250-011-0741, BA of 2003	$ -	$ -	$ -	$ -
T03039 Transfer to Dentally Underserved Account				
Totals, Revenues and Transfers	$ 7,921	$ 7,693	$ 7,740	$ 7,733
Totals, Resources	$ 15,424	$ 15,558	$ 12,139	$ 8,464
EXPENDITURES				
Disbursements:				
0840 State Controller (State Operations)	$ 13			
1110 Program Expenditures (State Operations)	$ 7,546	$ 11,159	$ 11,382	$ 11,610
1111 Program Expenditures (State Operations)				
8880 Financial Information System of California (State Operations)				
2010-11 BCPs - Departmental				
1110/1111-1B BreEZe			$ 4	$ 31
2011/12 BCPs - Departmental:				
1111/12 CCSD Baseline Reduction			$ -34	$ -34
2011/12 Potential Leg BCP				
1110-XXL AB 2699 - Healing Arts Licensure Exemption			$ 56	$ 56
Total Disbursements	$ 7,559	$ 11,159	$ 11,408	$ 11,663
FUND BALANCE				
Reserve for economic uncertainties	$ 7,865	$ 4,399	$ 731	$ -3,199
Months in Reserve	8.5	4.6	0.8	-3.2

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED

B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2011-12

3142 - Registered Dental Assistant Program
Analysis of Fund Condition

Prepared 9/14/10

(Dollars in Thousands)

FY 2009-10 Month 13 w/ Agency BCP Decisions

	Actual 2009-10	CY 2010-11	Governor's Budget BY 2011-12	BY+1 2012-13
BEGINNING BALANCE	$ -	$ 1,925	$ 1,799	$ 1,546
Prior Year Adjustment	$ -	$ -	$ -	$ -
Adjusted Beginning Balance	$ -	$ 1,925	$ 1,799	$ 1,546
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	$ 14	$ 13	$ 13	$ 13
125700 Other regulatory licenses and permits	$ 243	$ 308	$ 310	$ 310
125800 Renewal fees	$ 1,225	$ 1,186	$ 1,079	$ 1,079
125900 Delinquent fees	$ 73	$ 61	$ 51	$ 51
141200 Sales of documents	$ -	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ -	$ -	$ -	$ -
150300 Income from surplus money investments	$ 4	$ 18	$ 15	$ 12
160400 Sale of fixed assets	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ -	$ -	$ -	$ -
161400 Miscellaneous revenues	$ 5	$ 5	$ 5	$ 5
164300 Penalty Assessments	$ -	$ -	$ -	$ -
Totals, Revenues	$ 1,564	$ 1,591	$ 1,473	$ 1,470
Transfers from Other Funds				
0380 - Committee on Dental Auxilliaries	$ 1,619	$ -	$ -	$ -
Transfers to Other Funds				
	$ -	$ -	$ -	$ -
	$ -	$ -	$ -	$ -
Totals, Revenues and Transfers	$ 3,183	$ 1,591	$ 1,473	$ 1,470
Totals, Resources	$ 3,183	$ 3,516	$ 3,272	$ 3,016
EXPENDITURES				
Disbursements:				
0840 State Controller (State Operations)	$ 8	$ 2	$ -	$ -
1110 Program Expenditures (State Operations)	$ 1,250	$ 1,715	$ 1,733	$ 1,768
2010-11 BCPs - Departmental:				
1110/1111-1B BreEZe			$ 2	$ 19
2011/12 BCPs - Departmental				
1111/12 CCSD Baseline Reduction			$ (9)	$ (9)
Total Disbursements	$ 1,258	$ 1,717	$ 1,726	$ 1,778
FUND BALANCE				
Reserve for economic uncertainties	$ 1,925	$ 1,799	$ 1,546	$ 1,239
Months in Reserve	13.5	12.5	10.4	8.0

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED

B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2011-12

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MEMORANDUM

DATE	October 26, 2010
TO	Dental Board Members Dental Board of California
FROM	Karen Fischer, Administrative Analyst Dental Board of California
SUBJECT	**Agenda Item 6:** Subcommittee's Report on OSHPD Health Workforce Pilot Project #172 Application Relating to Training Allied Dental Personnel for New Duties in Community Settings

At the September 16, 2010 Board meeting, Dr. Bettinger appointed Dr. Steven Morrow and Judith Forsythe, RDA, to a subcommittee to meet with Dr. Paul Glassman, Project Director, for the Office of Statewide Health Planning and Development (OSHPD) Health Workforce Pilot Project (WWPP#172) to discuss the Board's concerns relating to this project.

The subcommittee will give a verbal report at the Board meeting.

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MEMORANDUM

DATE	November 5, 2010
TO	Dental Board Members
FROM	Donna Kantner, Manager, Licensing and Examination Unit
SUBJECT	**Agenda Item 7: Discussion and Possible Action Regarding the Need to Review and Update the Dental Restorative Materials Fact Sheet**

The Dental Board has received a request that it update the Dental Restorative Materials Fact Sheet (DMFS). The DMFS has not been revised since May 2004.

Following is a copy of the current DMFS. If the Board determines that there is a need to review and update the DMFS, staff requests that a subcommittee be appointed to begin this task.

Dental Materials – Advantages & Disadvantages

PORCELAIN FUSED TO METAL

This type of porcelain is a glass-like material that is "enameled" on top of metal shells. It is tooth-colored and is used for crowns and fixed bridges

Advantages

- Good resistance to further decay if the restoration fits well
- Very durable, due to metal substructure
- The material does not cause tooth sensitivity
- Resists leakage because it can be shaped for a very accurate fit

Disadvantages

- More tooth must be removed (than for porcelain) for the metal substructure
- Higher cost because it requires at least two office visits and laboratory services

GOLD ALLOY

Gold alloy is a gold-colored mixture of gold, copper, and other metals and is used mainly for crowns and fixed bridges and some partial denture frameworks

Advantages

- Good resistance to further decay if the restoration fits well
- Excellent durability; does not fracture under stress
- Does not corrode in the mouth
- Minimal amount of tooth needs to be removed
- Wears well; does not cause excessive wear to opposing teeth
- Resists leakage because it can be shaped for a very accurate fit

Disadvantages

- Is not tooth colored; alloy is yellow
- Conducts heat and cold; may irritate sensitive teeth
- High cost; requires at least two office visits and laboratory services

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The Facts About Fillings

The Facts About Fillings

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Dental Materials Fact Sheet

What About the Safety of Filling Materials?

Patient health and the safety of dental treatments are the primary goals of California's dental professionals and the Dental Board of California. The purpose of this fact sheet is to provide you with information concerning the risks and benefits of all the dental materials used in the restoration (filling) of teeth.

The Dental Board of California is required by law* to make this dental materials fact sheet available to every licensed dentist in the state of California. Your dentist, in turn, must provide this fact sheet to every new patient and all patients of record only once before beginning any dental filling procedure.

As the patient or parent/guardian, you are strongly encouraged to discuss with your dentist the facts presented concerning the filling materials being considered for your particular treatment.

** Business and Professions Code 1648.10-1648.20*

Allergic Reactions to Dental Materials

Components in dental fillings may have side effects or cause allergic reactions, just like other materials we may come in contact with in our daily lives. The risks of such reactions are very low for all types of filling materials. Such reactions can be caused by specific components of the filling materials such as mercury, nickel, chromium, and/or beryllium alloys. Usually, an allergy will reveal itself as a skin rash and is easily reversed when the individual is not in contact with the material.

There are no documented cases of allergic reactions to composite resin, glass ionomer, resin ionomer, or porcelain. However, there have been rare allergic responses reported with dental amalgam, porcelain fused to metal, gold alloys, and nickel or cobalt-chrome alloys.

If you suffer from allergies, discuss these potential problems with your dentist before a filling material is chosen.

PORCELAIN (CERAMIC)

Porcelain is a glass-like material formed into fillings or crowns using models of the prepared teeth. The material is tooth-colored and is used in inlays, veneers, crowns and fixed bridges.

Advantages

- Very little tooth needs to be removed for use as a veneer; more tooth needs to be removed for a crown because its strength is related to its bulk (size)
- Good resistance to further decay if the restoration fits well
- Is resistant to surface wear but can cause some wear on opposing teeth
- Resists leakage because it can be shaped for a very accurate fit
- The material does not cause tooth sensitivity

Disadvantages

- Material is brittle and can break under biting forces
- May not be recommended for molar teeth
- Higher cost because it requires at least two office visits and laboratory services

NICKEL OR COBALT-CHROME ALLOYS

Nickel or cobalt-chrome alloys are mixtures of nickel and chromium. They are a dark silver metal color and are used for crowns and fixed bridges and most partial denture frameworks.

Advantages

- Good resistance to further decay if the restoration fits well
- Excellent durability; does not fracture under stress
- Does not corrode in the mouth
- Minimal amount of tooth needs to be removed
- Resists leakage because it can be shaped for a very accurate fit

Disadvantages

- Is not tooth colored; alloy is a dark silver metal color
- Conducts heat and cold; may irritate sensitive teeth
- Can be abrasive to opposing teeth
- High cost; requires at least two office visits and laboratory services
- Slightly higher wear to opposing teeth

DENTAL AMALGAM FILLINGS

Dental amalgam is a self-hardening mixture of silver-tin-copper alloy powder and liquid mercury and is sometimes referred to as silver fillings because of its color. It is often used as a filling material and replacement for broken teeth.

Advantages

- Durable; long lasting
- Wears well; holds up well to the forces of biting
- Relatively inexpensive
- Generally completed in one visit
- Self-sealing; minimal-to-no shrinkage and resists leakage
- Resistance to further decay is high, but can be difficult to find in early stages
- Frequency of repair and replacement is low

Disadvantages

- Refer to "What About the Safety of Filling Materials"
- Gray colored, not tooth colored
- May darken as it corrodes; may stain teeth over time
- Requires removal of some healthy tooth
- In larger amalgam fillings, the remaining tooth may weaken and fracture
- Because metal can conduct hot and cold temperatures, there may be a temporary sensitivity to hot and cold.
- Contact with other metals may cause occasional, minute electrical flow

The durability of any dental restoration is influenced not only by the material it is made from but also by the dentist's technique when placing the restoration. Other factors include the supporting materials used in the procedure and the patient's cooperation during the procedure. The length of time a restoration will last is dependent upon your dental hygiene, home care, and diet and chewing habits.

COMPOSITE RESIN FILLINGS

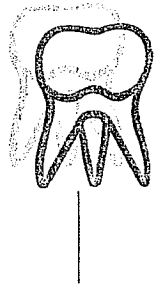
Composite fillings are a mixture of powdered glass and plastic resin, sometimes referred to as white, plastic, or tooth-colored fillings. It is used for fillings, inlays, veneers, partial and complete crowns, or to repair portions of broken teeth.

Advantages

- Strong and durable
- Tooth colored
- Single visit for fillings
- Resists breaking
- Maximum amount of tooth preserved
- Small risk of leakage if bonded only to enamel
- Does not corrode
- Generally holds up well to the forces of biting depending on product used
- Resistance to further decay is moderate and easy to find
- Frequency of repair or replacement is low to moderate

Disadvantages

- Refer to "*What About the Safety of Filling Materials*"
- Moderate occurrence of tooth sensitivity; sensitive to dentist's method of application
- Costs more than dental amalgam
- Material shrinks when hardened and could lead to further decay and/or temperature sensitivity
- Requires more than one visit for inlays, veneers, and crowns
- May wear faster than dental enamel
- May leak over time when bonded beneath the layer of enamel



GLASS IONOMER CEMENT

Glass ionomer cement is a self-hardening mixture of glass and organic acid. It is tooth-colored and varies in translucency. Glass ionomer is usually used for small fillings, cementing metal and porcelain/metal crowns, liners, and temporary restorations.

Advantages

- Reasonably good esthetics
- May provide some help against decay because it releases fluoride
- Minimal amount of tooth needs to be removed and it bonds well to both the enamel and the dentin beneath the enamel
- Material has low incidence of producing tooth sensitivity
- Usually completed in one dental visit

Disadvantages

- Cost is very similar to composite resin (which costs more than amalgam)
- Limited use because it is not recommended for biting surfaces in permanent teeth
- As it ages, this material may become rough and could increase the accumulation of plaque and chance of periodontal disease
- Does not wear well; tends to crack over time and can be dislodged

RESIN-IONOMER CEMENT

Resin ionomer cement is a mixture of glass and resin polymer and organic acid that hardens with exposure to a blue light used in the dental office. It is tooth colored but more translucent than glass ionomer cement. It is most often used for small fillings, cementing metal and porcelain metal crowns and liners.

Advantages

- Very good esthetics
- May provide some help against decay because it releases fluoride
- Minimal amount of tooth needs to be removed and it bonds well to both the enamel and the dentin beneath the enamel
- Good for non-biting surfaces
- May be used for short-term primary teeth restorations
- May hold up better than glass ionomer but not as well as composite
- Good resistance to leakage
- Material has low incidence of producing tooth sensitivity
- Usually completed in one dental visit

Disadvantages

- Cost is very similar to composite resin (which costs more than amalgam)
- Limited use because it is not recommended to restore the biting surfaces of adults
- Wears faster than composite and amalgam

Toxicity of Dental Materials

Dental Amalgam

Mercury in its elemental form is on the State of California's Proposition 65 list of chemicals known to the state to cause reproductive toxicity. Mercury may harm the developing brain of a child or fetus.

Dental amalgam is created by mixing elemental mercury (43-54%) and an alloy powder (46-57%) composed mainly of silver, tin, and copper. This has caused discussion about the risks of mercury in dental amalgam. Such mercury is emitted in minute amounts as vapor. Some concerns have been raised regarding possible toxicity. Scientific research continues on the safety of dental amalgam. According to the Centers for Disease Control and Prevention, there is scant evidence that the health of the vast majority of people with amalgam is compromised.

The Food and Drug Administration (FDA) and other public health organizations have investigated the safety of amalgam used in dental fillings. The conclusion: no valid scientific evidence has shown that amalgams cause harm to patients with dental restorations, except in rare cases of allergy. The World Health Organization reached a similar conclusion stating, "Amalgam restorations are safe and cost effective."

A diversity of opinions exists regarding the safety of dental amalgams. Questions have been raised about its safety in pregnant women, children, and diabetics. However, scientific evidence and research literature in peer-reviewed scientific journals suggest that otherwise healthy women, children, and diabetics are not at an increased risk from dental amalgams in their mouths. The FDA places no restrictions on the use of dental amalgam.

Composite Resin

Some Composite Resins include Crystalline Silica, which is on the State of California's Proposition 65 list of chemicals known to the state to cause cancer.

It is always a good idea to discuss any dental treatment thoroughly with your dentist.

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
DENTAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
P 916-263-2300 F 916-263-2140 www.dbc.ca.gov

MEMORANDUM

DATE	October 27, 2010
TO	Dental Board Members Dental Board of California
FROM	Sarah Wallace Legislative & Regulatory Analyst
SUBJECT	**Agenda Item 13:** Discussion and Possible Action to Recommend Initiation of a Rulemaking to Implement the Portfolio Licensure Examination for Dentists (AB 1524, Stats 2010 ch 446)

Background:
Assembly Bill 1524 (Hayashi) was signed into law by Governor Schwarzenegger on September 29, 2010. This is the Board's sponsored legislation creating the Portfolio Examination and authorizes the Board to conduct a portfolio licensure examination for graduates of California dental schools.

This new law becomes effective on January 1, 2011. The bill specified that the Portfolio Examination would not be conducted until the Dental Board adopts regulations to implement the examination process. Proposed regulatory language has been drafted during the legislative process.

TITLE 16. DENTAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

PROPOSED LANGUAGE

Amend Sections 1021, 1028, 1028.2, 1028.4, 1028.5, 1029, 1030, 1031, 1032, 1033, 1033.1, 1034, 1035, 1035.1, 1036, and 1037, and Adopt Sections 1031.1, 1031.2, 1033.2, 1033.3, 1033.4, 1033.5, 1033.6 of Division 10 of Title 16 of the California Code of Regulations, to read as follows:

Section 1021. Examination, Permit and License Fees for Dentists.
The following fees are set for dentist examination and licensure by the board:

(a) Initial application for the board ~~clinical and written~~ portfolio examination pursuant to Section 1632(c)(1) of the code, initial application for those applicants qualifying pursuant to Section 1632(c)(2) and those applicants qualifying pursuant to Section 1634.1...$100

~~(b) Initial application for restorative technique examination...$250~~

~~(c) Applications for reexamination...$75~~

~~(d)~~(b) Board ~~clinical and written~~ portfolio examination or reexamination pursuant to Section 1632(c)(1) of the code...~~$450~~ $350

~~(e) Restorative technique examination or reexamination... $250~~

~~(f)~~(c) Fee for application for licensure by credential... $283

~~(g)~~(d) Initial license... $365*

~~(h)~~(e) Biennial license renewal fee..... $365

~~(i)~~(f) Biennial license renewal fee for those qualifying pursuant to Section 1716.1 of the code shall be one half of the renewal fee prescribed by subsection ~~(h)~~(e)

~~(j)~~(g) Delinquency fee -license renewal - The delinquency fee for license renewal shall be the amount prescribed by section 163.5 of the code.

~~(k)~~(h) Substitute certificate...$50

~~(l)~~(i) Application for an additional office permit...$100

~~(m)~~(j) Biennial renewal of additional office permit...$100

~~(n)~~(k) Late change of practice registration...$50

~~(o)~~(l) Fictitious name permit The fee prescribed by Section 1724.5 of the Code

~~(p)~~(m) Fictitious name renewal...$150

~~(q)~~(n) Delinquency fee-fictitious name renewal The delinquency fee for fictitious name permits shall be one-half of the fictitious name permit renewal fee.
~~(r)~~(o) Continuing education registered provider fee...$250

~~(s)~~(p) General anesthesia or conscious sedation permit or adult or minor oral conscious sedation certificate...$200

~~(t)~~(q) Oral Conscious Sedation Certificate Renewal...$75

~~(u)~~(r) General anesthesia or conscious sedation permit renewal fee...$200

~~(v)~~(s) General anesthesia or conscious sedation on-site inspection and evaluation fee...$250

*Fee pro-rated based on applicant's birth date.

Note: Authority cited: Sections 1614, 1635.5, 1634.2(c), 1724 and 1724.5, Business and Professions Code. Reference: Sections 1632, 1634.1, 1646.6, 1647.8, 1647.12, 1647.15, 1715, 1716.1, 1718.3, 1724 and 1724.5, Business and Professions Code.

Section 1028. Application for Licensure.
(a) An applicant for licensure as a dentist shall submit an "Application for Licensure to Practice Dentistry" (WREB) or "Application for ~~Examination for~~ Licensure by Portfolio Examination ~~to Practice Dentistry~~" which are forms prescribed by the board and the application shall be accompanied by the following information and fees:

(1) The application and examination(s) fees as set by Section 1021;

(2) Satisfactory evidence that the applicant has met all applicable requirements in Section 1628 of the Code;

(3) Two classifiable sets of fingerprints or a LiveScan form and applicable fee;

(4) Where applicable, a record of any previous dental practice and verification of license status in each state or jurisdiction in which licensure as a dentist has been attained;

~~(5) Except for applicants qualifying pursuant to Section 1632(c)(2), satisfactory evidence of liability insurance or of financial responsibility in accordance with Section 1628(c) of the code. For purposes of that subsection:~~

~~(A) Liability insurance shall be deemed satisfactory if it is either occurrence-type liability insurance or claims-made type liability insurance with a minimum five year reporting endorsement, issued by an insurance carrier authorized by the Insurance Commissioner to transact business in this State, in the amount of $100,000 for a single occurrence and $300,000 for multiple occurrences, and which covers injuries sustained or claimed to be sustained by a dental patient in the course of the licensing examination as a result of the applicant's actions.~~

~~(B) "Satisfactory evidence of financial responsibility" means posting with the board a $300,000 surety bond.~~

~~(6)~~(5) Applicant's name, social security number, address of residency, mailing address if different from address of residency, date of birth, and telephone number;

~~(7) Applicant's preferred examination site(s) in California unless the applicant has passed the Western Regional Examining Board examination;~~

~~(8) Any request for accommodation pursuant to the Americans with Disabilities Act;~~

~~(9)~~(6) A 2-inch by 2-inch passport style photograph of the applicant, submitted with the "Application for Licensure to Practice Dentistry (WREB)";

~~(10)~~(7) Information regarding applicant's education including dental education and postgraduate study;

~~(11) Certification from the dean of the qualifying dental school attended by the applicant to certify the date the applicant graduated;~~

~~(12)~~(8) Information regarding whether the applicant has any pending or had in the past any charges filed against a dental license or other healing arts license;

~~(13)~~(9) Information regarding any prior disciplinary action(s) taken against the applicant regarding any dental license or other healing arts license held by the applicant including actions by the United States Military, United States Public Health Service or other federal government entity. "Disciplinary action" includes, but is not limited to, suspension, revocation, probation, confidential discipline, consent order, letter of reprimand or warning, or any other restriction or action taken against a dental license. If an applicant answers "yes", he or she shall provide the date of the effective date of disciplinary action, the state where the discipline occurred, the date(s), charges convicted of, disposition and any other information requested by the board;

~~(14)~~(10) Information as to whether the applicant is currently the subject of any pending investigation by any governmental entity. If the applicant answers "yes," he or she shall provide any additional information requested by the board;

~~(15)~~(11) Information regarding any instances in which the applicant was denied a dental license, denied permission to practice dentistry, or denied permission to take a dental board examination. If the applicant answers "yes", he or she shall provide the state or country where the denial took place, the date of the denial, the reason for denial, and any other information requested by the board;

~~(16)~~(12) Information as to whether the applicant has ever surrendered a license to practice dentistry in another state or country. If the applicant answers "yes," additional information shall be provided including state or country of surrender, date of surrender, reason for surrender, and any other information requested by the board;

~~(17)~~(13) Information as to whether the applicant has ever been convicted of any crime including infractions, misdemeanors and felonies unless the conviction was for an infraction with a fine of less than $300. "Conviction" for purposes of this subparagraph includes a plea of no contest and any conviction that has been set aside pursuant to Section 1203.4 of the Penal Code. Therefore, applicants shall disclose any convictions

in which the applicant entered a plea of no contest and any convictions that were subsequently set aside pursuant to Section 1203.4 of the Penal Code.

~~(18)~~(14) Whether the applicant is in default on a United States Department of Health and Human Services education loan pursuant to Section 685 of the Code.

~~(19)~~(15) Any other information the board is authorized to consider when determining if an applicant meets all applicable requirements for examination and licensure; and

~~(20)~~(16) A certification, under the penalty of perjury, by the applicant that the information on the application is true and correct;

~~(b) Completed applications shall be filed with the board not later than 45 days prior to the date set for the beginning of the examination for which application is made. An application shall not be deemed incomplete for failure to establish compliance with educational requirements if the application is accompanied by a certification from an approved school that the applicant is expected to graduate from that school prior to such examination and if the approved school certifies not less than 15 days prior to examination that the applicant has in fact graduated from that school.~~

(b) An application for licensure by portfolio may be submitted prior to graduation, if the application is accompanied by a certification from the school that the applicant is expected to graduate. The Board shall not issue a license, until receipt of a certificate from the dean of the school attended by the applicant, certifying the date the applicant graduated.

(c) In addition to complying with the applicable provisions contained in subsections (a) through (b) above, an applicant for licensure as a dentist upon passage of Western Regional Examining Board ("WREB") examination shall also furnish evidence of having successfully passed, on or after January 1, 2005~~, the WREB examination~~.

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1628 and 1628.5, Business and Professions Code.

Section 1028.2. Application for Determination of Licensure Eligibility Pursuant to Section 1634.1.

(a) An applicant for licensure as a dentist pursuant to Section 1634.1 of the Code shall submit an "Application for Determination of Licensure Eligibility (Residency)" (Rev. 07/08) that is incorporated herein by reference and shall be accompanied by certification of graduation by the dean of the qualifying dental school attended by the applicant, a letter from WREB certifying that the applicant has not failed the WREB clinical exam within the last five years and the applicable fees as set by Section 1021.

(b) Following review, the board shall notify the applicant of the eligibility determination. Upon a finding that the applicant is eligible, the applicant shall file an Application for Issuance of License Number and Registration of Place of Practice, as set forth in Section 1028.4.

Note: Authority cited: Sections 1614 and 1634.2(c), Business and Professions Code. Reference: Section 1634.1, Business and Professions Code.

Section 1028.3. Certification of Clinical Residency Program Completion Pursuant to Section 1634.2(c).
An applicant for licensure as a dentist pursuant to Section 1634.1 of the Code shall submit to the board a "Certification of Clinical Residency Completion" (Rev. 07/08) that is incorporated herein by reference, and shall be signed by the current director of the residency program.

Note: Authority cited: Sections 1614 and 1634.2(c), Business and Professions Code. Reference: Sections 1634.1 and 1634.2, Business and Professions Code.

Section 1028.4. Application for Issuance of License Number and Registration of Place of Practice Pursuant to Section 1650.
Upon being found eligible for licensure, the applicant shall file an "Application for Issuance of License Number and Registration of Place of Practice," (Rev. 11-07) that is incorporated herein by reference, and shall be accompanied by the licensure fee as set by Section 1021.

Note: Authority cited: Sections 1614 and 1634.2(c), Business and Professions Code. Reference: Section 1650, Business and Professions Code.

Section 1028.5. Application for California Law and Ethics Examination Pursuant to Section 1632(b).
Application for the California law and ethics examination shall be made on an "Application for Law and Ethics Examination" (Rev. 12/07) that is incorporated herein by reference.

Note: Authority cited: Sections 1614 and 1634.2(c), Business and Professions Code. Reference: Section 1632, Business and Professions Code.

Section 1029. Approval of Applications.
Permission to ~~take an~~ submit a portfolio for examination shall be granted to those applicants who have paid the necessary fees and whose credentials have been approved by the executive officer.

Nothing contained herein shall be construed to limit the board's authority to seek from an applicant such other information as may be deemed necessary to evaluate the applicant's qualifications.

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Section 1628 and 1628.5, Business and Professions Code.

Section 1030. Theory Examination.
An applicant shall successfully complete the National Board of Dental ~~Examiners'~~ Examination Part I and Part II ~~examination~~ prior to submitting for assessment his/her Portfolio ~~taking the California examination~~ and shall submit confirmation thereof to the board. Such confirmation must be included in the portfolio submitted to the board. ~~received in the board office not less than 30 days prior to the examination date requested.~~

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1630, 1632 and 1633.5, Business and Professions Code.

Section 1031. Supplemental Examinations in California Law and Ethics.
Prior to issuance of a license, an applicant shall successfully complete supplemental written examinations in California law and ethics.

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

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

(c) An examinee shall be deemed to have passed the examinations if his/her score is at least 75% in each examination.

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1630, 1632 and 1633.5, Business and Professions Code.

Section 1031.1. Definition.
For the purpose of the portfolio examination the following definitions shall apply:

(a) School means a dental school in California approved by the Board.

(b) Case means a dental procedure which satisfies the prescribed clinical experiences

(c) Assisting means the applicant is actually involved in the delivery of dental treatment, not just observing treatment.

(d) Portfolio means the cumulative documentation, submitted to the board, of the applicant's completion of the clinical experiences and demonstration of competency requirements for licensure under this division

(e) Dental school faculty portfolio examiner is faculty member who is chosen by the school, registered with the Board, and is trained and calibrated to conduct and grade the Board competency examinations.

Section 1031.2. Portfolio Examination.
The Portfolio Examination is an alternative examination that each individual school may elect at any time to implement or decline to implement.
An applicant, with the approval of their clinical faculty, may participate in the board portfolio examination for each competency during their last year of dental education.

(a) Each portfolio shall contain the following:

> (1) Documentation that provides proof of satisfactory completion of a final assessment in the competency domains prescribed by the board. For purpose of this section satisfactory proof means the portfolio has been approved by the designated dental school faculty.

(2) Satisfactory evidence the applicant has completed the clinical experiences prescribed by the board. For purpose of this section satisfactory evidence means documentation of completion of the prescribed clinical experiences in the competencies prescribed by the board.

(3) A letterform the dean or his/her designee stating the applicant has graduated o will graduate with no pending ethical issues.

(b) The following are the requirements for submission of a portfolio for initial licensure by the board.

(1) An applicant for initial licensure by portfolio examination shall submit a portfolio of his/her competency in domains prescribed by the board as evidence of the applicant's fitness to enter the practice of dentistry.

(2) The earliest date that a student may submit their portfolio for review by the Board shall be determined by each individual school. The application for licensure by portfolio shall be submitted no later than August 31 of the year of the applicant's graduation.

Section 1032. Demonstrations of ~~Skill~~ Clinical Experience.
Each applicant shall satisfactorily complete ~~written examinations in endodontics and removable prosthodontics. Clinical examinations consisting of periodontics, an amalgam restoration and a composite resin restoration will be completed on patients. In addition, each applicant shall be required to complete a simulation examination in fixed prosthetics~~ at least the minimum number of clinical experiences in the competencies listed below, prior to submission of their portfolio to the Board. Clinical experiences identified below have been determined as a minimum number in order to provide a student with sufficient understanding, knowledge and skill level to reliably demonstrate competency. All clinical experiences must be performed on patients under the supervision of dental school faculty and shall be included in the portfolio submitted to the board. Clinical experience may be obtained at the dental school clinic, any extramural dental facility or a mobile dental clinic approved by the Board.

The portfolio shall contain documentation that the applicant has satisfactorily completed a minimum number of clinical experiences as described below:

(a) The documentation of oral diagnosis and treatment planning clinical experiences shall include 40 cases. For purposes of this section, case means any patient examination, oral diagnosis and treatment plan that is developed for the purpose of managing the treatment of some or all of the patient's dental needs. These examinations, diagnoses and treatment planning cases may include any procedures that meet and comply with the criteria and standards established by the school for such clinical procedures. These clinical procedures may include, but are not limited to, comprehensive oral evaluations, limited oral evaluations-problem focused, re-evaluation-limited, problem focused for an established patient, and comprehensive periodontal evaluation. Each examination, diagnosis and treatment planning clinical experience shall include evidence a medical and dental history were obtained, evidence of problem(s), work-up(s), development of alternative treatment plans when appropriate and the identification of a definitive treatment plan that was accepted by the school and presented to the patient..

(b) The documentation of periodontal clinical experiences shall include 25 cases. For purposes of this section, a periodontal case may include, but is not limited to an adult prophylaxis,

treatment of periodontal disease such as scaling and root planing, any periodontal surgical procedure, assisting on a periodontal surgical procedure when performed by a faculty or an advanced dental education student in periodontics. Periodontal cases may include any procedures that meet and comply with the criteria and standards established by the dental school for such clinical procedures. The combined clinical periodontal experience must include a minimum of five (5) quadrants of scaling and root planing procedures.

(c) The documentation of direct restorative clinical experiences shall include 60 cases. For purposes of this section a cases is defined as any restoration on a permanent or primary tooth using standard restorative materials. Restorations are further defined to include: amalgams, composites, crown build-ups, direct pulp caps and temporizations. Direct restorative cases may include any procedures that meet and comply with the criteria and standards established by the school for such clinical procedures.

(d) The documentation of indirect restorative clinical experiences shall include 14 cases. For purposes of this section the cases may be a combination of the following procedures: inlays, onlays, crowns, abutments, pontics, veneers, cast posts, overdenture copings, or dental implants. Indirect restorative cases may include any procedures that meet and comply with the criteria and standards established by the school for such clinical procedures.

(e) The documentation of endodontic clinical experiences shall include five (5) cases. For purposes of this section a case means endodontic treatment of a single canal. Endodontic treatment of a tooth with three canals would count as three cases. Endodontic cases may include any procedures that meet and comply with the criteria and standards established by the dental school for such clinical procedures.

(f) The documentations of removal prosthetic clinical experiences shall include five (5) cases For purposes of this section a case is defined to include any of the following: full denture, partial denture (cast framework) partial denture (acrylic with a minimum number of posterior teeth), immediate treatment denture or dental implants. A removal prosthetic case may include any procedures that meet and comply with the criteria and standards established by the school for such clinical procedures.

(g) The documentation of oral maxillofacial surgery clinical experiences shall include 25cases. For purpose of this section a case is defined to include simple and surgical extractions, the removal of impacted teeth and other dentoalveolar surgical cases or surgical assists . A case may include any procedures that meet and comply with the criteria and standards established by the school for such clinical procedures.

Note: Authority cited 1614, Business and Professions Code. Reference Section 1632 and 1632.1

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

Section 1033. ~~General Procedures for Written and Laboratory Dental Licensure Examinations~~ Competency Examination.

~~The following rules, which are in addition to any other examination rules set forth elsewhere in this chapter, are adopted for the uniform conduct of all written and laboratory dental licensure examinations.~~

~~(a) The ability of an examinee to read and interpret instructions and examination material is a part of the examination.~~

~~(b) No person shall be admitted to an examination room or laboratory unless he or she is wearing the appropriate identification badge.~~

~~(c) An examinee may be dismissed from the entire examination, and a statement of issues may be filed against the examinee, for acts which interfere with the board's objective of evaluating professional competence. Such acts include, but are not limited to, the following:~~

> ~~(1) Allowing another person to take the examination in the place of, and under the identity, of the examinee.~~
>
> ~~(2) Copying or otherwise obtaining examination answers from other persons during the course of the written examination.~~
>
> ~~(3) Bringing any notes, textbooks, unauthorized models, or other informative data into an examination room or laboratory.~~
>
> ~~(4) Assisting another examinee during the examination process.~~
>
> ~~(5) Copying, photographing or in any way reproducing or recording examination questions or answers.~~

The applicant shall submit with the portfolio documentation of successful completion of the competency examinations. Each competency examination shall be graded in accordance with the Board's grading criteria on forms prescribed by the board. The portfolio examination shall be signed by the school faculty portfolio examiner for the prescribed competency.

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

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

Section 1033.1. ~~General Procedures for Clinical Dental Licensure Examination~~ Comprehensive Oral Diagnosis and Treatment Planning.

~~The following rules, which are in addition to any other examination rules set forth elsewhere in this chapter, are adopted for the uniform conduct of the clinical dental licensure examination.~~

~~(a) Each examinee shall furnish patients, instruments, handpieces and materials, necessary to carry the procedures to completion. The board will provide operatory lights, dental delivery units and chairs or simulators.~~

~~(b) A patient provided by an examinee shall be in a health condition acceptable for dental treatment. If conditions indicate a need to consult the patient's physician or for the patient to be premedicated (e.g. high blood pressure, heart murmur, rheumatic fever, heart condition, prosthesis), the examinee must obtain the necessary written medical clearance and/or, evidence of premedication before the patient will be accepted. The examiners may, in their~~

~~discretion, reject a patient who in the opinion of at least two examiners has a condition which interferes with evaluation or which may be hazardous to the patient, other patients, applicants or examiners. A hazardous condition includes, but is not limited to, acute symptomatic hepatitis, active herpetic lesions, acute periodontal or periapical abscesses, or necrotizing ulcerative gingivitis. In addition, a patient may be rejected when, in the opinion of at least two examiners, the proposed treatment demonstrates improper patient management, including but not necessarily limited to, contraindicating medical status of the patient, grossly pathologic or unhygienic oral conditions such as extremely heavy calculus deposits, other pathology related to the tooth to be treated, or selection of a restoration that is not suited to the patient's biological or cosmetic requirements. Whenever a patient is rejected, the reason for such rejection shall be noted on the examination record and shall be signed by both rejecting examiners.~~

~~(c) No person shall be admitted to the clinic unless he or she is wearing the appropriate identification badge.~~

~~(d) The use of local anesthetics shall not be permitted until the patient has been approved by an examiner.~~

~~(e) Only the services of registered dental assistance or dental assistants shall be permitted.~~

~~(f) An assignment which has been made by the board shall not be changed by an examinee without the specific approval of the board.~~

~~(g) An examinee may be dismissed from the entire examination, and a statement of issues may be filed against the examinee, for acts which interfere with the board's objective of evaluating professional competence. Such acts include, but are not limited to the following:~~

> ~~(1) Allowing another person to take the examination in the place of, and under the identity of, the examinee.~~
>
> ~~(2) Presenting purported carious lesions which are artificially created, whether or not the examinee created the defect.~~
>
> ~~(3) Presenting radiographs which have been altered, or contrived to represent other than the patient's true condition, whether or not the misleading radiograph was created by the examinee.~~
>
> ~~(4) Bringing any notes, textbooks, unauthorized models, periodontal charting information or other informative data into the clinic.~~
>
> ~~(5) Assisting another examinee during the examination process.~~
>
> ~~(6) Failing to comply with the board's infection control regulations.~~
>
> ~~(7) Failing to use an aspirating syringe for administering local anesthesia.~~
>
> ~~(8) Utilizing the services of a licensed dentist, dental school graduate, dental school student, registered dental hygienist in extended functions, registered dental hygienist, dental hygiene graduate, dental hygiene student, or registered dental assistant in~~

~~extended functions, or student or graduate of a registered dental assistant in extended functions program.~~

~~(9) Treating a patient, or causing a patient to receive treatment outside the designated examination settings and timeframes.~~

~~(10) Premedicating a patient for purposes of sedation.~~

~~(11) Dismissing a patient without the approval and signature of an examiner.~~

~~(h) An examinee may be declared by the board to have failed the entire examination for demonstration of gross incompetence in treating a patient.~~

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

The oral diagnosis and treatment planning portfolio section shall contain documentation that the applicant has satisfactorily completed a final assessment of his/her competency. The documentation shall be on a form prescribed by the board and signed by the appropriate faculty.

The oral diagnosis and treatment planning portfolio may include, but is not limited to the following:

(a) Medical history for dental treatment provided to patients. The medical history shall include: an evaluations of past illnesses and conditions, hospitalizations and operations, allergies, family history, social history, current illnesses and medications, and their effect on dental condition.

(b) Dental history for dental treatment provided to clinical patients. The dental history shall include: age of previous prostheses, existing restorations, prior history of orthodontic/periodontic treatment, and oral hygiene habits/adjuncts.

(c) Documentation the applicant performed a comprehensive examination for all dental treatment provided to patients which included:

(1) interpretation of radiographic series

(2) performance of caries risk assessment.

(3) determination of periodontal condition

(4) performance of a head and neck examination

(5) screening for temporomandibular disorders

(6) Assessment of vital signs

(7) performance of a clinical examination of dentition

(8) performance of an occlusal examination

(d) Documentation the applicant evaluated data to identify problems. The documentation of the data evaluation shall:

(1) list chief complaint

(2) list medical problem

(3) list stomatognathic problems

(4) list psychosocial problems.

(e)Documentation the applicant worked-up the problems and developed a tentative treatment plan. The documentation of the work-up and tentative treatment plan shall:

(1) define the problem (s) (e.g. severity/chronicity and classification)

(2) determine if additional diagnostic test are needed

(3) develop differential diagnosis

(4) recognize need for referral(s)

(5) address pathophysiology of the problem

(6) address short term needs

(7) address long term needs

(8 determine interaction of problems

(9) develop treatment options

(10) determined prognosis

(11) prepare patient information for informed consent

(f) Documentation the applicant developed a final treatment plan. The documentation shall:

(1) establish a rational for treatment.

(2) address all problems (any condition that puts the patient at risk in the long term.

(3) determine sequencing with the following framework:

(A) Systemic: medical issues of concern, medications and their effects, effect of diseases on oral condition, precautions, treatment modifications

(B) Urgent: Acute pain/infection management, urgent esthetic issues, further exploration/additional information, oral medicine consultation, pathology

(C) Preparatory: Preventive interventions, orthodontic, periodontal (Phase I. II), endodontic treatment, caries control, other temporization

(D) Restorative: operative, fixed, removable prostheses, occlusal splints, implants

(E) Elective: esthetic (veneers, etc.) any procedure that is not clinically necessary, replacement of sound restoration for esthetic purposes, bleaching

(F) Maintenance: periodontic recall, radiographic interval, periodic oral examination, caries risk management

(g) All oral diagnosis and treatment planning documentation shall be done according to the risk management standards.

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

Section 1033.2. Direct Restoration.

The direct restoration portfolio section shall contain documentation that the applicant has satisfactorily completed a final assessment of his/her competency. The documentation shall be on a form prescribed by the board and signed by the designated dental school faculty. The documentation of the applicant's competency may include, but is not limited to the following:

(a) Documentation of the applicant's competency to perform a class II direct restoration on a tooth containing primary carious lesions to optimal form, function and esthetics using amalgam or composite restorative materials. The case selection shall be based on minimum direct restoration criteria for any permanent posterior tooth. The treatment performed should follow the sequence of the treatment plan(s). More than one procedure can be performed on a single tooth; teeth with multiple lesions may be restored at separate appointments. Each procedure may be considered a case. The tooth being restored must have caries that are evident on either of the two required radiographs. The tooth involved in the restoration must have caries which penetrate the dento-enamel junction and must be in occlusion. Proximal caries must be in contact with at least one adjacent tooth, a natural tooth surface or a permanent restoration; provisional restorations or removal partial dentures are not acceptable adjacent surfaces. The tooth must be asymptomatic with no pulpal or periapical pathosis and cannot be endodontically treated or in need of endodontic treatment.

(b) Documentation of the applicant's competency to perform a class III/IV direct restoration on a tooth containing primary carious lesions to optimal forms, function and esthetics using composite restorative material. The case selected shall be on any permanent anterior tooth and treatment needs to be performed in the sequence described in the treatment plan. More than one procedure can be performed on a single tooth; teeth with multiple lesions may be restored at separate appointments. Each procedure may be considered a case. The tooth being restored must have caries that are evident on either of the two required radiographs. The tooth involved in the restoration must have caries which penetrate the dento-enamel junction.. The tooth to be restored must have an adjacent tooth to be able to restore a proximal contact. Proximal surface of the dentition adjacent to the proposed restoration must be natural tooth structure or a permanent restoration, provisional restorations or removable partial dentures are not acceptable adjacent surfaces. The tooth involved in the restoration must be asymptomatic with no pulpal or periapical pathosis and cannot be endodontically treated or in need of

endodontic treatment. The lesion is not acceptable if it is in contact with circumferential decalcification. The approach must be appropriate for the tooth. Teeth with bonded veneers are not acceptable.

(c) Documentation of the applicants competency to perform a class V direct restoration on a tooth containing primary carious lesions to optimal forms, function and esthetics using glass ionomer, composite or amalgam restorative materials. The class V restoration may be on any permanent tooth. The tooth selected must have clinically evident carious lesions and the treatment must be performed in the sequence described in the treatment plan. More than one procedure can be performed on a single tooth; teeth with multiple lesions may be restored at separate appointments. Each procedure may be a considered a case. The tooth involve in the restoration must be asymptomatic with no pulpal or periapical pathosis and cannot be endodontically treated or in need of endodontic treatment. The lesion is not acceptable if it is in contact with circumferential decalcification. New restorations must be separate from any existing restoration on the tooth.

Section 1033.3. Indirect Restorations.
The Indirect restoration portfolio section shall contain documentation that the applicant has satisfactorily completed a final assessment of his/her competency Documentation of the applicant's competency to restore a tooth to optimal form, function and esthetics with a crown or onlay according to approved procedures and materials for indirect restorations.
The documentation shall be on a form prescribed by the board and signed by the designated dental school faculty. The documentation of the applicant's competency shall include one of the following;

(a) Documentation of the applicant's competency to complete a ceramic onlay or more extensive indirect restorations. The treatment needs to be performed in the sequence in the treatment plan. The tooth must be asymptomatic with no pulpal or periapical pathosis and cannot be in need of endodontic treatment. The tooth selected for restoration, must have opposing occlusion that is stable. The tooth selected for restoration must have an adjacent tooth to be able to restore a proximal contact. The proximal surface of the tooth adjacent to the planned restoration must be either an enamel surface or a permanent restoration. Temporary restorations or removable partial dentures are not acceptable adjacent surfaces. The tooth selected must require an indirect restoration at least the size of the onlay or greater. The tooth selected cannot replace existing or temporary crowns. Buildups may be completed ahead of time, if needed. Teeth with cast post are not allowed. The restoration must be completed on the same tooth and same patient by the same student. Digital media cannot be used to capture impressions.

(b) Documentation of the applicant's competency to complete a partial gold restoration must be an onlay or more extensive indirect restoration. The treatment must be performed in the sequence of the treatment plan. The tooth must be asymptomatic with no pulpal or periapical pathosis; cannot be in need of endodontic treatment. The tooth selected for restoration must have opposing occlusion that is stable. The tooth selected for restoration must have an adjacent tooth to be able to restore a proximal contact. The proximal surface of the tooth adjacent to the planned restoration must be either an enamel surface or a permanent restoration. Temporary restorations or removable partial dentures are not acceptable adjacent surfaces. The tooth selected must require an indirect restoration at least the size of the only or greater. The tooth selected cannot replace existing or temporary crowns. Buildups may be completed ahead of time, if needed. Teeth with cast post are not allowed. The restoration must be completed on the

same tooth and same patient by the same student. Digital media cannot be used to capture impressions.

(c) Documentation of the applicant's competency to perform a full gold restoration. The treatment must be performed in the sequence of the treatment plan. The tooth must be asymptomatic with no pulpal or periapical pathosis; cannot be in need of endodontic treatment. The tooth selected for restoration must have opposing occlusion that is stable. The tooth selected for restoration must have an adjacent tooth to be able to restore a proximal contact. The proximal surface of the tooth adjacent to the planned restoration must be either an enamel surface or a permanent restoration. Temporary restorations or removable partial dentures are not acceptable adjacent surfaces. The tooth selected must require an indirect restoration at least the size of the onlay or greater. The tooth selected cannot replace existing or temporary crowns. Buildups may be completed ahead of time, if needed. Teeth with cast post are not allowed. The restoration must be completed on the same tooth and same patient by the same student. Digital media cannot be used to capture impressions.

(d) Documentation of the applicant's competency to perform a metal-ceramic restoration. The treatment must be performed in the sequence of the treatment plan. The tooth must be asymptomatic with no pupal or periapical pathosis: cannot be in need of endodontic treatment. The tooth selected for restoration must have opposing occlusion that is stable. The tooth selected for restoration must have an adjacent tooth to be able to restore a proximal contact. The proximal surface of the tooth adjacent to the planned restorations must be either an enamel surface or a permanent restoration. Temporary restorations or removable partial dentures are not acceptable adjacent surfaces. The tooth selected must require an indirect restoration at least the size of the onlay or greater. The tooth selected cannot replace existing or temporary crowns. Buildups may be completed ahead of time, if needed. Teeth with cast post are not allowed. The restoration must be completed on the same tooth and same patient by the same student. Digital media cannot be used to capture impressions

(e) A facial veneer is not acceptable documentation of the applicant's competency to perform indirect restorations.

Section 1033.4. Removable Prosthodontics.

The Removable Prosthodontic portfolio section shall contain documentation that the applicant has satisfactorily completed a final assessment of his/her competency. The documentation shall be on a form prescribed by the board and signed by the designated dental school faculty. The documentation of the applicant's competency may include, but is not limited to the following;

(a) Documentation the applicant developed a diagnosis, determined treatment options and prognosis for the patient to receive a removable prosthesis. The documentation may include, but is not limited to the following:

(1) Evidence the applicant obtained a patient history, (e.g. medical, dental and psychosocial).

(2) Evaluation of the patient's chief complaint

(3) Radiographs and photographs of the patient.

(4) Evidence the applicant performed a clinical examination, (e.g. hard/soft tissue charting, endodontic evaluation, occlusal examination, skeletal/jaw relationship, VDO, DR, MIP).

(4) Evaluation of existing prosthesis and the patient's concerns

(5) Evidence the applicant obtained and mounted a diagnostic cast.

(6) Evidence the applicant determined the complexity of the case based on ACP classifications.

(7) Evidence the patient was presented with treatment plan options and assessment of the prognosis, (e.g. complete dentures, partial denture, overdenture, implant options, FPD).

(8) Evidence the applicant analyzed the patient risks/benefits for the various treatment options.

(9) Evidence the applicant exercised critical thinking and made evidence –based treatment decisions.

(b) Documentation of the applicant's competency to successfully restore edentulous spaces with removable prosthesis. The documentations may include but is not limited to the following:

(1) Evidence the applicant developed a diagnosis and treatment plan for the removable prosthesis.

(2) Evidence the applicant obtained diagnostic casts.

(3) Evidence the applicant performed diagnostic wax-up/survey framework designs.

(4) Evidence the applicant performed an assessment to determine the need for pre-prosthetic surgery and made the necessary referral.

(5) Evidence the applicant performed tooth modifications and /survey crowns,

(6) Evidence the applicant obtained master impressions and casts.

(7) Evidence the applicant obtained occlusal records

(8) Evidence the applicant performed a try-in and evaluated the trail dentures.

(9) Evidence the applicant inserted the prosthesis and provided the patient with post-insertion care.

(10 Documentation the applicant followed established standards of care in the restoration of the edentulous spaces, (e. g. informed consent, and infection control).

(c) Documentation of the applicant's competency to manage tooth loss transitions with immediate or transitional prostheses. The documentation may include, but is limited to the following:

(1) Evidence the applicant developed a diagnosis and treatment plan that identified teeth that could be salvaged and or teeth that needed extraction.

(2) Evidence the applicant educated the patient regarding the healing process, denture experience, and future treatment need.

(3) Evidence the applicant developed prosthetic phases which included surgical plans.

(4) Evidence the applicant obtained casts (preliminary and final impressions)

(5) Evidence the applicant obtained the occlusal records.

(6) Evidence the applicant did try-ins and evaluated trail dentures.

(7) Evidence the applicant competently managed and coordinated the surgical phase.

(8) Evidence the applicant provided the patient post insertion care including adjustment, relines and patient counseling.

(9) Documentation the applicant followed established standards of care in the restoration of the edentulous spaces, (e. g. informed consent, and infection control)

(d) Documentation of the applicant's competency to manage prosthetic problems. The documentation may include, but is not limited to the following:

(1) Evidence the applicant competently managed real or perceived patient problems.

(2) Evidence the applicant evaluated existing prosthesis

(3) Evidence the applicant performed uncomplicated repairs, relines, re-base, re-set or re-do, if needed.

(4) Evidence the applicant made a determination if specialty referral was necessary.

(5) Evidence the applicant obtained impressions/records/information for laboratory use.

(6) Evidence the applicant competently communicated needed prosthetic procedure to laboratory technician.

(7) Evidence the applicant inserted the prosthesis and provided the patient follow-up care.

(8) Evidence the applicant performed in-office maintenance, (e.g. prosthesis cleaning, clasp tightening and occlusal adjustments).

(e) Documentation the applicant directed and evaluated the laboratory services for the prosthesis. The documentation may include, but is not limited to the following:

(1) Complete laboratory prescriptions sent to the dental technician

(2) Copies of all communications with the laboratory technicians

(3) Evaluations of the laboratory work product, (e.g. frameworks, processed dentures).

Section 1033.5 Endodontics
The endodontic portfolio section shall contain documentation that the applicant has satisfactorily completed a final assessment of his/her competency. The documentation shall be on a form prescribed by the board and signed by the designated dental school faculty. The documentation of the applicant's competency may include, but is not limited to the following:
(a) Documentation the applicant applied case selection criteria for endodontic cases.

(1) The portfolio shall contain evidence the cases selected met American Association of Endodontics case criteria for minimum difficulty.

(A)The applicant treated teeth with uncomplicated morphologies.

(B) The applicant treated teeth that may have included signs and symptoms of swelling and acute inflammation.

(C)The applicant treated teeth without previous complete or partial endodontic therapy.

(2) The applicant determined a diagnostic need for endodontic therapy.

(3) The applicant performed charting and diagnostic testing

(4) The applicant took and interpreted radiographs of the patient oral condition.

(5) The applicant made a pulpal diagnosis within approved parameters. Evidence the applicant considered the following in his/her determination the pulpal diagnosis was within approved parameters:

(A) Within normal limits

(B) Reversible pulpitis

(C) Irreversible pulpitis

(D) Necrotic pulp

(6) The applicant made a periapical diagnosis within approved parameters. Evidence the applicant considered the following in his/her determination the periapical diagnosis was within approved parameters:

(A) Within normal limits

(B) Asymptomatic apical periodontitis

(C) Symptomatic apical periodontitis

(D) Acute apical abscess

(E) Chronic apical abscess

(7) Evidence the applicant developed an endodontic treatment plan that included trauma treatment, management of emergencies and referrals when indicated.

(b) Documentation the applicant performed pretreatment preparation for endodontic treatment. Documentations may include but is not limited to the following:

(1) Evidence the applicant competently managed the patient's pain.

(2) Evidence the applicant removed caries and failed restorations

(3) Evidence the applicant determined the tooth restorability

(4) Evidence) the applicant achieved isolation.

(c) The applicant competently performed access opening. Documentation may include, but is not limited to the following:

(1) Evidence the applicant created the indicated outline form

(2) Evidence the applicant created straight line access

(3) Evidence the applicant maintained structural integrity.

(4) Evidence the applicant completed un-roofing of pulp chamber

(5) Evidence the applicant identified all canal systems

(d) Documentation the applicant performed shaping and cleaning techniques. Documentation may include, but is not limited to the following:

(1) Evidence the applicant maintained canal integrity

(2) Evidence the applicant preserved canal shape and flow.

(3) Evidence the applicant applied protocols for establishing working length

(4) Evidence the applicant managed apical control

(5) Evidence the applicant applied disinfection protocols.

(e) Documentations the applicant performed obturation protocols. Documentation may include, but is not limited to the following:

(1) Evidence the applicant applied obturation protocols

(A) Evidence the applicant selected and fit master cone

(B) Evidence the applicant determined canal condition before obturation

(C) Evidence the applicant verified sealer consistency and adequacy of coating

(2)Documentation the applicant demonstrated length control of obturation

(3) Documentation the applicant achieved dense obturation of filling material

(4) Documentation the applicant demonstrated obturation to a clinically appropriate coronal height

(f) Documentation the Applicant competently completed the endodontic case.

(1) Evidence the applicant achieved coronal seal to prevent re-contamination

(2) Evidence the applicant created diagnostic, radiographic and narrative documentation.

(g) Documentation the applicant provided recommendations for post-endodontic treatment

(1) Evidence the applicant recommended final restoration alternatives

(2) Evidence the applicant provided the patient with recommendations for outcome assessment and follow-up.

Section 1033.6 Periodontics

The periodontic portfolio section shall contain documentation that the applicant has satisfactorily completed a final assessment of his/her competency. The documentation shall be on a form prescribed by the board and signed by the designated dental school faculty. The documentation of the applicant's competency may include, but is not limited to the following:

(a) Documentation the applicant performed a comprehensive periodontal examination. The comprehensive periodontal examination may include, but is not limited to the following:

(1) Evidence the applicant reviewed the patient's medical and dental history.

(2) Evidence the applicant evaluated the patient's radiographs

(3) Evidence the applicant performed extra- and intra-oral examinations of the patient.

(4) Evidence the applicant performed comprehensive periodontal data collection

(A) Evidence the applicant evaluated the patient's plaque index, probing depths, bleeding on probing, suppurations, CEJ-GM, clinical attachment level tooth mobility and furcations

(B) Evidence the applicant performed an occlusal assessment

(b) Documentation the applicant diagnosed and developed a periodontal treatment plan that documents the following:

(1) The applicant determined the periodontal diagnosis

(2) The applicant formulated an initial periodontal treatment plan that the applicant:

(A) Determined to treat or refer the patient

(B) Discussed with patient the etiology, periodontal disease, benefits of treatment, consequences of no treatment, specific risk factors, and patient-specific oral hygiene instructions.

(C) Determined non surgical periodontal therapy.

(D) Determined need for re-evaluation

(E) Determined recall interval

(c) Documentation the applicant performed nonsurgical periodontal therapy that he/she:

(1) detected supra- and subgingival calculus

(2) performed periodontal instrumentation:

(A) Removed calculus

(B) Removed Plaque

(C) Removed stains

(3) Demonstrated that the applicant did not inflict excessive soft tissue trauma

(4)Demonstrated that the applicant provided the patient with anesthesia

(d) Documentation the applicant performed periodontal re-evaluation

(1) Evidence the applicant evaluated effectiveness of oral hygiene

(2) Evidence the applicant assessed periodontal outcomes:

(A) Reviewed the medical and dental history

(B) Reviewed the patient's radiographs

(C) Performance of comprehensive periodontal data collections (e. g. , evaluation of plaque index, probing depths, bleeding on probing, suppurations, CEJ-GM, clinical attachment level, furcations, and tooth mobility

(5) Evidence the applicant discussed with the patient his/her periodontal status as compared to the baseline, patient-specific oral hygiene instructions and modifications of specific risk factors

(6) Evidence the applicant determined further periodontal needs including need for referral to a Periodontist and periodontal surgery.

(7) Evidence the applicant established a recall interval for periodontal treatment.

Note: Authority Cited: 1614, Business and Professions Code. Referenence:

Section 1034. ~~Grading of Examinations Administered by the Board~~ Portfolio Final Review.

~~This section shall apply to the clinical and written examination administered by the board pursuant to Section 1632(c)(1) of the code.~~

~~(a) Each examiner shall grade independently. Examinations shall be anonymous. An anonymous examination is one conducted in accordance with procedures, including but not limited to those set forth below, which ensure and preserve the anonymity of examinees. The board shall randomly assign each examinee a number, and said examinee shall be known by that number throughout the entire examination. The grading area shall be separated from the examination area by barriers that block the grading examiners' view of examinees during the performance of the examination assignments. There shall be no communication between grading examiners and clinical floor examiners except for oral communications conducted in the presence of board staff. There shall be no communication between grading examiners and examinees except written communications on board approved forms.~~

~~(b) The final grade of each examinee shall be determined by averaging the grades obtained in:~~

~~(1) Endodontics;~~

~~(2) Removable prosthodontics evaluation examination;~~

~~(3) Periodontics;~~

~~(4) Amalgam restoration;~~

~~(5) Composite resin restoration; and~~

~~(6) Clinical simulated fixed prosthetics preparations.~~

~~(c) An examinee shall be deemed to have passed the examination if his or her overall average for the entire examination is at least 75% and the examinee has obtained a grade of 75% or more in at least four sections of the examination, except that an examinee shall not be deemed to have passed the examination if he or she receives a score of less than 75% in more than one section of the examination in which a patient is treated.~~

~~(d) The executive officer shall compile and summarize the grades attained by each examinee and establish the overall average of each examinee. He or she shall indicate on the records so compiled the names of those examinees who have passed or failed the examination and shall so notify each examinee.~~

(a) The board shall be responsible for review of the submitted portfolio to determine that it is complete and that the applicant has met the requirements for licensure by portfolio examination. The executive officer shall indicate on the records the names of those applicants who have satisfactorily passed their competency assessments and have completed portfolios approved by the board - and shall issue an initial license to enter dental practice

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1614, 1615, 1632, 1633 and 1634, Business and Professions Code.

Section 1035. ~~Examination Review Procedures; Appeals~~ Portfolio Examiner.
~~(a) An examinee who has failed an examination shall be provided with notice, upon written request, of those areas in which he/she is deficient in the clinical and restorative laboratory phases of such examination.~~

~~(b) An unsuccessful examinee who has been informed of the areas of deficiency in his/her performance on the clinical and restorative laboratory phases of the examination and who has determined that one or more of the following errors was made during the course of his/her examination and grading may appeal to the board within sixty (60) days following receipt of his/her examination results:~~

~~(1) Significant procedural error in the examination process;~~

~~(2) Evidence of adverse discrimination;~~

~~(3) Evidence of substantial disadvantage to the examinee.~~

~~Such appeal shall be made by means of a written letter specifying the grounds upon which the appeal is based. The board shall respond to the appeal in writing and may request a personal appearance by the examinee. The board shall thereafter take such action as it deems appropriate.~~

The following are the requirements to be appointed as a dental school faculty portfolio examiner:

(a) Each school shall submit to the board, at the beginning of the school year the names, credentials and qualifications of the dental school faculty appointed to conduct the portfolio examination. Documentation of qualifications shall include but is not limited to, evidence the dental school faculty examiner selected satisfies the dental school criteria and standards established by his/her school to conduct competency examinations. The school faculty examiner must have documented experience in conducting examinations in an objective manner. In addition to the names, credentials and qualifications the board approved school shall submit documentation the appointed dental school faculty examiners have been trained and calibrated in compliance with the Board's requirements. Changes to the school faculty examiners shall be reported to the Board. The school must provide the Board an annual updated list of their faculty examiners.
(b) The Board reserves the right to approve or disapprove dental school faculty portfolio examiners

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

Section 1035.1. ~~Clinical Periodontics Examination~~ Portfolio Examiner Standardization and Calibration.
Each school faculty portfolio examiner shall be trained as described below:

(a) School faculty examiners shall be trained to use a standardized evaluation system through didactic and experiential methods. Calibration of the school faculty examiners shall be conducted at least annually in conjunction with the usual and customary calibration course given to the school's competency examiners.

(b) School faculty examiners will receive hands-on training with feedback on their performance and how their scoring varies from their fellow examiner. This process is intended to enhance the examiner inter-rater reliability. An examiner whose error rate exceeds a prescribed level will be re-calibrated. If any examiner is unable to be re-calibrated, the Board may dismiss the examiner from the portfolio process.
(c) School faculty examiner training activities will include multiple examples of performance that clearly relate to the specific judgments that examiners are expected to provide during the competency examinations.

(d) Hands- on training sessions will include, but are not limited to, an overview of the rating process, examples of rating errors, examples of how to complete the grading forms, several sample cases in each of the competency domains, and ongoing feedback to individual examiners

(e)All school faculty examiners will be trained and calibrated to use the same rating criteria

(f) Training sessions will be conducted on an ongoing basis, with the expectations that examiners participating in the portfolio examination process will have opportunity to participate in competency examinations conducted at schools other than their own.

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Section 1632, Business and Professions Code.

Section 1036. Remedial Education.
An applicant, who fails to pass ~~the~~ a competency examination after ~~three~~ two attempts shall not be eligible for further re-examination until the applicant has successfully completed ~~the required additional education~~ remedial education in that competency.

(a) The remedial course work content shall be determined by his or her school and may include didactic, laboratory, or clinical patients to satisfy the board requirement for remediation before an additional portfolio competency examination may be taken ~~at a dental school approved by the Commission on Dental Accreditation or a comparable organization approved by the Board, and shall be completed within a period of one year from the date of notification of the applicant's third failure~~.

> ~~(1) The course of study must be didactic, laboratory or a combination of the two. Use of patients is optional.~~
>
> ~~(2) Instruction must be provided by a faculty member of a dental school approved by the Commission on Dental Accreditation or a comparable organization approved by the Board.~~
>
> ~~(3)) Pre-testing and post-testing must be part of the course of study.~~

(b) When an applicant applies for re-examination, he or she shall furnish evidence of successful completion of the remedial education requirements for re-examination. The remediation form must be signed and presented prior to re-examination.

~~(1) Evidence of successful completion must be on the certification of successful completion of remedial education requirements for re-examination eligibility (rev. 1) form that is provided by the board and submitted prior to the examination.~~

~~(2) The form must be signed and sealed by the Dean of the dental school providing the remedial education course.~~

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Section 1632.5, Business and Professions Code.

Section 1037. ~~Grading of Examinations~~ Audit of the Portfolio Competency Examination Process.

Each school's portfolio examination process shall be audited at least biennially by the board. An audit shall be confined to the portfolio examination process and may be an onsite or offsite review of the examination process. Members of the audit team shall remain objective and neutral to the interest of the school being audited. Members of the audit team shall in no way infringe on any school curriculum, administration or any other function and shall restrict their duties to reporting directly to the Board

(a) An audit team shall be comprised of faculty from the school and Board appointed auditors. Board appointed auditors may be former licensure examiners or other dentists licensed by the Board.

(b) Dentist appointed to the Board's audit team must have:

(1) A valid, active California dental licensee and

(2) No pending disciplinary action

(c) The audit team shall collect information about the administrative and psychometric aspects of the portfolio examination for the purpose of verifying compliance with the board's portfolio examination regulations.

(d) The audit team may conduct a site visit to verify portfolio documents and/or to clear up unresolved questions.

(e) The audit team's approach to evaluation of a school portfolio examination shall be standardized. Each school shall be asked standardized questions using criteria agreed upon by the schools and the board for evaluations.

(f) The audit team shall prepare a written report to the board that documents the strengths and weakness of each school's board portfolio examination process and provide recommendations for improvement.

(g) The Board shall provide the school with a report of the audit. In the event the audit identifies deficiencies, such deficiencies shall be noted in the report to the school.

(h) The school shall be given a sufficient amount of time to correct deficiencies. The board may conduct a second audit to ensure deficiencies have been corrected.

(i) Failure to correct deficiencies may result in suspension or withdrawal of the schools participation in the portfolio examination process.

(j) A school may be reinstated to participate in the portfolio examination process upon proof deficiencies have been corrected. The board shall conduct a follow-up audit within 120 days to verify deficiencies have been corrected.

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1614, 1615, 1632, 1633 and 1634, Business and Professions Code.

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
DENTAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
P 916-263-2300 F 916-263-2140 www.dbc.ca.gov

MEMORANDUM

DATE	October 26, 2010
TO	Dental Board Members Dental Board of California
FROM	Sarah Wallace Legislative & Regulatory Analyst
SUBJECT	**Agenda Item 14:** Reconsideration of and Possible Action Regarding Proposed Regulations to Implement the Department of Consumer Affairs Recommendations to Strengthen Enforcement Programs Pursuant to the Consumer Protection Enforcement Initiative (CPEI) – SB1111

Background:

During the May 6, 2010 Dental Board meeting, Gil DeLuna from the Department of Consumer Affairs stated that Senate Bill 1111, which carried the goals of the Consumer Protection Enforcement Initiative (CPEI) was heard before the Senate Business and Professions Committee and died in that committee. In the absence of SB 1111, Mr. DeLuna reported that the Department requested that Boards review the goals and initiate rulemakings to adopt many of the provisions of that bill through regulations. Mr. DeLuna distributed a list of nine items that the Department felt could be accomplished through regulations. The Board directed legal counsel to work with staff to determine which standards could be met with policy and/or regulatory changes. Board staff met with legal counsel on June 6, 2010 and discussed possible regulatory changes for the Board to consider. Staff prepared six items for the board to review at the July 26, 2010 Board meeting.

During the July 26, 2010 meeting, the Board reviewed the following items as possible regulatory changes:

1. Board delegation to Executive Officer approval to decide on stipulated settlements to revoke or surrender license;
2. Revocation for sexual misconduct;
3. Prohibition of confidentiality agreements regarding settlements;
4. Failure to provide information or cooperate in an investigation;
5. Failure to report an arrest, conviction, etc.;
6. Mandated psychological or medical evaluation of applicant

The Board currently has regulatory provisions for three of the nine items that the Department of Consumer Affairs felt could be accomplished through regulations. Those items are:

1. Denial of application for registered sex offender;
2. Failure to provide documents and 718(d) – Failure to comply with court order;
3. Sexual misconduct;

The Board discussed the possible policy revisions and made the following decisions:

Policy Revision #1:

- The Board rejected Policy Revision #1 relating to Board delegation of authority to the Executive Officer regarding stipulated settlements to revoke or surrender a license.

Policy Revision #2:

- The Board tabled Policy Revision #2 relating to revocation for sexual misconduct. The Board felt the suggested revision was too vague.

Policy Revision #3:

- The Board rejected subsection (a) of Policy Revision #3 relating to unprofessional conduct.
- The Board agreed with subsection (b) of Policy Revision #3 relating to unprofessional conduct.
- The Board agreed with subdivisions (c)(1), (c)(3), and (c)(4) and rejected subdivision (c)(2). The board requested more specific language to define "conviction" that is consistent with the past practice for applicants reporting convictions relating to unprofessional conduct.

Policy Revision #4:

- The Board tabled Policy Revision #4 relating to applicant psychological or medical evaluation.

Staff has revised the proposed policy revisions based on the Board's actions.

Staff Action Requested:

Discuss and reconsider the proposed revised regulatory changes based on the provisions introduced in Senate Bill 1111. Accept those proposed regulatory changes the Board deems necessary for public protection and direct staff to take all steps necessary to initiate the formal rulemaking process, authorize the Executive Officer to make any non-substantive changes to the rulemaking package, and set the proposed regulations for a public hearing.

SB 1111 (4/12/2010 version) Proposed Changes through Regulations

Business and Professions Code:

1. **§720.2(b) – Board delegation to Executive Officer regarding stipulated settlements to revoke or surrender license**: Permit the Board to delegate to the Executive Officer the authority to adopt a "stipulated settlement" if an action to revoke a license has been filed and the licensee agrees to surrender the license, without requiring the Board to vote to adopt the settlement. **Recommend: Amend 16 CCR 1403.0**

2. **§ 720.10 - Revocation for sexual misconduct:** Require an Administrative Law Judge (ALJ) who has issued a decision finding that a licensee engaged in any act of sexual contact with a patient or who has committed or been convicted of sexual misconduct to order revocation which may not be stayed. **Recommend: Amend regulations/disciplinary guidelines.**

3. **§720.12 – Denial of application for registered sex offender:** Require the Board to deny a license to an applicant or revoke the license of a licensee who is registered as a sex offender. **Recommend: Amend the regulations pertaining to applicant requirements and disciplinary guidelines.**

4. **§ 712.14 – Confidentiality agreements regarding settlements:** Confidentiality agreements regarding settlements can cause delay and thwart a Board's effort to investigate possible cases of misconduct, thereby preventing the Board from performing its most basic function – protection of the public. **Recommend: Define in regulation that participating in confidentiality agreements regarding settlements is unprofessional conduct.**

5. **§720.16(d) and (f) – Failure to provide documents and 718(d) – Failure to comply with court order:** Require a licensee to comply with a request for medical records or a court order issued to enforcement of a subpoena for medical records. Recommend: Define in regulation that failure to provide documents and noncompliance with a court order is unprofessional conduct.

6. **§720.32 – Psychological or medical evaluation of applicant:** Authorize the Board to order an applicant for licensure to be examined by a physician or psychologist if it appears that the applicant may be unable to safely practice the licensed profession due to a physical or mental illness; authorize the Board to deny the application if the applicant refuses to comply with the order; and prohibit the Board from issuing a license until it receives evidence of the applicant's ability to safely practice. **Recommend: Amend regulations pertaining to applicant requirements that a psychological or medical evaluation may be required.**

7. **§726(a) & (b) – Sexual misconduct:** Currently defined in B&P Code §726. **Recommend: Define in regulation that sexual misconduct is unprofessional conduct.**

8. **§737 – Failure to provide information or cooperate in an investigation:** Make it unprofessional conduct for a licensee to fail to furnish information in a timely manner or cooperate in a disciplinary investigation. **Recommend: Define in regulation that failure to provide information or cooperate in an investigation is unprofessional conduct.**

9. **§802.1 – Failure to report an arrest, conviction, etc.:** Require a licensee to report to the Board any felony indictment or charge or any felony or misdemeanor conviction. **Recommend: Define in regulation that failure to report an arrest, conviction, etc. is unprofessional conduct.**

Dental Board of California
Consumer Protection Enforcement Initiative
Possible Regulatory Changes

POLICY REVISION 1:
EXECUTIVE OFFICER DELEGATION

BOARD ACTION (7/26/10):
The Board rejected Policy Revision #1 relating to Board delegation of authority to the Executive Officer regarding stipulated settlements to revoke or surrender a license

Department of Consumer Affairs Regulatory Suggestion:
§720.2(b) – Board delegation to Executive Officer regarding stipulated settlements to revoke or surrender license: Permit the Board to delegate to the Executive Officer the authority to adopt a "stipulated settlement" if an action to revoke a license has been filed and the licensee agrees to surrender the license, without requiring the Board to vote to adopt the settlement. **Recommend: Amend regulations**

Dental Board of California Possible Amendment:
Amend Section 1001 of Division 10 of Title 16 of the California Code of Regulations to read:

§ 1001. Delegation to Board's Executive Officer.
(a) It shall be the duty of the Board's executive officer to plan, direct and organize the work of the staff; attend Board meetings and hearings; consult with and make recommendations to the Board; dictate correspondence; attend committee meetings of various organizations and associations; assist in compiling examination material; attend examinations and assist in conducting the examinations; notify applicants of their success or failure on examinations; and prepare reports and direct and supervise the field investigators concerning enforcement of the Act.

(b) The power and discretion conferred by law upon the board to initiate, review and prosecute accusations and statements of issues pursuant to Sections 11500 through 11528 of the Government Code ~~and to approve settlement agreements for the revocation, surrender or interim suspension of a license~~ are hereby delegated to and conferred upon the board's executive officer or in the absence thereof, the assistant executive officer.

Note: Authority cited: Section 1614, Business and Professions Code. Reference: Sections 1614 and 1670, Business and Professions Code; and Sections 11500-11528, Government Code.

~~*Rationale: This delegates authority to the Executive Officer as a mechanism to expedite the enforcement process.*~~

POLICY REVISION 2:
REVOCATION FOR SEXUAL MISCONDUCT

BOARD ACTION (7/26/10):
The Board tabled Policy Revision #2 relating to revocation for sexual misconduct. The Board felt the suggested revision was too vague.

This proposal would remove the discretion currently conferred upon the Administrative Law Judge to recommend to the board any penalty other than revocation for the below offenses. The adoption of this proposal would require the board to "non-adopt" or reject any decision on a case where it wished to impose anything less than revocation in cases where either: (a) sexual contact with a patient occurred, or, (b) when a licensee is convicted of a "sex offense" (as defined).

Options for addressing the board's concerns about vagueness include: removal of the references below to "sexual contact" as a basis for mandatory revocation and clarification of what "sex offense" means. The board may choose to (a) accept; (b) accept with amendments; or (c) reject this proposal.

The definition used in the proposed regulation for the words "sex offense" incorporate by reference the following specific Penal Code sections (see proposed section 1018 (b)(1) below):

Crimes requiring registration as a sex offender:
§ 220 - Assault with intent to commit mayhem, rape, sodomy, oral copulation, or other specified offense and commission of same acts in course of burglary of first degree

§ 243.4 - Sexual battery

§ 261 - Rape defined

§ 262(a) – Rape of a spouse where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person of another.

§ 264.1 - Rape or penetration of genital or anal openings by foreign object, etc.; acting in concert by force or violence; punishment

§ 266 - Inveiglement or enticement of unmarried female under 18 for purposes of prostitution, etc; aiding and abetting; procuring female for illicit intercourse by false pretenses; punishment.

§ 266c - Unlawful sexual intercourse, sexual penetration, oral copulation, or sodomy; consent procured by false or fraudulent representation with intent to create fear; punishment.

§ 266h(b) - Pimping and pimping a minor; punishment.

§ 266i(b) - Pandering and pandering with a minor; punishment.

§ 266j - Procurement of child under age 16 for lewd or lascivious acts; punishment.

§ 267 - Abduction; person under 18 for purpose of prostitution; punishment.

§ 269 - Aggravated sexual assault of a child; violation; penalty.

§ 285 - Incest

§ 286 - Sodomy; punishment.

§ 288 - Lewd or lascivious acts; penalties; psychological harm to victim.

§ 288a - Oral copulation; punishment.

§ 288.3 - Contact of minor with intent to commit sexual offense; punishment.

§ 273a - Willful harm or injury to a child; endangering person or health; punishment; conditions of probation.

§ 288.2 - Harmful matter sent with intent of seduction of a minor.

§ 313 - Definitions

§ 288.4 - Contact of minor with intent to commit sexual offense; punishment.

§ 288.5 - Continuous sexual abuse of a child.

§ 1203.066 - Lewd or lascivious acts or continuous sexual abuse of child under 14; probation, suspension of sentence, and striking of finding prohibited.

§ 288.7 - Sexual intercourse or sodomy with child 10 years of age or younger; punishment; oral copulation or sexual penetration of child 10 years of age or younger; punishment.

§ 289 - forcible acts of sexual penetration; punishment.

§ 311.1 - Sent or brought into state for sale or distribution; possessing, preparing, publishing, producing, developing, duplicating or printing within state; matter depicting sexual conduct by minor; penalty; application; telephone services.

§ 311.2(b-d) - Sending or bringing into state for sale or distribution; printing, exhibiting, distributing, exchanging or possessing within state; matter depicting sexual conduct by minor; transaction with minor; exemptions.

§ 311.3 - Sexual exploitation of child.

§ 311.4 - Employment or use of minor to perform prohibited acts; previous conviction; exception.

§ 311.10 - Advertising for sale or distribution obscene matter depicting a person under the age of 18 years engaging in or simulating sexual conduct; felony; punishment.

§ 311.11 - Possession or control of matter depicting minor engaging or simulating sexual conduct; punishment; previous conviction.

§ 647.6 - Annoying or molesting child under 18; punishment.

§ 653f(c) - soliciting commission of certain offenses; punishment; degree of proof.

§ 314 (1-2) - Lewd or obscene conduct; indecent exposure; obscene exhibitions; punishment.

§ 272 - Contributing to delinquency of persons under 18 years; persuading, luring, or transporting minors 12 years of age or younger.

Additional sexually-based crimes (see proposed section 1018(b)(2) below):
Penal Code § 261.5 - Unlawful sexual intercourse with person under 18; age of perpetrator; civil penalties.

Penal Code § 313.1 - Distribution or exhibition to minors; misrepresentation as parent or guardian; vending machines; blinder racks; adults only area; video recording alterations; distribution by telephone; defenses; confidentiality.

Penal Code § 647 - Disorderly conduct: every person (a) who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place open to the public or exposed to public view.

Department of Consumer Affairs Regulatory Suggestion:
§ 720.10 - Revocation for sexual misconduct: Require an Administrative Law Judge (ALJ) who has issued a decision finding that a licensee engaged in any act of sexual contact with a patient or who has committed or been convicted of sexual misconduct to order revocation which may not be stayed. **Recommend: Amend regulations/disciplinary guidelines.**

Dental Board of California Possible Amendment:
Amend Section 1018 of Division 10 of Title 16 of the California Code of Regulations to read:

(The proposed regulatory language for Disciplinary Guidelines is based on the most recent copy of modified text for our Proposed Disciplinary Guidelines Regulatory Package)

§ 1018. Disciplinary Guidelines.
In reaching a decision on a disciplinary action under the Administrative Procedures Act (Government Code Section 11400 et seq.), the Dental Board of California shall consider the disciplinary guidelines entitled "Dental Board of California Disciplinary Guidelines With Model Language", revised ~~04/28/2010~~ 11/4/2010 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of

probation, is appropriate where the Dental Board of California in its sole discretion determines that the facts of the particular case warrant such deviations - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(a) Notwithstanding the disciplinary guidelines, any proposed decision issued by an Administrative Law Judge in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any findings of fact that: ~~(1) the licensee engaged in any act of sexual contact with a patient, client or customer; or, (2)~~ the licensee has been convicted of or committed a sex offense, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license or placing the licensee on probation.

~~(b) Subdivision (a) shall not apply to sexual contact between a licentiate and his or her spouse or person in an equivalent domestic relationship when that licentiate provides services as a licentiate to his or her spouse or person in an equivalent domestic relationship.~~

~~(c)~~ (b) For the purposes of this section~~, "sexual contact" has the same meaning as defined in subdivision (c) of Section 729 of the Business and Professions Code and~~ "sex offense" ~~has the same meaning as defined in Section 44010 of the Education Code~~ shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code.

(2) Any offense defined in Section 261.5, 313.1, or 647 subsection (a) of the Penal Code.

Note: Authority cited: Section 1614, Business and Professions Code; and Sections 11400.20 and 11400.21, Government Code. Reference: Section 11400.20 and 11425.50(e), Government Code; Sections 726, 729 and 1687, Business and Professions Code; Sections 290, 261.5, 313.1, 647, Penal Code .

Rationale: A licensee who is found to have ~~engaged in sexual contact with a consumer or has~~ been convicted of a sex offense will have their license revoked without the possibility of probation to promote public safety and protection, unless the board, in its discretion, elects to impose a lesser penalty based upon the facts of the case.

POLICY REVISION 3:
UNPROFESSIONAL CONDUCT

BOARD ACTION (7/26/10):
The Board rejected subsection (a) of Policy Revision #3 relating to unprofessional conduct. The Board agreed with subsection (b) of Policy Revision #3 relating to unprofessional conduct. The Board agreed with subdivisions (c)(1), (c)(3), and (c)(4) and rejected subdivision (c)(2). The board requested more specific language to define "conviction" that is consistent with the past practice for applicants reporting convictions relating to unprofessional conduct.

Department of Consumer Affairs Regulatory Suggestions:
§ 712.14 – Confidentiality agreements regarding settlements: Confidentiality agreements regarding settlements can cause delay and thwart a Board's effort to investigate possible cases of misconduct, thereby preventing the Board from performing its most basic function – protection of the public. **Recommend: Define in regulation that participating in confidentiality agreements regarding settlements is unprofessional conduct.**

§737 – Failure to provide information or cooperate in an investigation: Make it unprofessional conduct for a licensee to fail to furnish information in a timely manner or cooperate in a disciplinary investigation. **Recommend: Define in regulation that failure to provide information or cooperate in an investigation is unprofessional conduct.**

§802.1 – Failure to report an arrest, conviction, etc.: Require a licensee to report to the Board any felony indictment or charge or any felony or misdemeanor conviction. **Recommend: Define in regulation that failure to report an arrest, conviction, etc. is unprofessional conduct.**

Dental Board of California Possible Addition:
Add Article 4.6 in Division 10 of Title 16 of the California Code of Regulations to read:

ARTICLE 4.6
Unprofessional Conduct

§ 1018.05 Unprofessional Conduct Defined.
In addition to those acts detailed in Business and Professions Code Sections 1680, 1681 and 1682, the following shall also constitute unprofessional conduct:

~~(a) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice, whether the agreement is made before or after the filing of an action:~~

~~(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board; or,~~

~~(2) A provision that requires another party to the dispute to attempt to withdraw a complaint the party has filed with the board.~~

~~(b)~~(a) Failure to provide records requested by the board within 15 days of the date of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause. For the purposes of this section, "good cause" includes physical inability to access the records in the time allowed due to illness or travel.

~~(c)~~(b) Failure to report to the board, within 30 days, any of the following:

(1) The bringing of an indictment or information charging a felony against the licensee.

~~(2) The arrest of the licensee.~~

~~(3)~~(2) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

~~(4)~~(3) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(4) For the purposes of this section, "conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere or "no contest" and any conviction that has been set aside or deferred pursuant to Sections 1000 or 1203.4 of the Penal Code, including infractions, misdemeanors, and felonies. "Conviction" does not include traffic infractions with a fine of less than one thousand dollars ($1,000) unless the infraction involved alcohol or controlled substances.

Note: Authority cited: 1614, Business and Professions Code. Reference: Sections 726, 1670, 1680, and 1687 Business and Professions Code.

Rationale: This section provides the Board with the means to expedite the enforcement process and provide better public protection. ~~Confidentiality agreements can potentially prolong and prevent investigations regarding a licensee's unprofessional conduct and~~ A licensee who does not provide information or cooperate can delay investigations. This proposal will also permit the Board to receive information regarding licensees who are ~~arrested~~ indicted, convicted of crimes, or disciplined in another state in advance of any information received from the Department of Justice (DOJ), the courts, or other agencies. This will enable the Board to more quickly investigate the underlying allegations and offenses and act accordingly.

POLICY REVISION 4:
APPLICANT PSYCHOLOGICAL OR MEDICAL EVALUATION

BOARD ACTION (7/26/10):
The Board tabled Policy Revision #4 relating to applicant psychological or medical evaluation.

Department of Consumer Affairs Regulatory Suggestion:
§720.32 – Psychological or medical evaluation of applicant: Authorize the Board to order an applicant for licensure to be examined by a physician or psychologist if it appears that the applicant may be unable to safely practice the licensed profession due to a physical or mental illness; authorize the Board to deny the application if the applicant refuses to comply with the order; and prohibit the Board from issuing a license until it receives evidence of the applicant's ability to safely practice. **Recommend: Amend regulations pertaining to applicant requirements that a psychological or medical evaluation may be required.**

Dental Board of California Possible Amendment:
Amend Section 1020 of Division 10 of Title 16 of the California Code of Regulations to read:

§ 1020. Application Review and Criteria for Evaluating Rehabilitation.
(a) In addition to any other requirements for licensure, when considering the approval of an application, the board or its designee may require an applicant to be examined by one or more physicians and surgeons or psychologists designated by the board if it appears that the applicant may be unable to safely practice due to mental illness or physical illness affecting competency. An applicant's failure to comply with the examination requirement shall render his or her application incomplete. The report of the examiners shall be made available to the applicant. The board shall pay the full cost of such examination. If after receiving the report of evaluation, the board determines that the applicant is unable to safely practice, the board may deny the application.

~~(a)~~(b) When considering the denial of a license under Section 480 of the Code, the board in evaluating the rehabilitation of the applicant and his present eligibility for a license, will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

~~(b)~~(c) When considering the suspension or revocation of a license on the grounds of conviction of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s);

(2) Total criminal record;

(3) The time that has elapsed since commission of the act(s) or offense(s);
(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee;

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code;

(6) Evidence, if any of rehabilitation submitted by the licensee.

~~(c)~~(d) When considering a petition for reinstatement of a license, the board shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subsection ~~(b)~~(c).

Note: Authority cited: Sections 482 and 1614, Business and Professions Code. Reference: Section 480, 482, 820, Business and Professions Code.

Rationale: this provides the board with the ability to have applicants examined by physicians and surgeons or psychologists if the applicant demonstrates that he may be unable to practice competently due to physical or mental illness to protect the consumers of dental services from the unsafe, incompetent, negligent or impaired dentists and dental auxiliaries,

ADDITIONAL DEPARTMENT OF CONSUMER AFFAIRS REGULATORY SUGGESTIONS

Department of Consumer Affairs Regulatory Suggestion:
§720.12 – Denial of application for registered sex offender: Require the Board to deny a license to an applicant or revoke the license of a licensee who is registered as a sex offender. **Recommend: Amend the regulations pertaining to applicant requirements and disciplinary guidelines.**

Dental Board of California Current Provision:
The Dental Board of California will not need to make a regulatory change because the Board is currently authorized pursuant to Business and Professions Code Section 1687 to deny the application or revoke the license of an individual who is registered as a sex offender.

1687. (a) Notwithstanding any other provision of law, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, or under federal law, the board shall be subject to the following requirements:

(1) The board shall deny an application by the individual for licensure pursuant to this chapter.

(2) If the individual is licensed under this chapter, the board shall revoke the license of the individual. The board shall not stay the revocation and place the license on probation.

(3) The board shall not reinstate or reissue the individual's licensure under this chapter. The board shall not issue a stay of license denial and place the license on probation.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under other provisions of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

Department of Consumer Affairs Regulatory Suggestion:
§720.16(d) and (f) – Failure to provide documents and 718(d) – Failure to comply with court order: Require a licensee to comply with a request for medical records or a court order issued to enforcement of a subpoena for medical records. Recommend: Define in regulation that failure to provide documents and noncompliance with a court order is unprofessional conduct.

Dental Board of California Current Provision:
The Dental Board of California will not need to make a regulatory change because the failure to comply with a court order is defined as unprofessional conduct in the Dental Practice Act pursuant to Business and Professions Code Section 1684.1(d).

1684.1(d) A failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

Department of Consumer Affairs Regulatory Suggestion:
§726(a) & (b) – Sexual misconduct: Currently defined in B&P Code §726. **Recommend: Define in regulation that sexual misconduct is unprofessional conduct.**

Dental Board of California Current Provision:
The Dental Board of California will not need to make a regulatory change because sexual misconduct is defined as unprofessional conduct in the Dental Practice Act pursuant to Business and Professions Code Section 1680(e).

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, any one of the following:
(e) The committing of any act or acts of sexual abuse, misconduct, or relations with a patient that are substantially related to the practice of dentistry.

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
DENTAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
P 916-263-2300 F 916-263-2140 www.dbc.ca.gov

MEMORANDUM

DATE	October 26, 2010
TO	Dental Board Members
FROM	Karen Fischer, Administrative Analyst Dental Board of California
SUBJECT	**Agenda Item 15:** Discussion and Possible Action to Implement DCA's Recommendations of the Substance Abuse Coordination Committee, Pursuant to SB 1441 for the Board's Diversion and Probation Monitoring Programs

This report will be hand carried to the meeting.

STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
DENTAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
P 916-263-2300 F 916-263-2140 www.dbc.ca.gov

MEMORANDUM

DATE	October 26, 2010
TO	Dental Board Members Dental Board of California
FROM	Sarah Wallace Legislative & Regulatory Analyst
SUBJECT	**Agenda Item 16:** Subcommittee's Report Regarding the Review of the Guidelines from the American Dental Association Relating to Use of Conscious Sedation, Use of Oral Conscious Sedation for Pediatrics Patients, and Use of Oral Conscious Sedation for Adult Patients to Determine if Statutory Amendments are Necessary

Background:
In October 2007, the American Dental Association (ADA) House of Delegates adopted the "Guidelines for the Use of Sedation and General Anesthesia by Dentists". Currently, the Dental Board of California governs the use of conscious sedation and oral conscious sedation through Business and Professions Code Sections 1647 to 1647.26.

During the July 26, 2010 board meeting, Dr. Whitcher and Dr. Le were appointed to a two-member subcommittee charged with the task of reviewing the ADA "Guidelines for the Use of Sedation and General Anesthesia by Dentists" and the current statutes and/or regulations governing the use of conscious sedation and oral conscious sedation. The subcommittee has prepared a comprehensive report for the board's review.

Updating the Dental Practice Act for Consistency With the ADA Guidelines for Use of Sedation and Anesthesia by Dentists

Report of the Dental Board Subcommittee

Bruce Whitcher, DDS and Huong Le, DDS October 2010

Introduction

This subcommittee report identifies the purpose and need for updating the laws and regulations related to general anesthesia and conscious sedation included in the California Dental Practice Act.

Background

The Dental Practice Act governs the use of sedation and general anesthesia by dentists in California. The first bill regulating the use of general anesthesia by dentists was enacted in 1979. Laws regulating conscious sedation followed in 1986 and oral conscious sedation in 2006. These laws and regulations have been periodically updated since inception, most recently in 2006.

In 2007, the American Dental Association House of Delegates adopted modified definitions of levels of anesthesia and sedation originally developed by the American Society of Anesthesiologists. The update was published as the *Guidelines for the Use of Sedation and General Anesthesia by Dentists.* The *Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students* were also adopted by the ADA that year. Approximately 14 states have adopted variations of the ADA Guidelines. The ADA Guidelines acknowledge that individual states have their own regulations and defer to state law where applicable.

According to the 2010 Dental Board of California Strategic Plan Goal 4, the Board should:

> "Complete and ongoing review of the Dental Practice Act (DPA) to update existing laws and regulations to ensure they continue to provide efficient and effective consumer protections"

> "Objectives: Identify areas within the DPA that potentially need updating; Complete regulations to update duties and practice settings."

A review of California's sedation and anesthesia laws is consistent with the strategic plan and provides an opportunity for the Dental Board to adopt nationally recognized standards. New techniques and technology have become available since the 2006 revision. An update would allow revision for any related changes. Reports in the literature generally indicate an excellent safety record for sedation and general anesthesia provided by dentists. Nevertheless there is always the potential to improve outcomes. Periodic updating of the regulations related to sedation and anesthesia may offer an opportunity to improve patient safety.

The Subcommittee conducted a comprehensive review of the laws and regulation related to sedation and anesthesia in the California Dental Practice Act. Although we found general consistency with the ADA Guidelines, the ADA definitions of levels of anesthesia and sedation more contemporary than those presently included in the Act. **Table 1** provides a comparison of California's definitions and the ADA definitions of levels of sedation and anesthesia. **Table 2** provides a comparison of educational standards for training of dentists in these techniques.

Review of ADA definitions of levels of sedation and anesthesia

Minimal sedation, as defined by the ADA Guidelines, is limited to the FDA recommended maximum dose of a single sedative medication recommended for unmonitored home use. Minimal sedation is not regulated by the California DPA.

Moderate enteral sedation, as defined by the ADA Guidelines is equivalent to Oral Conscious Sedation as defined by the California DPA.

Moderate parenteral sedation as defined by the ADA Guidelines is equivalent to Conscious Sedation as defined by the California DPA.

Deep sedation, as defined by the ADA Guidelines is mentioned but not specifically defined in the DPA; it is described as being part of the continuum of sedation.

General anesthesia, as defined by the ADA includes effects on the cardiovascular system; the California DPA describes effects on level of consciousness and protective reflexes.

Table 1

ADA Definition	California Definition	Comments
minimal sedation "a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond *normally* to tactile stimulation and verbal command." "Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected." "The drug(s) and/or techniques used should carry a margin of safety wide enough never to render unintended loss of consciousness. Further,patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of minimal sedation."	**oral conscious sedation** " a minimally depressed level of consciousness produced by oral medication that retains the patient's ability to maintain independently and continuously an airway, and respond appropriately to physical stimulation or verbal command." "The drugs and techniques used in oral conscious sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from painful stimuli would not be considered to be in a state of oral conscious sedation."	Oral conscious sedation as defined in California law includes moderate oral sedation as defined by the ADA and requires an adult or pediatric OCS permit. A CA oral conscious sedation permit is not required for dosages less than or equal to the single FDA maximum recommended dose for unmonitored home use. Addition of nitrous oxide/oxygen to a single dose of a sedative is within the ADA definition of minimal sedation; this does not require a permit in CA California law permits additional doses of oral agents and use of nitrous oxide as long as there is a safety margin to prevent unintended loss of consciousness.

moderate sedation "a drug-induced depression of consciousness during which patients respond *purposefully* to verbal commands, either alone or accompanied by light tactile stimulation." "No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained." " Drugs or techniques should maintain a margin of safety wide enough to render unintended loss of consciousness unlikely." "Repeated dosing of an agent before the effects of previous dosing can be fully appreciated may result in a greater alteration of the state of consciousness than is the intent of the dentist." "A patient whose only response is reflex withdrawal from a painful stimulus is not considered to be in a state of moderate sedation."	**(parenteral) conscious sedation)** "a minimally depressed level of consciousness produced by a pharmacologic or nonpharmacologic method, or a combination thereof, that retains the patient's ability to maintain independently and continuously an airway, and respond appropriately to physical stimulation or verbal command." "The drugs and techniques used in conscious sedation shall have a margin of safety wide enough to render unintended loss of consciousness unlikely." Further, patients whose only response is reflex withdrawal from painful stimuli shall not be considered to be in a state of conscious sedation.	In CA conscious sedation does not include the administration of oral medications or the administration of a mixture of nitrous oxide and oxygen, whether administered alone or in combination with each other.
deep sedation " a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained."		Deep sedation is not separately defined in California; it is described as part of a continuum.

general anesthesia " a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation." "The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug induced depression of neuromuscular function. Cardiovascular function may be impaired."	**general anesthesia** "a controlled state of depressed consciousness or unconsciousness, accompanied by partial or complete loss of protective reflexes, produced by a pharmacologic or nonpharmacologic method, or a combination thereof."	

Scope of Practice

The scope of practice for dentists who provide sedation and anesthesia in California are generally consistent with ADA educational guidelines, with some differences described below. The Subcommittee does not recommend any changes to scope of practice as defined by the present DPA permit categories.

Educational Standards

The California educational requirements for adult and pediatric oral conscious sedation, conscious sedation, and general anesthesia permits differ from the corresponding ADA educational guidelines in that for an OCS permit training, only one patient experience is required where the ADA recommends three patient experiences. The ADA Guidelines specify that additional experience should be required for pediatric patients. This is addressed by training requirements for California's OCS for Minors Certification. The ADA Guidelines incorporate American Academy of Pediatrics and American Academy of Pediatric Dentistry Guidelines for Procedural Sedation by reference. These guidelines include a recommendation for Pediatric Advanced Life Support training for individuals administering deep sedation and general anesthesia. The California DPA includes a requirement for continuing education as a condition of permit renewal. Educational Standards are compared in **Table 2.**

In response to the recognition of the importance of airway management, the American Dental Association and the American Dental Society of Anesthesiology have collaborated to develop an advanced airway management course. At this time the course is still under development. The Subcommittee recommends the course be considered as an additional requirement for appropriate permit categories once it becomes available.

Clinical Standards

The California DPA requires a periodic onsite inspection of drugs, facilities, equipment, a case demonstration and demonstration of simulated emergencies by conscious sedation and general anesthesia permit holders. The ADA Guidelines do not address such an onsite inspection. The ADA Guidelines recommend at least one additional person trained in BLS be present during the administration

of minimal and moderate sedation and that three persons be present during administration of deep sedation or general anesthesia. The California DPA requires that an adequate number of trained staff be present.

Table 2

ADA definition and training requirements	California definition and training requirements	Comments
Minimal sedation Completion of a BLS provider course; Inhalation sedation (nitrous oxide/oxygen) – 14 hours including a clinical competency component; usually completed in dental school; Minimal enteral or combination enteral/inhalation minimal – 16 hours plus clinically oriented experiences including airway management.		Minimal sedation, defined as an FDA approved dose for unmonitored home use does not require a permit in California. Training in the administration of nitrous oxide/oxygen is completed as part of the undergraduate dental curriculum
Moderate enteral sedation 24 hours of instruction plus at least 10 adult patient experiences; at least 3 live patient experiences in groups no larger than five; must demonstrate competency in airway management. For children 12 years of age and under, ADA supports American Academy of Pediatrics/American Academy of Pediatric Dentists *Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures,* and recommends additional training.	**Oral Conscious Sedation Certification for Adults/Minors** Completion of approved post doctoral or residency training; or, a board approved course that includes 25 hours of instruction including a clinical component utilizing at least one age-appropriate patient; training for either adult patients or minor patients (13 or younger); training requirements reference ADA, AAPD definitions of levels of sedation.	

Moderate parenteral sedation A minimum of 60 hours of instruction plus management of at least 20 patients using the intravenous route; clinical experience in managing a compromised airway is critical to prevention of emergencies; Management of children and medically compromised adults requires additional experience; course completion does not result in clinical competency	**(Parenteral) conscious sedation** At least 60 hours of instruction; satisfactory completion of at least 20 cases of administration of conscious sedation for a variety of dental procedures. Course must comply with the requirements of the *Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry* of the American Dental Association	
Deep sedation/general anesthesia Completion of an advanced education program accredited by the ADA Commission on Dental Accreditation in accord with the *Accreditation Standards* for advanced dental education programs.	**General anesthesia** Completion of: A residency program in general anesthesia of not less than one calendar year, that is approved by the board; or A graduate program in oral and maxillofacial surgery which has been approved by the Commission on Dental Accreditation.	As of 2007, CODA approves residency programs in dental anesthesiology.

Subcommittee Recommendations

The Subcommittee recommends revision of the Dental Practice Act sections related to general anesthesia and conscious sedation to improve clarity and where possible consistency with nationally recognized guidelines such as the ADA Guidelines. This will require both statutory and regulatory amendments. The last major revision to anesthesia and sedation regulations utilizing a task force approach was completed in 2006. Ideally such a revision would be completed every 5-7 years.

It is essential that any proposed changes be clearly stated and agreed to by all communities of interest. Stakeholders within the dental profession include general dentists, periodontists, endodontists, pediatric dentists, oral and maxillofacial surgeons, and dental anesthesiologists. It will be equally important to engage communities of interest outside of dentistry, including the medical and nursing professions and the public. If these proposed changes are to be developed by the Dental Board the subcommittee recommends the Board consider formation of a Task Force that will allow participation by stakeholders. This would require publicly noticed meetings and Board staff support.

As an alternative, a workgroup or task force could be hosted by the California Dental Association attended by Dental Board appointed representatives. This group would then present proposed changes for consideration and possible action by the Board.