



**DENTAL BOARD OF CALIFORNIA  
QUARTERLY BOARD MEETING MINUTES**

**FEBRUARY 7-8, 2019**

Embassy Suites by Hilton San Diego La Jolla  
4550 La Jolla Village Drive  
San Diego, California 92122

**Members Present:**

Fran Burton, MSW, Public Member, President  
Steven Morrow, DDS, MS, Vice President  
Steven Chan, DDS, Secretary  
Yvette Chappell-Ingram, MPA, Public Member  
Ross Lai, DDS  
Lilia Larin, DDS  
Huong Le, DDS, MA  
Meredith McKenzie, Public Member **(Absent February 8, 2019)**  
Abigail Medina, Public Member **(Absent February 8, 2019)**  
Rosalinda Olague, RDA, BA  
Joanne Pacheco, RDH, MAOB  
Thomas Stewart, DDS  
Bruce Whitcher, DDS  
James Yu, DDS, MS

**Staff Present:**

Karen M. Fischer, MPA, Executive Officer  
Sarah Wallace, Assistant Executive Officer  
Carlos Alvarez, Enforcement Chief  
Tina Vallery, Dental Assisting Manager  
Jocelyn Campos, Associate Governmental Program Analyst  
Spencer Walker, Legal Counsel

**THURSDAY, FEBRUARY 7, 2019**

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

The meeting was called to order by President Fran Burton at 9:05 a.m. Dr. Steve Chan, Board Secretary, called the roll and a quorum was established.

Agenda Item 2: Approval of November 29-30, 2018 Board Meeting Minutes

M/S/C (Whitcher/Chappell-Ingram) to approve the minutes with the following changes: last paragraph on page 5, correct spelling of last name - Dr. Guy Acheson; page 7, "After much discussion, the Board identified twelve questions to forward to the Rector of the School for a response." There was no public comment.

| Board Member:   | Aye: | Nay: | Abstain: | Absent: | Recusal: |
|-----------------|------|------|----------|---------|----------|
| Burton          | ✓    |      |          |         |          |
| Chan            | ✓    |      |          |         |          |
| Chappell-Ingram | ✓    |      |          |         |          |
| Lai             | ✓    |      |          |         |          |
| Larin           | ✓    |      |          |         |          |
| Le              | ✓    |      |          |         |          |
| McKenzie        | ✓    |      |          |         |          |
| Medina          | ✓    |      |          |         |          |
| Morrow          | ✓    |      |          |         |          |
| Olague          | ✓    |      |          |         |          |
| Pacheco         | ✓    |      |          |         |          |
| Stewart         | ✓    |      |          |         |          |
| Whitcher        | ✓    |      |          |         |          |
| Yu              | ✓    |      |          |         |          |

The motion passed and the minutes are approved with changes.

### Agenda Item 3: Board President Welcome and Report

President Burton welcomed attendees and mentioned that she was honored to serve as Board President this year. She mentioned that most board business this year will be centered around sunset review. She reminded members that the highest priority of the board is protection of the public. She asked that members continue to come prepared to every meeting to ensure a robust discussion prior to making decisions on agenda items. Ms. Burton reported on three meetings she had attended since the November meeting: Conference call with DCA Director Grafillo; Meeting with Agency to discuss preparation for sunset review and the regulatory process; and The Advisory Partnership for the Department of Public Health, Office of Oral Health met to review the two-year work plan and to make recommendations for the next two-year work plan.

Ms. Burton made a presentation on behalf of the Board to Dr. Tom Stewart, past president of the Dental Board for his service as President in 2018. Dr. Stewart was given a plaque of appreciation.

### Agenda Item 4: Report of the Department of Consumer Affairs (DCA) Staffing and Activities

DCA Director Dean Grafillo reported on activities of 2018: convened nine enforcement and licensing work group sessions to share best practices; hosted three Substance Abuse Coordination Committee meetings; held four Director's Quarterly meetings; and hosted two teleconferences with Board and Bureau leadership. Mr. Grafillo is looking for feedback on how to improve communication between Boards, Bureaus, and DCA. The DCA Annual Report is available now on line. He announced that the first Director's Quarterly meeting of 2019 will take place on February 25. The agenda will include information on the Executive Officer Salary Study and the new regulations unit. He also mentioned that 2019 is a mandatory reporting year for Sexual Harassment Prevention training. The training is available on-line. He also mentioned that ten boards will

undergo sunset review this year; and that the Dental Board has the full support of the Department during this process.

Agenda Item 5: Budget Report

Ms. Sarah Wallace, Assistant Executive Officer, gave the report on the dental fund. The expenditures in this report are based upon the budget report released by the Department of Consumer Affairs (DCA) in January 2019. This report reflects actual expenditures from July 1, 2018 to October 31, 2018. The Board spent roughly \$4.2 million or 30% of its total Dentistry Fund appropriation for FY 2018-19. Of that amount, approximately \$2.3 million of the expenditures were for Personnel Services and \$1.9 million were for Operating Expense & Equipment (OE&E) for this time period.

For the state dental assisting fund, the report reflects actual expenditures from July 1, 2018 to October 31, 2018. The Board spent roughly \$763,000 or 30% of its total Dental Assisting Fund appropriation for this time period. Of that amount, approximately \$323,000 of the expenditures were for Personnel Services and \$440,000 were for OE&E for this time period.

Ms. Wallace reported that several budget change proposals were submitted in the Governor’s 2019-20 budget. There are approximately 8.7 positions allocated to the Board in fiscal year 2019-20. There was no public comment.

Agenda Item 6: Discussion and Possible Action Regarding Appointments to the Dental Assisting Council (DAC)

Sarah Wallace reported that in May 2018, the Board appointed Cindy Friel Ovard, RDA, to fill the vacancy of one member who is employed as a faculty member of a RDA educational program approved by the Board. The term for the position in which Ms. Ovard was appointed expires in March 2019. Therefore, Board staff recommends Ms. Ovard be reappointed to the same position for a term of four (4) years expiring in March 2023.

M/S/C (Whitcher/McKenzie) to re-appoint Ms. Ovard to the DAC for a term of four years expiring in March 2023. There was no public comment.

| Board Member:   | Aye: | Nay: | Abstain: | Absent: | Recusal: |
|-----------------|------|------|----------|---------|----------|
| Burton          | ✓    |      |          |         |          |
| Chan            | ✓    |      |          |         |          |
| Chappell-Ingram | ✓    |      |          |         |          |
| Lai             | ✓    |      |          |         |          |
| Larin           | ✓    |      |          |         |          |
| Le              | ✓    |      |          |         |          |
| McKenzie        | ✓    |      |          |         |          |
| Medina          | ✓    |      |          |         |          |
| Morrow          | ✓    |      |          |         |          |
| Olague          | ✓    |      |          |         |          |
| Pacheco         | ✓    |      |          |         |          |
| Stewart         | ✓    |      |          |         |          |

|          |   |  |  |  |  |
|----------|---|--|--|--|--|
| Whitcher | ✓ |  |  |  |  |
| Yu       | ✓ |  |  |  |  |

The motion passed.

RECESSED TO CONVENE THE DENTAL ASSISTING COUNCIL (DAC) MEETING – SEE DAC Meeting Minutes.

RETURNED TO FULL BOARD OPEN SESSION AT 10:30 a.m.; took a 15 minute break. Reconvened at 10:45 a.m.

Agenda Item 7: Dental Assisting Council Meeting Report

Dr. Whitcher was asked by DAC Chair Jennifer Rodriguez to give the Council report. The DAC was called to order and established a quorum. The meeting minutes of November 29, 2018 were approved. The election of chair and vice chair was conducted. Jennifer Rodriguez will serve as Chair of the DAC and Rosalinda Olague will serve as Vice Chair. The DAC heard updates on dental assisting program and course applications and RDA program re-evaluations; dental assisting examination statistics; dental assisting licensing statistics; and development of the dental assisting comprehensive rulemaking proposal. There was public comment for items not on the agenda. Stakeholders expressed concerns with the RDA program audits that are currently being conducted by Board staff; offered suggestions for streamlining the audit of the RDA program; and asked that this issue be considered for discussion at a future meeting.

Agenda Item 8: Discussion and Possible Action Regarding the Response Received from the State University of Medicine and Pharmacy “Nicolae Testemitanu” of the Republic of Moldova’s Faculty (School) of Dentistry Relating to its Relationship with the University of Moldova USA Inc.

President Burton asked if there were any representatives from the University of Moldova USA Inc. (UMUSA) present at the meeting today. There were none. Ms. Burton explained the process for proceeding with the discussion. Board members were encouraged to pose any additional questions relating to the information that was provided in the board meeting materials. These questions will be forwarded to the State University of Medicine and Pharmacy “Nicolae Testemitanu” of the Republic of Moldova’s Faculty (School) of Dentistry for a response that will be considered at the May, 2019 meeting. Ms. Burton asked the Executive Officer for her comments before the discussion began. Ms. Fischer reported that a letter (dated February 5, 2019) from the Rector was being distributed to members. Board members had received an electronic copy of this letter prior to the meeting. Ms. Fischer reported that after reviewing the responses received from the School since the November meeting, she suggested the Rector consider whether or not his representatives should attend the May 2019 meeting instead of the February meeting. He responded that he agreed with that suggestion. At the same time, Ms. Fischer reported that she sent an email to retired Senator Polanco asking whether or not he would be attending the February meeting. There was no response. Additionally, Ms. Fischer asked the Rector to ensure that the officers of UMUSA Inc attend the February meeting. He indicated that he would do what he could.

Ms. Fischer provided the Board with a summary of where the Board left off in the discussion of the relationship between State University of Medicine and Pharmacy “Nicolae Testemitanu” of the Republic of Moldova’s Faculty of Dentistry (School) and the University of Moldova USA Inc. (UMUSA). At the November 29-30, 2018 meeting, the Board reviewed and discussed the response to the Board’s October 15, 2018 letter regarding its relationship with the University of Moldova USA Inc (UMUSA).

Senator Richard Polanco (retired) represented the School during the discussion in November; and additional questions arose that the School’s representative could not answer. Therefore, the Board determined that a letter would be sent to the School, outlining twelve additional questions. The letter, dated December 12, 2018, is included in the meeting material.

The following documentation was received by the Board since the November 2018 meeting and in response to the December 12<sup>th</sup> request for additional information:

- Six page letter to Executive Officer Fischer dated 1-14-2019 from Rector Ion Ababii in response to the Board’s December 12, 2018 request for further clarification
- Statement of Information – University of Moldova USA Inc
- Disclosures of Enrolling in the School of Dentistry of Nicolae Testemitanu or USMF
- Collaboration Agreement between the School and UMUSA dated 12-15-2016

Ms. Fischer outlined some of the highlights of the Rector’s response.

Rector Ababii’s letter indicates that the Board’s request for additional information is linked to the School’s marketing practice in California and its collaboration with UMUSA. The letter specifies that the School has *“self-control over all aspects of its dental training program ... Specifically the School retains full control over considering, evaluating, and admitting all students, creating and implementing its curriculum, and designing appropriate mechanisms to ensure that its admitted students receive the proper professional training.”* The letter goes on to say that UMUSA is a separate entity that provides no training or education and certainly has no control over the setting of the School’s policies.

Most of the Board’s questions were addressed and documentation was provided as requested except the following:

- The Board requested the UMUSA tax identification number and a copy of the federal and state tax returns filed in 2017 by UMUSA. The School responded that it is not in possession of this information nor does the School have access to the information.
- The School does not know how the officers of UMUSA are compensated.

The Rector's response to why the terms of the relationship between the School and UMUSA were never divulged during the site visit conducted by the Board in October 2016 is, in short, "you never asked". The School indicates that at no point did it intentionally withhold information regarding its affiliation with UMUSA from the California Dental Board during the site evaluation or in the application process.

Ms. Fischer commented that Rector Ababii was responsive to Board questions; and emphasized that the Site Evaluation Team (and therefore the Board) believes that the School has demonstrated compliance with the Board's educational standards. However, the question currently under consideration is why the relationship between the School and UMUSA was not mentioned during the Board's site visit; and has there been a violation of CCR 1024.8 relating to control and influence by an outside source of the School's dentistry program.

Dr. Morrow commented that the institutional standards for the School located in Moldova have been met and therefore the Board approved the School. However, the Board should be concerned with the changes that occurred after the approval was granted; and whether the relationship between the School and UMUSA represents a relinquishment of control or influence over the educational program. The Collaborative Agreement represents changes that have been made subsequent to the Site Team evaluation and the Board's approval; and was signed after the School received Board approval of its educational program.

Many provisions within the Collaboration Agreement indicate that UMUSA has been tasked with much more than what the School's letter provides. Board members reviewed the collaboration agreement between the School and UMUSA and have additional questions.

Dr. Morrow asked Legal Counsel if there is evidence to support that the collaborative agreement indicates there has been a shift in control. Legal Counsel responded that he believes there are numerous points within the collaboration agreement that indicate there has been a shift in control. Dr. Morrow indicated that he believes there are a number of provisions within the collaborative agreement that support control of the educational program has been relinquished to and/or are unduly influenced by a third party.

Legal Counsel indicated that the School should be given an opportunity to respond to each provision of the Collaboration Agreement and explain how each provision is tied to a marketing plan.

Executive Officer Fischer directed members to the General Provisions Section of the Collaboration Agreement that referenced a:

"training program approved by the Dental Council of California for the students in the IV-Vth year of study of the Faculty of Dentistry of USMF conducting the studies in English and who agreed to pay an additional fee approved by USMF

for the accomplishment of a study program approved by the Dental Council of California, additionally to the integrated higher education studies in order to obtain a certificate confirming the additional studies conducted, which shall allow the graduates of this program to participate in the examinations necessary in the state of California United States of America for the practice of dentistry on its territory.”

At no time was the site team presented with any information regarding this program. Moreover, the Board’s approval does not include it. Since CCR section 1024.8(a)(2) requires a foreign dental school to notify the board in writing of, among other things, a change in the school’s mission, purposes or objectives, the School is required to notify the Board of the change. When was this program established?

Dr. Chan commented that sections 2.1.8, 2.1.9, and 2.1.11 mention UMUSA opening a satellite dental practice where it will provide practical training of students. He feels this goes beyond marketing. Is UMUSA acting as a third party in providing dental education at this satellite clinic? Does the authorization by Moldova to allow UMUSA to open a satellite clinic to train students in California qualify as an extramural facility under CCR Section 1025? Dr. Chan went on to comment that there appears to be a strong contradiction between marketing and allowing practical dental training.

Dr. Witcher noted that there are references to a specific curriculum approved by the Dental Board. Dr. Witcher didn’t recall approving a different curriculum. What did the site team look at? Dr. Morrow responded that the Site Team evaluated the curriculum and training facilities for the education in Chisinau. The entire educational program was provided within the University and the University’s clinic. There was no portion of the training, either didactic or clinical, that was outside the Schools umbrella. Dr. Morrow went on to say that sending students out to community clinics requires a change in curriculum and an extramural permit from the Board. Changing curriculum requires prior notification to the Board and getting approval to change the curriculum. The Board has received no notification of a change to the curriculum or a change in the program. The Collaboration Agreement goes beyond what the Rector’s letter indicates UMUSA should be doing. What effect does the Collaboration Agreement have on compliance with the institutional standards? This is not what the Board approved. Dr. Morrow stated that supervision of students must be done by the faculty of the School in the extramural facility.

Dr. Le believes that the application should be considered invalid because the School did not disclose its relationship with UMUSA at the time of application. Did the Collaboration Agreement exist at the time of the site visit? Dr Le believes that UMUSA is an additional campus and does not qualify as an extramural facility. UMUSA will build a satellite campus for training. California students of the School will spend the last two years at the satellite campus.

Dr. Stewart agreed with all the comments made thus far and feels the School should be more responsive in explaining its intent to have a satellite clinic in California.

Dr Yu asked about the ranking of Moldova school? Executive Officer Fischer responded that it is a government school.

Dr. Chan pointed out that the Collaboration Agreement is for three years, but the approval of the School is for seven years. If the third party goes away after three years, what happens?

Dr. Morrow would like the Rector to attend the May 2019 meeting himself and explain item by item how that specific provisions of the Collaboration Agreement relates to marketing?

Dr. Lai has questions about UMUSA and with its financial relationship with USMF. He has questions about the taxes, where the money collected by UMUSA is going, the disparity between the actual tuition and how much UMUSA charges, how much does UMUSA receive? How are the funds being appropriated? The Board is being used as an endorsement for a private company.

Dr. Larin questioned the intention of setting up a satellite clinic as mentioned in section 2.1.8 of the Collaboration Agreement?

Dr. Morrow requested clarification of how the document entitled *“Acknowledgements and Disclosure of Enrolling in the School of Dentistry of Nicolae Testemitanu or USMF”* is considered marketing?

Dr. Le voiced her concern that there was an intentional omission in the application process that represents an ethical issue.

Ms. Medina asked if the Board is fully equipped to thoroughly look into this issue? She went on to suggest that the Board incorporate language into the application process allows for the approval to be pulled if documentation was not disclosed or purposely omitted.

M/S/C (Burton/Yu) to direct staff to send a letter to the School requesting that it 1) clarify each of the aforementioned provisions; 2) reconcile the School’s response with the Collaboration Agreement; 3) explain why the purpose of the *“Acknowledgements and Disclosures of Enrolling in the School of Dentistry of Nicolae Testemitanu or USMF”* contains a signature line for a representative of UMUSA; and 4) any additional information that the Board desires.

Dr. Whitcher requested reconciliation between the Schools response (the Rector’s letter) with the Collaboration Agreement. There was no public comment.

| Board Member:   | Aye: | Nay: | Abstain: | Absent: | Recusal: |
|-----------------|------|------|----------|---------|----------|
| Burton          | ✓    |      |          |         |          |
| Chan            | ✓    |      |          |         |          |
| Chappell-Ingram | ✓    |      |          |         |          |



|          |   |  |  |  |  |
|----------|---|--|--|--|--|
| Lai      | ✓ |  |  |  |  |
| Larin    | ✓ |  |  |  |  |
| Le       | ✓ |  |  |  |  |
| McKenzie | ✓ |  |  |  |  |
| Medina   | ✓ |  |  |  |  |
| Morrow   | ✓ |  |  |  |  |
| Olague   | ✓ |  |  |  |  |
| Pacheco  | ✓ |  |  |  |  |
| Stewart  | ✓ |  |  |  |  |
| Whitcher | ✓ |  |  |  |  |
| Yu       | ✓ |  |  |  |  |

The motion passed.  
 Recessed for lunch. Resumed meeting at 2pm.

Agenda Item 9A: Enforcement Statistics and Trends

Carlos Alvarez, Enforcement Chief, provided this report which is available in the meeting material published on the Board’s website. There was no public comment.

Agenda Item 9B: Update on the Attorney General’s Annual Report on Accusations Prosecuted for Department of Consumer Affairs Client Agencies in Compliance with Business and Professions Code Section 312.2 – January 1, 2019

Linda Schneider, Senior Assistant Attorney General, Licensing Section, Office of the Attorney General (AG) gave the update. Refer to the Board meeting material for the documentation discussed.

Agenda Item 10: Update on Pending Regulatory Packages:

Sarah Wallace, Assistant Executive Officer reported on the pending regulatory packages. Refer to the board meeting material for this information. No action taken. Dr. Stewart asked that there be a review of the regulatory process at a future meeting. Ms. Fischer acknowledged his request. Ms. Wallace commented that the next three agenda items are examples of initiating the regulatory (rulemaking) process. There was no public comment.

Agenda Item 10B: Discussion and Possible Action to Initiate a Rulemaking to Amend California Code of Regulations, Title 16, Sections 1019 and 1020 Relating to Substantial Relationship Criteria and Criteria for Evaluating Rehabilitation

Sarah Wallace, Assistant Executive Officer reported. This item is the result of legislation, AB 2138. Refer to the board meeting material for additional information and the specific language approved. There was no public comment.

M/S/C (Burton/Larin) to approve the proposed regulatory language relative to substantial relationship criteria and criteria for evaluating rehabilitation, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a

public hearing, and delegating authority to the Executive Officer to make any technical or non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, delegate authority to the Executive Officer to make any technical or non-substantive changes to the proposed regulations before completing the rulemaking process and adopt the proposed amendments to California Code of Regulations, Title 16, Section 1019 and 1020 as noticed in the proposed text.

| Board Member:   | Aye: | Nay: | Abstain: | Absent: | Recusal: |
|-----------------|------|------|----------|---------|----------|
| Burton          | ✓    |      |          |         |          |
| Chan            | ✓    |      |          |         |          |
| Chappell-Ingram | ✓    |      |          |         |          |
| Lai             | ✓    |      |          |         |          |
| Larin           | ✓    |      |          |         |          |
| Le              | ✓    |      |          |         |          |
| McKenzie        | ✓    |      |          |         |          |
| Medina          | ✓    |      |          |         |          |
| Morrow          | ✓    |      |          |         |          |
| Olague          | ✓    |      |          |         |          |
| Pacheco         | ✓    |      |          |         |          |
| Stewart         | ✓    |      |          |         |          |
| Whitcher        | ✓    |      |          |         |          |
| Yu              | ✓    |      |          |         |          |

The motion passed.

Agenda Item 10C: Discussion and Possible Action to Initiate a Rulemaking to Amend California Code of Regulations, Title 16, Section 1020.4 Relating to the Diversion Evaluation Committee Membership

Sarah Wallace, Assistant Executive Officer reported. This item is the result of a staff recommendation. Refer to the board meeting material for additional information and the specific language approved. Claudia Pohl, CDAA did not support the staff recommendation to remove the licensed dental auxiliary member and replace it with a public member.

M/S/C (Stewart/McKenzie) to approve the proposed regulatory language relative to the Diversion Evaluation Committee membership, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and delegating authority to the Executive Officer to make any technical or non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, delegate authority to the Executive Officer to make any technical or non-substantive changes to the proposed regulations before completing the rulemaking process and adopt the proposed amendments to California Code of Regulations, Title 16, Section 1020.4 as noticed in the proposed text.

| Board Member:   | Aye: | Nay: | Abstain: | Absent: | Recusal: |
|-----------------|------|------|----------|---------|----------|
| Burton          | ✓    |      |          |         |          |
| Chan            | ✓    |      |          |         |          |
| Chappell-Ingram | ✓    |      |          |         |          |
| Lai             | ✓    |      |          |         |          |
| Larin           | ✓    |      |          |         |          |
| Le              | ✓    |      |          |         |          |
| McKenzie        | ✓    |      |          |         |          |
| Medina          | ✓    |      |          |         |          |
| Morrow          | ✓    |      |          |         |          |
| Olague          | ✓    |      |          |         |          |
| Pacheco         | ✓    |      |          |         |          |
| Stewart         | ✓    |      |          |         |          |
| Whitcher        | ✓    |      |          |         |          |
| Yu              | ✓    |      |          |         |          |

The motion passed.

Agenda Item 10D: Discussion and Possible Action to Initiate a Rulemaking to Amend California Code of Regulations, Title 16, Sections 1031 Relating to the Passing Score for the Dentistry Law and Ethics Examination

Sarah Wallace, Assistant Executive Officer reported. This item is the result of a recommendation from the Office of Professional Examination Services (OPES). There was discussion and the Board changed the language to the following:

**Section 1031. Supplemental Examinations in California Law and Ethics.**

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

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

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

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

There was no public comment.

M/S/C (Burton/Chappell-Ingram) to approve the proposed regulatory language relative to the California Dentistry Law and Ethics Examination, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and delegating authority to the Executive Officer to make any technical or non-

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

| Board Member:   | Aye: | Nay: | Abstain: | Absent: | Recusal: |
|-----------------|------|------|----------|---------|----------|
| Burton          | ✓    |      |          |         |          |
| Chan            | ✓    |      |          |         |          |
| Chappell-Ingram | ✓    |      |          |         |          |
| Lai             |      | ✓    |          |         |          |
| Larin           | ✓    |      |          |         |          |
| Le              | ✓    |      |          |         |          |
| McKenzie        | ✓    |      |          |         |          |
| Medina          | ✓    |      |          |         |          |
| Morrow          | ✓    |      |          |         |          |
| Olague          | ✓    |      |          |         |          |
| Pacheco         | ✓    |      |          |         |          |
| Stewart         | ✓    |      |          |         |          |
| Whitcher        | ✓    |      |          |         |          |
| Yu              | ✓    |      |          |         |          |

The motion passed.

**RECESS TO CLOSED SESSION (Full Board and LCP Committee) at 3:50 pm.**

**Recess Until Friday, February 8, 2019**

**FRIDAY, FEBRUARY 8, 2019**

Agenda Item 11: Call to Order/Roll Call/Establishment of a Quorum

The meeting was called to order by President Fran Burton at 9:10 a.m. Dr. Steve Chan, Board Secretary, called the roll and a quorum was established.

Agenda Item 12: Executive Officer's Report

Executive Officer Karen Fischer reported on the new Board Committee assignments, budget for fiscal year 2019-20, on-line voting on discipline, Diversion contract preparation, meet and greet with Deputy Attorney General Daniel McGee, meetings with legislative staff to discuss sunset review issues, various meetings with Agency and CDA Government Affairs Council, teleconference with Dr. Friedrichson and Dr. Morrow regarding ADEA licensure proposal, update on AB 173 requirement to use special printers when ordering scheduled drugs, Governor's budget briefing with DCA Director's Office, completed a survey on executive officer salaries, and a staffing report – which included vacancies and new hires.

Agenda Item 13 Report of the Dental Hygiene Board of California (DHBC) Activities

Anthony Lum, Executive Officer of the DHBC, reported on their activities. The DHBC became a board on January 1, 2019 as a result of their Sunset Review legislation. In preparing for this change, the DHBC has been updating the BreEZe computer system, the Board's website, various documents, and correspondence documents. Additionally, the DHBC has been working on regulations. Mr. Lum provided an update regarding DHBC personnel and educational program evaluations. Ms. Fischer asked whether dental hygiene programs are accredited by the Commission on Dental Accreditation (CODA). Mr. Lum responded that they are all CODA approved and that the 27 schools are approved by the DHBC as well.

Dr. Whitcher asked whether the DHBC had given any thought to adopting CODA approval in lieu of the DHBC's own approval. Mr. Lum responded all of the DHBC's schools are accredited by CODA. Mr. Whitcher stated that CODA could potentially satisfy the standard and save the Board a substantial amount of work. Mr. Lum responded that they do and that their standards meet many of the requirements the DHBC requires; however, California law has more specific requirements that the schools need to comply with in addition to the CODA standards.

#### Agenda Item 14A: Update on the Portfolio Pathway to Licensure

Tina Vallery, Dental Assisting Licensing Manager, provided this report. Refer to the board meeting materials on the Board's website.

#### Agenda Item 14B: Western Regional Examination Board (WREB) Report

Huong Le, DDS, MA, provided a verbal report regarding the WREB examination. She attended the WREB Dental Examination Review Board (DERB) meeting on an annual basis. The last DERB meeting was in June 2018 and the next one will not take place until June 2019. There have been some minor changes in the WREB examination regarding the administration and scoring.

Dr. Norm Magnuson, immediate past president of WREB, provided a brief summary on what will be happening to the WREB Examination in 2019. Some of the few things that will change in 2019 include: provisional acceptance where students can send in their operative x-rays to WREB (the examiners can review them before the exam); a three-tenth penalty if a candidate had a patient approved from a floor examiner but did not use that patient for that procedure; and making the periodontics/prosthodontic sections optional for taking the WREB.

Dr. Chan asked what the process is to be able to apply to sit for the WREB given the unique position of California with the International schools. Dr. Magnuson replied that the general process is that a student must be in a dental school and if the Dean signs, the student can sit for the exam. A State Board can ask WREB to have a candidate sit for the exam. In this situation, the candidate will need to provide proof that they have gone through an educational program.

Dr. Morrow asked whether WREB has any data regarding the candidate pass rates of first, second, and third attempts, as well as data on candidates who have never passed

the WREB exam. Dr. Magnuson stated there are statistics available. As of now, the never pass rate is right at 2% to 2.5%. There are not many candidates that take it three times or more, but there are a few and they typically do not pass. The number has improved over the past 10 years (it was about 3% 10 years ago).

Dr. Larin asked whether candidates can retake the WREB exam an unlimited number of times. Dr. Magnuson stated that WREB has an automatic retake on certain sections. If a candidate continues to retake a certain section, they eventually might need to go through remediation. Remediation must be documented at the school with instructors and the student will need to complete the required hours and will have to do a specific number of procedures before they can retake the exam again with the Dean's and State's approval.

Agenda Item 14C: Discussion and Possible Action Regarding Requiring Successful Completion of Prosthodontics Section of WREB Examination to Qualify for Licensure in California

Karen Fischer, Executive Officer, provided this report which is available in the meeting materials published on the Board's web site. She reported that as of 2018 WREB students were allowed to opt in or out, depending on the licensure requirements of individual states, of taking the periodontics and prosthodontics sections of the WREB exam. The periodontics and prosthodontics sections were changed to become electives. Recently, the WREB score report now reflects the score for each individual section. Due to the fact that the WREB examination is not currently defined in our statute or regulations, staff will be using only the score for the 3 core sections of the exam as defined by WREB. If a student took prosthodontics and did not pass, they would not be considered as failing the WREB (since that section is optional). Ms. Fischer stated that California does not have specialty licensure. At some point, the Board will need to discuss whether it is important to define what competencies will need to be included for regional examinations.

Dr. Morrow asked whether the WREB exam is still considered approved if it has been changed. Ms. Fischer answered that the competencies have never been defined. Right now, statute authorizes the Board to accept WREB but the Board hasn't defined the competencies required. The exam is what WREB determines the exam to be and the Board has accepted that regardless of any changes that are made.

Dr. Morrow asked for clarification regarding the reason periodontics is made optional. Dr. Magnuson answered that the hard part with periodontics is that it is a high rate of passing; it does not have the psychometric review as operative or endodontics does. Periodontics does not have a high yield in terms of outcomes.

Gayle Mathe, CDA, asked for clarification regarding whether there is any part in Business and Professions Code Section 139 that assures or looks for equivalency between the examination licensure processes. Ms. Fischer stated that OPES will review WREB and complete a linkage study. OPES would review any regional exam that we

provide in California to determine whether that particular exam is psychometrically sound and legally defensible.

Lisa Okamoto, CDHA, asked whether the opt-in for the periodontics is not a requirement for California candidates and secondly if California candidates are required to opt in, what does this entail. Ms. Fischer answered that if candidates choose to take those sections, it would not be considered as failing WREB.

Agenda Item 15 A: Presentation Regarding Dental Licensure Examination Reform – Informational Only

David Lazarchik, DMD, Associate Dean at Western University, presented information regarding the American Dental Educators Association (ADEA) *Compendium of Clinical Competency Assessment* and the *Report of the Task Force on Assessment of Readiness for Practice*. The Board asked questions of Dr. Lazarchik. No action was taken.

Agenda Item 15B: Review of Dental Licensure and Permit Statistics

Tina Vallery, Dental Assisting Licensing Manager, provided this report which is available in the meeting materials published on the Board's web site. There was no public comment.

Agenda Item 15C: General Anesthesia and Conscious Sedation Permit Evaluation Statistics

Tina Vallery, Dental Assisting Licensing Manager, provided this report which is available in the meeting materials published on the Board's web site.

Dr. Lai asked how licensees find criteria on what they need to have before being evaluated. Dr. Whitcher stated that there is a standing posting on the Board's web site or they can contact the Board's evaluation coordinator, Jessica Olney.

Dr. Larin asked about the fees associated with obtaining a permit. Ms. Wallace stated that they range but that it is between \$500-\$600 and the re-evaluation fee is \$2,500.

Agenda Item 16 A: Diversion Program Report and Statistics

Carlos Alvarez, Enforcement Chief, provided this report which is available in the meeting materials published on the Board's web site.

Dr. Stewart asked if there is a standard length of participation in the program. Ms. Fischer stated that they shoot for five years, depending on how the participants are in the program. Oftentimes if it is a condition of probation; if there is an early termination of probation the participant oftentimes drop out of the program.

Agenda Item 16B: Discussion and Possible Action to Initiate a Rulemaking to Amend California Code of Regulations, Title 16, Sections 1016 and 1017 Relating to Continuing Education Requirements

Sarah Wallace, Assistant Executive Officer reported. This item is the result of legislation, SB 1109. Refer to the board meeting material for additional information and

the specific language approved. There was no public comment. There was discussion and the Board changed the language to Section 1017(a)(4) as follows:

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

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

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

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

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

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

M/S/C (Burton/Whitcher) approve the proposed regulatory language as amended relative to continuing education requirements for licensees, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and delegating authority to the Executive Officer to make any technical or non-substantive change to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, delegate authority to the Executive Officer to make any technical or non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed amendments to California Code of Regulations, Title 16, Section 1016, 1017 as noticed in the proposed text.

| Board Member:   | Aye: | Nay: | Abstain: | Absent: | Recusal: |
|-----------------|------|------|----------|---------|----------|
| Burton          | ✓    |      |          |         |          |
| Chan            | ✓    |      |          |         |          |
| Chappell-Ingram | ✓    |      |          |         |          |
| Lai             | ✓    |      |          |         |          |
| Larin           | ✓    |      |          |         |          |
| Le              | ✓    |      |          |         |          |
| McKenzie        |      |      |          | ✓       |          |
| Medina          |      |      |          | ✓       |          |
| Morrow          | ✓    |      |          |         |          |
| Olague          | ✓    |      |          |         |          |



|          |   |  |  |  |  |
|----------|---|--|--|--|--|
| Pacheco  | ✓ |  |  |  |  |
| Stewart  | ✓ |  |  |  |  |
| Whitcher | ✓ |  |  |  |  |
| Yu       | ✓ |  |  |  |  |

The motion passed.

Agenda Item 17A: 2019 Tentative Legislative Calendar – Information Only

President Burton reported on this item which is available in the meeting material published on the Board’s website. There was no public comment.

Agenda Item 17B: Discussion and Possible Action Regarding the Following Legislation:

Sarah Wallace, Assistant Executive Officer reported and provided a summary of legislation the Board is tracking. Refer to the Board meeting material for additional information and the specific bill language. The Board discussed the bills.

M/S/C (Burton/Morrow) to watch the following legislation:

- AB 149 (Cooper) Controlled Substances: Prescriptions
- AB 193 (Patterson) Professions and Vocations
- SB 53 (Wilk) Open Meetings
- SB 154 (Pan) Medi-Cal: Restorative Dental Services

| Board Member:   | Aye: | Nay: | Abstain: | Absent: | Recusal: |
|-----------------|------|------|----------|---------|----------|
| Burton          | ✓    |      |          |         |          |
| Chan            | ✓    |      |          |         |          |
| Chappell-Ingram | ✓    |      |          |         |          |
| Lai             | ✓    |      |          |         |          |
| Larin           | ✓    |      |          |         |          |
| Le              | ✓    |      |          |         |          |
| McKenzie        |      |      |          | ✓       |          |
| Medina          |      |      |          | ✓       |          |
| Morrow          | ✓    |      |          |         |          |
| Olague          | ✓    |      |          |         |          |
| Pacheco         | ✓    |      |          |         |          |
| Stewart         | ✓    |      |          |         |          |
| Whitcher        | ✓    |      |          |         |          |
| Yu              | ✓    |      |          |         |          |

The motion passed.

The was no public comment.

Agenda Item 17C: Discussion of Prospective Legislative Proposals

Sarah Wallace, Assistant Executive Officer, led this discussion. Stakeholders were encouraged to submit proposals and writing to the Board before or during the meeting for possible consideration by the Board at a future meeting. No proposals were submitted. There was no public comment.

Agenda Item 18: Licensing, Certifications, and Permits Committee Report on Closed Session

Dr. Ross Lai, Chair, reported that the Committee met in closed session and considered one application for issuance of a new dental license to replace a cancelled license. Dr. SGJ is approved for a new license to replace a cancelled license but first must take and pass the Dentistry Law and Ethics examination.

The Committee considered ten applications for issuance of a new RDA license to replace a cancelled license.

Applicants JAC, EH, KLJ, KDM, FMM, TDER, EES, TDZ were approved but must take the Registered Dental Assistant Combined (RDAC) examination prior to issuance of a new license. Applicants MC and CZ were approved without conditions.

M/S/C (Stewart/Larin) to accept the Committee report.

| Board Member:   | Aye: | Nay: | Abstain: | Absent: | Recusal: |
|-----------------|------|------|----------|---------|----------|
| Burton          | ✓    |      |          |         |          |
| Chan            | ✓    |      |          |         |          |
| Chappell-Ingram | ✓    |      |          |         |          |
| Lai             | ✓    |      |          |         |          |
| Larin           | ✓    |      |          |         |          |
| Le              | ✓    |      |          |         |          |
| McKenzie        |      |      |          | ✓       |          |
| Medina          |      |      |          | ✓       |          |
| Morrow          | ✓    |      |          |         |          |
| Olague          | ✓    |      |          |         |          |
| Pacheco         | ✓    |      |          |         |          |
| Stewart         | ✓    |      |          |         |          |
| Whitcher        | ✓    |      |          |         |          |
| Yu              | ✓    |      |          |         |          |

The motion passed.

Agenda Item 19: Public Comment on Items Not on the Agenda

No public comment.

Agenda Item 20: Board Member Comments on Items Not on the Agenda

Dr. Stewart requested the Board include a future agenda item relative to an overview or review of the Dental Practice Act Course and ethics education.

Dr. Whitcher commented that SB 1109 not only required CE related to opioid prescribing but included a requirement for informed consent when prescribing to minors.

Dr. Lai requested further discussion on teaching permits.

Ms. Fischer noted Board members had earlier requested a review of regional examinations to determine if the members want to outline competencies.

The meeting adjourned at approximately 12:30 pm.