



**DENTAL BOARD OF CALIFORNIA
TELECONFERENCE MEETING
MEETING MINUTES
THURSDAY, FEBRUARY 25, 2021**

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-29-20, dated March 17, 2020, the Dental Board of California (Board) met on February 25, 2021, via teleconference/WebEx Events, and no public locations or teleconference locations were provided.

Members Present:

Joanne Pacheco, RDH, MAOB, President
Rosalinda Olague, RDA, BA, Vice President
Alan Felsenfeld, DDS, MA, Secretary
Fran Burton, MSW, Public Member
Ross Lai, DDS
Lilia Larin, DDS
Meredith McKenzie, Esq., Public Member
Angelita Medina, Public Member
Mark Mendoza, Public Member
Sonia Molina, D.M.D., M.P.H.
Alicia Montell, DDS
Steven Morrow, DDS, MS
Thomas Stewart, DDS
James Yu, DDS, MS

Members Absent:

None.

Staff Present:

Karen M. Fischer, MPA, Executive Officer
Wilbert Rumbaoa, Administrative Services Unit Manager
Pahoua Thao, Administrative Analyst
Tara Welch, Board Counsel, Attorney III, Department of Consumer Affairs (DCA)

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

The Board President, Ms. Joanne Pacheco, called the meeting to order at 2:01 p.m. The Board Secretary, Dr. Alan Felsenfeld, called the roll; 14 members of the Board were present, and a quorum was established.

Agenda Item 2: Recess Open Meeting

At 2:13 p.m., the Board recessed to convene in closed session as a full Board to deliberate and vote on disciplinary matters.

Agenda Item 3: Convene Closed Session

At 2:13 p.m., the Board convened Closed Session.

Agenda Item 4: Pursuant to Government Code Section 11126(c)(3), the Board met in Closed Session to Deliberate and Vote on the Disciplinary Matters, Including Stipulations and Proposed Decisions

Agenda Item 5: Adjourn Closed Session

President Pacheco adjourned Closed Session at 3:19 p.m. The meeting recessed until February 26, 2021.



**DENTAL BOARD OF CALIFORNIA
TELECONFERENCE MEETING
MEETING MINUTES
FRIDAY, FEBRUARY 26, 2021**

NOTE: Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-29-20, dated March 17, 2020, the Dental Board of California (Board) met on February 26, 2021, via teleconference/WebEx Events, and no public locations nor teleconference locations were provided.

Members Present:

Joanne Pacheco, RDH, MAOB, President
Rosalinda Olague, RDA, BA, Vice President
Alan Felsenfeld, DDS, MA, Secretary
Fran Burton, MSW, Public Member
Ross Lai, DDS
Lilia Larin, DDS
Meredith McKenzie, Esq., Public Member
Angelita Medina, Public Member
Mark Mendoza, Public Member
Sonia Molina, D.M.D., M.P.H.
Alicia Montell, DDS
Steven Morrow, DDS, MS
Thomas Stewart, DDS
James Yu, DDS, MS

Members Absent:

None.

Staff Present:

Karen M. Fischer, MPA, Executive Officer
Sarah Wallace, Assistant Executive Officer
Carlos Alvarez, Chief of Enforcement Field Offices
Tina Vallery, Chief of Administration and Licensing
Wilbert Rumbaoa, Administrative Services Unit Manager
Jessica Olney, Anesthesia Unit Manager
Emilia Zuloaga, Dental Assisting Program Manager
Steve Long, Budget Analyst
Pahoua Thao, Administrative Analyst
Danielle Rogers, Regulatory Counsel, Attorney III, Department of Consumer Affairs (DCA)
Tara Welch, Board Counsel, Attorney III, DCA

Agenda Item 1: Establishment of a Quorum

The Board President, Ms. Joanne Pacheco, called the meeting to order at 9:06 a.m. The Board Secretary, Dr. Alan Felsenfeld, called the roll; 14 Board members were present, and a quorum was established.

Agenda Item 2: Public Comments on Items Not on the Agenda:

There were no public comments made for items not on the agenda.

Agenda Item 3: Discussion and Possible Action on December 3, 2020 and December 4, 2020 Board Meeting Minutes

Dr. Lilia Larin requested a revision to the December 4, 2020 meeting minutes, on page 14 of the meeting materials, under Agenda Item 16(c)ii, second paragraph, last line, to strike “not.”

The Board received public comment. Anthony Lum, Executive Officer of the Dental Hygiene Board of California, pointed out that, on page 9 of the meeting materials, under Agenda Item 6, second paragraph, seventh line, “Office of Professional Examination Services (OPES)” needed to be replaced with “Dental Hygiene Board of California.”

Motion/Second/Call (M/S/C) (Burton/Morrow) to approve the minutes with the following changes for the December 4, 2020: agenda item 6 of page 9, replace “Office of Professional Examination Services (OPES)” with “Dental Hygiene Board of California;” agenda item 16(c)ii of page 14, remove the word “not” towards the bottom of the page.

Ayes: Burton, Felsenfeld, Lai, Larin, McKenzie, Medina, Mendoza, Morrow, Molina, Montell, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed and the minutes were approved as revised.

Agenda Item 4: Board President Report

President Pacheco welcomed all attendees and reminded the Board of its mission to protect the public. She acknowledged Board staff for maintaining Board operations while maintaining flexibility in their changing work environment by the challenges presented by the Coronavirus (COVID-19) pandemic. She thanked Governor Newsom, the California Department of Public Health (CDPH), and the DCA Director, Ms. Kimberly Kirchmeyer for their leadership in facilitating the vaccination efforts for healthcare providers. She thanked the Board members for their confidence in nominating her, a dental hygienist, as the Board President. She reported that she attended DCA’s first President Training and committed to weekly checkup meetings with the Board’s Executive Officer. Additionally, she welcomed new Board member, Ms. Angelita Medina, to the Board. Ms. Medina provided a brief summary of her background. There were no public comments made on this item.

Agenda Item 5: Executive Officer's Report

Ms. Karen Fischer, Executive Officer, provided an update on the Open Meeting Act, impacts on the Board from COVID-19, personnel activities, DCA Waiver Orders, Governor Executive Orders, DCA, Office of Professional Examination Services (OPES) Policy 20-01 – relating to use of a subject matter experts in examination validation activities, Board member committee assignments for 2021, 2021 Dental Practice Act publication, the April 1, 2021 deadline to file Statements of Economic Interests Form 700, and the required Sexual Harassment Prevention Training for all Board members. Ms. Fischer addressed Board member's questions. There were no public comments made on this item.

Agenda Item 6: Update on "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, 2021

Mr. Carl Sonne, Senior Assistant Deputy Attorney General, Office of the Attorney General, provided a background and update on the Attorney General's Annual Report. Mr. Sonne reported the Board regulated 191,146 licensees in Fiscal Year (FY) 2018-19, with 16 license types. Most complaints received by the Board are investigated by the Board's own staff. Complaints may also be referred to the DCA, Division of Investigation, Investigations and Enforcement Unit when appropriate. The statute of limitations to file an accusation is generally three years from discovery of the act or omission charged in the accusation. Additionally, Mr. Sonne reported on the data specific to the Board found in the *Attorney General's Annual Report on Accusations Prosecuted for Department of Consumer Affairs Client Agencies, Business and Professions Code Section 312.2, January 1, 2021*. The report was included in the meeting materials. Mr. Sonne addressed Board member's questions. There were no public comments made on this item.

Agenda Item 7: Report on DCA Activities

Ms. Mary Kate Cruz Jones, DCA representative, thanked the Executive Officer and Board staff for maintaining customer service and protecting the public from the challenges faced by COVID-19. She reported on DCA's reopening plan to the public, public health measures for DCA workers, appointment of Ms. Monica N. Vargas as the new DCA, Deputy Director of Communications, appointment of Ms. Sarah Murillo as the DCA, Director of Administration, personnel activities, new WebEx Board Member Orientation Training on March 11, Executive Officer Cabinet – a group of executives who maintain regular communication for the DCA's board and bureaus, and the Enlightened Licensing Project – a work group utilizing subject matter experts within DCA to help streamline a more effective and efficient licensing process. There were no public comments made on this item.

Agenda Item 8: Update Regarding California Northstate University, College of Dental Medicine Accreditation by Commission on Dental Accreditation (CODA)

Dr. Kevin Keating, Dean and Professor at California Northstate University, College of Dental Medicine, was unavailable to report on the Update Regarding California

Northstate University, College of Dental Medicine Accreditation by CODA. The report will be provided a future meeting. There were no public comments made on this item.

Agenda Item 9: Budget Report

Mr. Steve Long, DCA Budget Analyst, provided a report on the State Dentistry Fund the Board manages for the FY 2020-21. As of November 30, 2020, the Board spent approximately \$5.9 million of its total State Dentistry appropriation. Of that amount, approximately \$3.2 million of the expenditures were for Personnel Services and \$2.7 million were for Operating Expense and Equipment.

Dr. Ross Lai asked how the Board was able to achieve the Employee Cost Saving of 10 percent. Mr. Long reported that it was from a salary reduction in exchange of 16 hours of personal leave time per month for employees. There were no public comments made on this item.

At 10:30 a.m., the Board recessed for a break.

At 10:45 a.m., the Board reconvened to open session.

Agenda Item 10: Discussion and Possible Action on Extending Strategic Plan Through 2021

Ms. Fischer provided the report, which is available in the meeting materials.

(M/S/C) (Morrow/Stewart) to extend the Board's Strategic Plan through 2021.

Ayes: Burton, Felsenfeld, Lai, Larin, McKenzie, Medina, Mendoza, Morrow, Molina, Montell, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments made on this item.

Agenda Item 11: Dental Assisting Council Meeting Report

Ms. Jeri Fowler, Vice Chair of the Dental Assisting Council (DAC), provided a verbal report of the meeting. She reported on the election of DAC Chair, Ms. Melina Cazares, and Vice Chair, Ms. Jeri Fowler, update on dental assisting programs and courses, overview of registered dental assistant (RDA) program re-evaluations, update on dental assisting examination statistics, update on dental assisting licensing statistics, presentation on Dental Assistant Pathway and Smile Crew California by Andres Bjork, Vice President of CDA, Strategic Intelligence and Analytics, discussion regarding potential amendments to Business and Professions Code (BPC) section 1750, Infection Control Course Requirements for Unlicensed Dental Assistants, presentation by DCA, OPES regarding Examination Development and Validation Processes, OPES presentation on RDA Written Examination Pass Rates, and update regarding the

RDAEF Examination. After discussing potential changes to BPC section 1750 regarding Infection Control, the DAC directed staff to bring back the agenda item for a future DAC meeting.

Dr. Steven Morrow welcomed and congratulated Ms. Fowler as Vice Chair of the DAC.

(M/S/C) (Morrow/Stewart) to accept the Dental Assisting Council Meeting report.

Ayes: Burton, Felsenfeld, Lai, Larin, McKenzie, Medina, Mendoza, Morrow, Molina, Montell, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments made on this item.

Agenda Item 12: Enforcement – Review of Statistics and Trends

Mr. Carlos Alvarez, Chief of Enforcement Field Offices, provided the report, which is available in the meeting materials.

Dr. Larin thanked Mr. Alvarez and asked if there have been any complaints relating to COVID-19. Mr. Alvarez responded that the unit has not received any complaints and CDPH would handle COVID-19 related cases. Dr. Morrow asked the difference between sworn and non-sworn cases. Mr. Alvarez responded that the Board has peace officers who handle the more sensitive (sworn) cases, whereas the non-sworn investigators handle the quality care cases. Dr. Thomas Stewart asked for clarification on inspection process since inspectors are prohibited from going into the field. Mr. Alvarez responded that the investigators are conducting inspections over the phone. There were no public comments made on this item.

Agenda Item 13 Substance Use Awareness

Agenda Item 13(a): Diversion Program Report and Statistics

Mr. Alvarez provided the report, which is available in the meeting materials. There were no public comments made on this item.

Agenda Item 13(b): Controlled Substance Utilization Review and Evaluation System (CURES) Report

Mr. Alvarez provided the report, which is available in the meeting materials.

Dr. Morrow asked if Mr. Alvarez can determine how many active licensed dentists are practicing in California. Mr. Alvarez responded that he is unsure, but the licensing unit can determine who is practicing in state and out of state. Dr. Felsenfeld asked for clarification on the type of providers who are prescribing the Schedule II prescriptions shown in the meeting materials. Mr. Alvarez responded the data reflects numbers

collected from all healthcare providers across California. There were no public comments made on this item.

Agenda Item 13(c): Update on Assembly Bill (AB) 528 (Low, Chapter 677, Statutes of 2019) Controlled Substances: CURES Database – New Reporting Requirements for Dispensed Controlled Substances

Mr. Alvarez provided the report, which is available in the meeting materials.

Dr. Lai asked for clarification on whether a smaller quantity of prescriptions prescribed must be reported. Mr. Alvarez responded that all controlled substance prescriptions must be reported as part of the requirement. Dr. Sonia Molina asked who is responsible for reporting to CURES. Mr. Alvarez responded that the licensee who is prescribing the medication is responsible for reporting. Dr. Larin inquired how do ESL (English as a Second Language) consumers report complaints on the Board's website. Mr. Alvarez responded that there are English and Spanish complaint forms on the Board's website. Additionally, the DCA has a telephone line for translators to assist ESL consumers who would like to make a complaint. There were no public comments made on this item.

Agenda Item 13(d): Update on AB 149 (Cooper, Chapter 4, Statutes of 2019) Controlled Substances: Prescriptions – New Requirement for Controlled Substances Prescription Forms

Mr. Alvarez provided the report, which is available in the meeting materials.

Dr. Lai asked how providers can apply for e-scripts and if the e-script automatically gets reported to CURES. Mr. Alvarez responded that he can bring back more information at a future meeting regarding how licensees can use e-scripts to prescribe medication. Mr. Alvarez stated that the licensee will still have to report to CURES after prescribing via e-script. There were no public comments made on this item.

At 11:45 a.m., the Board recessed for lunch.

At 12:15 p.m., the Board reconvened to open session.

Agenda Item 14: Examinations

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

Dr. Mark Christensen, Assistant Director of Dental Examinations for WREB, provided an update regarding the WREB examination and passing rates. Dr. Christensen addressed Board member's questions.

The Board received public comment. Ms. Megan Utter, a potential license application from Iowa, asked for the Board and WREB's consideration to accommodate licensure pathways for dental specialist providers to address the inability to travel due to COVID-19 restrictions.

Agenda Item 14(b): American Board of Dental Examiners (ADEX) Report

Dr. William Pappas, President of ADEX, and Dr. Guy Shampaine, former Chief Executive Officer of ADEX, provided an update and presentation regarding the ADEX examination and passing rates. Dr. Pappas and Dr. Shampaine addressed Board member's questions. There were no public comments made on this item.

Agenda Item 15: Licensing, Certifications, and Permits

Agenda Item 15(a): Review of Dental Licensure and Permit Statistics

Ms. Jessica Olney, Anesthesia Unit Manager, provided the report, which is available in the meeting materials. Ms. Olney addressed Board member's questions.

The Board received public comment. Ms. Kelsie Pittel, a public member, pointed out that the total dental licenses issued through the ADEX pathway in the meeting materials is inaccurate.

Agenda Item 15(b): General Anesthesia and Conscious Sedation Permit Evaluation Statistics

Ms. Olney provided the report, which is available in the meeting materials.

The Board received public comment. Dr. Whitcher pointed out there is an increase in number of evaluations scheduled.

Agenda Item 15(c): Update on Implementation of Senate Bill (SB) 501 (Glazer, Chapter 929, Statutes of 2018) Dentistry: Anesthesia and Sedation: Report

Ms. Olney the report, which is available in the meeting materials.

The Board received public comment. Dr. Whitcher pointed out the bill enacted an unrealistic timeframe within which to implement the provisions, so the implementation of SB 501 will not make the January 1, 2022 deadline.

Agenda Item 15(d): Update on AB 2113 (Low, Chapter 186, Statutes of 2020) Refugees, Asylees and Special Immigrant Visa Holders: Professional Licensing: Initial Licensure Process

Ms. Olney provided the report, which is available in the meeting materials.

Dr. Alicia Montell asked for clarification on the classification codes "SI" or "SQ". Ms. Olney responded that the more information will be provided at a future meeting. There were no public comments made on this item.

Agenda Item 15(e): Update Regarding Paperless Renewals Beginning July 1, 2021

Ms. Olney provided the report, which is available in the meeting materials. There were no public comments made on this item.

At 1:40 p.m., the Board recessed for break.

At 1:55 p.m., Board reconvened to open session.

Agenda Item 16: Legislation – Update, Discussion, and Possible Action on:

Agenda Item 16(a): 2021 Tentative Legislative Calendar

Ms. Fran Burton provided an overview of the 2021 Tentative Legislative Calendar, which is available in the meeting materials. Ms. Burton reported that Senator Richard Roth is the new Chair and Senator Melissa Melendez is the new Vice Chair for the Senate Business, Professions and Economic Development Committee. There were no public comments made on this item.

Agenda Item 16(b): SB 102 (Melendez, 2020) COVID-19 Emergency Order Violation: License Revocation

Ms. Burton provided the report and informed the Board that SB 102 was amended and no longer pertains to the Board. There were no public comments made on this item.

Agenda Item 16(c): Board Legislative Proposals

Mr. Wilbert Rumbaoa, Administrative Services Unit Manager, provided the report, which is available in the meeting materials. Since the posting of the meeting materials, Ms. Sarah Wallace, Assistant Executive Officer, provided an update that Senator Richard Roth introduced SB 607 on February 19, 2021, which included the Board's proposal to eliminate the RDAEF practical and clinical exam. The bill will be presented at a future Board meeting.

The Board received public comment. Dr. Witcher suggested a language clean up to include the continuing education requirement for the legislative proposal relating to the Pediatric Minimal Sedation Permit.

Agenda Item 16(d): California Dental Association's (CDA) Legislative Proposals for 2021

Mr. Rumbaoa provided a brief background regarding AB 526. Ms. Mary McCune, Director of Community Programs and Regulatory Affairs at CDA, was available to provide a report on the bill and addressed Board member's questions. Ms. Burton suggested the Board not take a position on the bill since amendments can still be made to it as it has not been heard in committee.

Dr. Felsenfeld commented in support of the bill. There were no public comments made on this item.

Agenda Item 16(e): Prospective Legislative Proposals

There were no stakeholder proposals presented to the Board and no public comments made on this item.

Agenda Item 17: Regulations

Agenda Item 17(a): Review and Consideration of Comments Received During the 45-day Comment Period and Proposed Responses Thereto for the Board's Proposed Rulemaking to Amend California Code of Regulations, Title 16, Section 1020.4 Relating to Diversion Evaluation Committee Membership Rulemaking

Mr. Rumbaoa reported that the Board previously approved regulatory language to update requirements for membership for the Board's Diversion Evaluation Committee (DEC) and the limits on terms of service for DEC members at its February 7-8, 2019 meeting. Specifically, the language would:

1. Amend California Code of Regulations (CCR), title 16, section 1020.4(a) to no longer require one licensed dental auxiliary and to increase the number of public members to two instead of one; and
2. Amend CCR, title 16, section 1020.4(c) to delete the limitation for DEC members to only serve two four-year terms.

The Board noticed the regulation proposal on November 20, 2020, and gave the public 45 days to provide public comment ending on January 5, 2021. No public hearing was requested or conducted.

One public comment letter was received by email on November 22, 2020, from Dr. Thien Vu on the proposed amendments to CCR, title 16, section 1020.4. Dr. Vu's letter stated disapproval of the proposed regulations because they will remove the term limits for serving on the DEC, which will result in DEC members serving for too long and not being responsive to the needs of the public interest which they serve. The commenter believes that the positions have not been adequately advertised and that such adequate advertising would negate the need for this rulemaking. The commenter asserts that having a guaranteed position on the DEC will "foster complacent [sic] and trading favors."

Board staff reviewed and considered the comment, and recommended no amendments to the language based thereon. The Board proposed the amendments to CCR, title 16, section 1020.4 because the Board has had substantial difficulty maintaining complete membership of the DEC. Removing the term limitation will allow DEC members to complete their important work without ending the members' terms when they are still willing to serve. The Board found the concern that DEC members who serve too long will be "complacent and trading favors" unfounded. The DEC only makes decisions regarding individual licensees who have voluntarily come to the DEC for help with substance abuse problems, and does not make decisions regarding policy or spending. DEC members are also required to file annual statements of economic interest, which is the standard transparency disclosure required of all elected officials and public employees who make or influence governmental decisions.

Furthermore, the Board has the power to remove a DEC member who is failing in their duties on the DEC. The DEC has not had complete membership in several years. There is turnover in the dentist and therapist positions and in the public member positions. However, there have been no dental auxiliary members on the DEC for multiple years. The purpose of the proposed amendments is to open up the dental auxiliary positions to the public to increase the likelihood of finding suitable candidates. This proposal would not preclude dental auxiliaries taking these positions, and the Board would continue to seek dental auxiliaries for these positions.

The manner in which the Board has advertised these positions has not been the chief impediment to filling these positions. The Board has advertised for all vacancies on the Board's website. This method has been successful in recruiting members for other DEC positions.

The Board has experienced turnover in membership for the dentist, therapist, and public member positions, but successfully refilled those positions. The dental auxiliary positions have remained unapplied for and unfilled for multiple years. This indicated that the manner of advertising these positions is not the primary impediment to filling them.

As described in the Initial Statement of Reasons, the problem with filling these positions turns on the structural differences between the dental auxiliary position and the other positions. Individuals holding other positions may have professional reasons for experience with substance abuse and are more likely to be highly compensated professionals (as dentists and therapists, for instance) and business owners. Auxiliaries tend to have lower salaries, must coordinate their schedules with their employers, and may be concerned about their employers knowing about their experience with substance abuse. For these reasons, the DEC has had substantially more difficulty filling these positions than the other DEC positions. This is a motivating factor behind this proposed rulemaking.

(M/S/C) (McKenzie/Stewart) to accept staff's recommended response to the comments relating to the Diversion Evaluation Committee Membership Rulemaking.

Ayes: Burton, Felsenfeld, Lai, Larin, McKenzie, Medina, Morrow, Molina, Montell, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: Mendoza.

Recusals: None.

The motion passed. There were no public comments made on this item.

Agenda Item 17(b): Adoption of Proposed Amendments to California Code of Regulations, Title 16, Section 1020.4 Relating to Diversion Evaluation Committee Membership Rulemaking

Mr. Rumbaoa provided an overview of the agenda item which is available in the meeting materials on the Board's website. Based on the actions taken in the previous agenda item, the Board took the following action:

(M/S/C) (McKenzie/Yu) to approve the recommended response to the comment, and direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law and authorize the Executive Officer to make any 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 relating to diversion evaluation committee membership rulemaking as noticed in the proposed text.

Ayes: Burton, Felsenfeld, Lai, Larin, McKenzie, Medina, Mendoza, Morrow, Molina, Montell, Olague, Pacheco, Stewart, Yu.

Nays: None.

Abstentions: None.

Absent: None.

Recusals: None.

The motion passed. There were no public comments made on this item.

Agenda Item 17(c): Update on Pending Regulatory Packages

Mr. Rumbaoa provided the report, which is available in the meeting materials. There were no public comments made on this item.

Agenda Item 18: Adjournment

President Pacheco adjourned the meeting at 2:48 p.m.