



**DENTAL BOARD OF CALIFORNIA
MEETING MINUTES
May 18-19, 2023**

The Dental Board of California (Board) met on May 18-19, 2023, with the following location available for Board and public member participation:

Hilton Anaheim
777 W. Convention Way
Anaheim, CA 92802

Members Present:

Alan Felsenfeld, MA, DDS, President
Joanne Pacheco, RDH, MAOB, Vice President
Lilia Larin, DDS, Secretary
Steven Chan, DDS
Joni Forge, DDS
Meredith McKenzie, Esq., Public Member
Sonia Molina, DMD, MPH
Rosalinda Olague, RDA, BA
Yogita Thakur, DDS, MS

Members Absent:

Angelita Medina, MHS, Public Member
James Yu, DDS, MS

Staff Present:

Tracy A. Montez, Ph.D., Executive Officer
Carlos Alvarez, Chief of Enforcement Field Offices
Paige Ragali, Chief of Dental Programs and Customer Support
Jessica Olney, Anesthesia Unit Manager
Wilbert Rumbaoa, Administrative Services Unit Manager
Patrick Morrissey, Supervisory Investigator
David Bruggeman, Legislative and Regulatory Specialist
Paul De La Cruz, Investigator
Jeanette De Lira, Investigator
Bernice Santa Ana, Investigator
Mirela Taran, Administrative Analyst
Thomas Tortorici, Investigator
Melissa Gear, Deputy Director, Board and Bureau Relations, Department of Consumer Affairs (DCA)
Alex Cristescu, Office of Public Affairs, DCA

Dental Board of California
May 18-19, 2023 Meeting Minutes

Kristy Schieldge, Regulatory Counsel, Attorney IV, Legal Affairs Division, DCA (via telephone)
Tara Welch, Board Counsel, Attorney IV, Legal Affairs Division, DCA

10:30 a.m., Thursday, May 18, 2023

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

The Board President, Dr. Alan Felsenfeld, called the meeting to order at 11:05 p.m. The Board Secretary, Dr. Lilia Larin, called the roll; eight Board Members were present, and a quorum was established. Board Members Angelita Medina, MHS, and James Yu, DDS, MS, were absent. Board Member Rosalinda Olague joined the meeting after roll call at 11:26 a.m.

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

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

Agenda Item 3: Discussion and Possible Action on February 9-10, 2023 Board Meeting Minutes

Motion/Second/Call (M/S/C) (Chan/Molina) to adopt the February 9-10, 2023 meeting minutes.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Pacheco, Thakur.

Nays: None.

Abstentions: None.

Absent: Medina, Olague, Yu.

Recusals: None.

The motion passed.

Agenda Item 4: Board President Report

President Felsenfeld reported that he continually works with Dr. Tracy Montez on a regular basis to get through some of the issues that the Board has to deal with and voiced that he attended the Board Member Orientation Training (BMOT) with Board Vice President, Joanne Pacheco, in February. President Felsenfeld noted that he has had the opportunity in March of 2023 to present at the California Dental Society of Anesthesiology (CDSA) to speak on anesthesia changes of Senate Bill (SB) 501. During his presentation, he expressed that the Board is in need more anesthesia evaluators and noted that since then, there has been a list of individuals willing to help.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Board Member Sonia Molina verbalized that there is an error on the anesthesia portion of the newsletter where only two of the following methods were mentioned where it states any dentist with patients who are undergoing deep sedation or general anesthesia need to do at least three of the two following methods. President Felsenfeld replied that that will be looked at and corrected.

Agenda Item 5: Executive Officer Report

Dr. Tracy Montez shared that she has weekly calls with President Felsenfeld to inform him of Board operations and items for future agendas and that she meets both with President Felsenfeld and Vice President Pacheco prior to Board meetings to review agenda items and discuss them in preparation for the meeting. She voiced that she also meets with DCA director, chief deputy director, and Board and Bureau Relations deputy director and keeps them apprised of activities as well as seeking their guidance. Dr. Montez noted that Board staff presented at the California Dental Assistants Association (CDAA) and California Association of Dental Assisting Teachers (CADAT) Conference on April 21, 2023 and attended a community resource fair in Fresno, organized by Assembly Member Arambula, on April 25, 2023, to help educate the public about dental services and how to file complaints if necessary. She communicated that the Board is back on Twitter and that staff is working closely with DCA Communications Division to assist with tweets and help with monitoring that so that it is done in a professional and appropriate manner. She provided a report on the Board's 2022-2025 Strategic Plan, the Board's newsletter which was released in May, and staffing updates.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 6: Report on Department of Consumer Affairs Activities, which may include updates on the Department's Administrative Services, Human Resources, Enforcement, Information Technology, Communications and Outreach, as well as Legislative, Regulatory, and Policy Matters

Melissa Gear provided a departmental update. She expressed that since 2017 the state of California has participated in Public Service Recognition Week to express appreciation for civil servants and the essential work they do. DCA celebrated from May 13 through 17 with a department-wide appreciation message to staff, highlighted staff testimonials via social media, and ended the week with a video highlighting employee service. She thanked the Board and their dedicated staff for their daily hard work and everything they do throughout. She disclosed that legislation passed last year amending provisions of Bagley-Keene Open Meeting Act to extend the ability of state bodies such as DCA's Boards and Bureaus to conduct public meetings virtually through July 1, 2023. Absent the passing of new legislation to extend these provisions, DCA Boards and Bureaus will not be allowed to conduct meetings virtually after this date. DCA is aware of legislation recently introduced, SB 544 (Laird, 2023), which removes certain

teleconference requirements from the Open Meeting Act. The bill, taking effect on January 1, 2024, was recently amended to do the following: 1) require members of a state body participating remotely to disclose whether any individuals 18 years of age or older are present in the room at the remote location and if there is such an individual, the relationship with that individual must also be disclosed and 2) require state bodies to enter or adjourn a meeting upon discovering that a means of remote participation required by the bill has failed and cannot be restored. She noted that boards and bureaus should be prepared to conduct public meetings in person in the interim beginning July 1, 2023. Ms. Gear voiced that on January 5, 2023, a new federal law took effect that enables service members and their spouses who hold professional licenses in a different state to practice in California within the same professional discipline and at a similar scope of practice if they are required to relocate to California due to their military orders. Since becoming aware of the new law, DCA has been collaborating with Agency on how best to implement it. Ms. Gear addressed required Board Member trainings, travel expense claims, recent DCA Diversity, Equity, and Inclusion (DEI) efforts, and DCA'S 2021-2022 Annual Report.

Dr. Montez shared that the Board's Assistant Executive Officer, Christy Bell, has staff-wide training for DEI scheduled for June 2023.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 7: Report on Dental Hygiene Board of California Activities

Anthony Lum, Executive Officer of the DHBC, provided a verbal report on their activities.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 8: Budget Report

Wilbert Rumbaoa provided a report on the State Dentistry Fund, which the Board manages, for fiscal year (FY) 2022-23. Mr. Rumbaoa conveyed that the Board projects revenues of 18.6 million and that approximately 3.1 million is projected from the initial examination and permitting fees and 14.6 million from the renewal fees. In terms of the Board's expenditures for this FY, as of Fiscal Month 9, which is through March 2023, is projected to be 18.5 million. Mr. Rumbaoa disclosed that expenditure predictions as with revenue projections may change with actual returns in the remaining fiscal months. Based on reports received by DCA, the Board is projected to revert approximately 1.2 million by the end of FY 22/23. This has changed from previous reports as the Board has been filling vacancies and there are increased attorney general costs. He noted that the Board in conjunction with the Budget Office will continue to monitor these expenditures and revenues and report back to the Board with monthly projection as the future fiscal months close.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 9: Enforcement

Agenda Item 9.a.: Review of Statistics and Trends

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

President Felsenfeld noted that it is phenomenal that the statistics show that in six months about 660 complaints have come through and that 80-97% of them were dealt with only few trickling up the ladder. Mr. Alvarez replied that the Board's Complaint and Compliance Unit (CCU) and Chief of CCU, Owen Dudley, have contributed to this percentage. He mentioned that the supervisors and chiefs meet frequently to bring consistency to the enforcement program and improve timelines in order to protect consumers. To provide consistency, Mr. Alvarez voiced that Board staff is updating its letters that are being sent out to consumers and subject matter experts (SMEs).

Board Member Molina thanked Mr. Alvarez for the presentation that he gave to Los Angeles Dental Society. She voiced that it was enlightening and appreciated as a substantial amount of the dentists did not understand the process.

President Felsenfeld noted that as the Board's highest priority is protection of the health of the public, this would make enforcement the highest priority as that is what is going to protect the health of the public.

Mr. Alvarez disclosed in May of 2023, he was invited to do a presentation for the Los Angeles Dental Society to speak on the Board's enforcement program, which begins in the CCU Unit. He went over the process, how many complaints are received, how complaints are recorded, how staff receives these complaints, origin of the complaint, and the Board Member's involvement in the complaint process. He mentioned that when the enforcement or investigative staff go out into the field, their primary duty is to merely collect evidence and also help the physicians.

Board Member Yogita Thakur voiced that it would be a great idea to record presentations and have it available on the Board's webpage for the public to refer to.

President Felsenfeld requested public comment on this item. The Board received public comment.

Shari Becker, representing herself, voiced that it would be helpful to know some of the breakdown of the categories of the complaints, such as if they were more administratively or clinically based, and who was involved with the complaints.

Agenda Item 9.b.: Update from Enforcement Committee – Ms. Pacheco, RDH, MAOB

Vice President Pacheco provided the report, which is available in the meeting materials.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 10: Substance Use Awareness

Agenda Item 10.a.: Diversion Program Report and Statistics

Mr. Alvarez provided the report, which is available in the meeting materials. He indicated that a new participant was accepted into the program and one participant was terminated for non-compliance and that the next Diversion Evaluation Committee (DEC) meeting was scheduled for July 12, 2023 which will take place in Orange County.

Secretary Larin asked what kind of prescriptions constitute Prescription Positive Tests for FY 21/22. Mr. Alvarez responded that he would find that information out.

Board Member Steven Chan asked whether it is relevant to include in the report the financial impact of what the Board's costs are for the Diversion Program. Dr. Montez asked for clarification on whether Board Member Chan is referring to dental program costs, the cost to administer the program, or to have the committee. Board Member Chan disclosed that a few years ago the Board went through the request for a proposal for different companies to administer this program and that the Board incurs a cost for it. He suggested that if the operating cost exceeds the participants, the Board needs to re-look at the program. Dr. Montez replied that Board staff will do some research and work with budgets to get an assessment of that.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 10.b.: Controlled Substance Utilization Review and Evaluation System Report

Mr. Alvarez provided the report, which is available in the meeting materials. He communicated that one of the new things that is in the report is the number of Inbound Interstate Searches, which is a great tool to help reduce the misuse of opioids. Currently, the states who are involved in this are Oregon, Nevada, and Arizona. The platform is up but currently is not being collected and the Department of Justice (DOJ) is waiting to see if other states are going to participate in the Inbound Interstate Searches for Controlled Substance Utilization Review and Evaluation System (CURES).

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 11: Licensing, Certifications, and Permits

Agenda Item 11.a.: Update on Dental Licensure and Permit Statistics

Paige Ragali provided the report, which is available in the meeting materials. She pointed out that Board staff have determined that the number of applications received for Western Regional Examining Board (WREB) and American Board of Dental

Examiners (ADEX) may change for the current quarter as staff have noticed applicants are submitting applications via the WREB pathway that are actually intended for ADEX.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 12: Report on April 26, 2023 Meeting of the Elective Facial Cosmetic Surgery Permit Credentialing Committee

Ms. Ragali provided the report, which is available in the meeting materials. A brief background on the Elective Facial Cosmetic Surgery (EFCS) Permit and EFCS Committee was provided.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 13: Dental Assisting Council Meeting Report

(Agenda Item 13 was presented out of order on May 19, 2023. The order of business conducted herein follows the publicly noticed Board meeting Agenda.)

Traci Reed-Espinoza, Chair of the Dental Assisting Council (DAC), provided a verbal report on the May 18, 2023 DAC meeting.

Ms. Welch noted additional issues regarding Assembly Bill (AB) 481 (Wendy Carrillo, 2023) that were raised during the DAC meeting, such as concern for staff time spent reviewing certificates showing 300 hours of courses and dental assisting related topics for the preceptee pathway. She stated that California Code of Regulations (CCR), title 16, section 1016 subsection (g), authorizes continuing education (CE) credits to be issued in half hour increments, so Board staff could have to review 600 CE certificates to ensure that the applicant has eligibility under this requirement. She also raised concern of how the staff time for this review would be covered by the application fees for this pathway. Therefore, Board staff felt that for this particular pathway, the application fee should be higher than the application fee for the other types of pathways. She stated that change would need to be made in Business and Professions Code (BPC) Section 1725, with a corresponding regulation change in CCR, title 16, section 1022 for the RDA application. Ms. Welch expressed that as regulations are currently taking at least two years to implement, until a fee is set for that RDA pathway, the Board would not be able to issue licenses for that pathway. She stated that an alternative would be to set the fee in the statute for that pathway, so that the license could be issued upon the effective date of the bill. She noted another concern was authorizing scanning and imaging in proposed BPC Section 1750.1, subdivision (a). She stated that currently, intraoral impressions performed by unlicensed dental assistants require direct supervision of a dentist. This bill would change that and move intraoral impressions to be effectively performed through digital scanning under general supervision. She voiced that there is a consumer protection concern there of whether it is appropriate for unlicensed dental assistants to be performing digital intraoral impressions for

orthodontic appliances. She also noted that proposed BPC section 1750.1, subdivision (a)(1) contradicted itself because it would authorize an unlicensed dental assistant to perform the scanning and imaging for orthodontic records only. She explained that if a dental assist performed the scan, it typically would be a diagnostic tool to be used for the dentist to diagnose, create a written treatment plan, then use that written treatment plan for fabrication and manufacture of the orthodontic appliance. Ms. Welch stated that this duty was really important because it sets up the ultimate orthodontic appliance that would be placed in the patient's mouth. She reported that Mary McCune, with the California Dental Association (CDA), indicated that the bill was going to be amended to completely strike the provisions for scanning and imaging.

Dr. Montez clarified that the Board does 30 audits per month and that the number of site visits is to be determined.

President Felsenfeld requested public comment on this item. The Board received public comment.

Ms. Becker, representing the Dental Assisting Alliance (Alliance), consisting of CDAA, CADAT, and the California Extended Functions Association (CEFA), expressed that in regard to Agenda Item 8 from the May 18, 2023 DAC meeting regarding the proposed repeal of BPC section 1742, as the current Council structure requires Board staff to schedule Council meetings, coordinate Council member travel, and prepare Council meeting agendas and associated materials all separate from the quarterly Board meetings, it was said that these actions are burdensome and costly. In addressing that, she indicated that this is the Board's charge to coordinate meetings. If the cost was the main issue, they suggested raising the fees, as the fees have not been raised since 2016. Additionally, she noted that the DAC was formed to replace the Committee on Dental Auxiliaries (COMDA) and to have representation for all dental assisting to include the unlicensed dental assistant, Registered Dental Assistants (RDAs), Registered Dental Assistants in Extended Functions (RDAEFs), Orthodontic Assistants (OAs), Dental Sedation Assistants (DSAs), and educators. She stated the proposed language to have two RDAs on the Board would not adequately represent all areas of dental assisting and fulfill the duties of the seven-person DAC. She noted that an appointed two-person committee representing dental assisting potentially introduces lack of transparency, especially with no public notice, effective communication, and lack of expertise, including the breadth of experience. The Alliance strongly opposed this change. However, it supported the motion presented by the DAC to retain the DAC and add the two additional RDAs to the Board.

Esther Cruz, representing herself as an RDA, commented that she would like to add language to proposed BPC section 1750.1 in radiology dental assistant allowable topics, radiology proper technique, extraoral, and 3D imaging, with an addition of CE requirement added to the regulation. She stated that currently, there is no radiology CE, and there was an increase in missed diagnostic areas of concern in California. She stated that the proper role in meeting the standard of care for proper interpretation of

imaging includes either transcribing the dentist finding or transferring the images. Ms. Cruz continued that the practice is responsible for assuring Health Insurance Portability and Accountability Act (HIPAA) compliance in all correspondence via web portal, including 45 Code of Federal Regulations (CFR) 164.50(e) of the Privacy regulations, and 45 CFR 164.314 (a), HIPAA of 1996. She stated that all data collected by the equipment must be encrypted and securely stored to prevent unauthorized access, and AB 481 should require all dental professionals and staff to be properly trained on data security protocols to ensure the safety of patient data. Additionally, she stated AB 481 provided a clear process for reporting and addressing any potential data breaches including timely notification and affected parties; the bill should further ensure that no data will be transferred without the user's consent as required by HIPAA regulations. She stated the dental radiology equipment bill should be dedicated to ensuring the privacy and security of user data and hold accountable any individuals and organizations found violating these provisions.

Agenda Item 14: Update, Discussion, and Possible Action on Appointment to Dental Assisting Council

Dr. Montez provided the report, which is available in the meeting materials.

(M/S/C) (Molina/Olague) to reappoint Jeri Fowler, RDAEF, OA, as the Dental Assisting Council (DAC) member employed as a faculty member of an RDA educational program approved by the Board for a term of four years expiring in March 2027.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None.

Abstentions: None.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

Agenda Item 15: Anesthesia and Sedation

Agenda Item 15.a.: General Anesthesia and Sedation Permits: Inspections and Evaluations Statistics

Jessica Olney provided the report, which is available in the meeting materials. She disclosed that Board staff have been contacting newly licensed moderate sedation permit holders to schedule evaluations and that statistics will be provided at the August Board meeting. Since the memorandum was finalized, the Board did have one

moderate sedation permit evaluation which resulted in a failure. The candidate has been notified and has not requested a reevaluation thus far.

Board Member Molina mentioned that the newsletter discloses the number of units that are required per permit type and lists seven units for Oral Conscious Sedation – Adult (OCS-A) permit. She voiced that that it is no longer effective. Ms. Olney responded that the Oral Conscious Sedation for Adults permit is still in effect and was not impacted by SB 501 and that it is the Oral Conscious Sedation for Minors permit that was repealed.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 15.b.: Update Regarding Board Implementation of Senate Bill (SB) 501 (Glazer, Chapter 929, Statutes of 2018)

Ms. Olney provided the report, which is available in the meeting materials. She pointed out that at the February 2023 Board meeting, President Felsenfeld requested additional information on the expiration of existing permits. She acclaimed that on page 93 of the meeting materials there is a table that identifies the expiration of permits for calendar years 2023 and 2024 and noted that Board staff can provide updates at future Board meetings.

President Felsenfeld indicated that as we have individuals applying for the pediatric endorsements in the area of general anesthesia and deep sedation, there is a large number of applications that are incomplete and asked what type of required items are missing from the application. Ms. Olney replied that deficiencies typically include individual records as a lot of times applicants will submit the application and the additional forms but will forget to include pediatric records. She pointed out that staff are receiving those applications from the cashier and in most cases processing them the exact same day or within two days and that they are reaching out to those applicants by phone or email to attempt to get those issues resolved.

President Felsenfeld requested public comment on this item. The Board received public comment.

Dr. Bruce Whitcher, representing himself, voiced that he had some feedback regarding implementation of the pediatric endorsement that he was asked to convey by a California Association of Oral and Maxillofacial Surgeons (CALAOMS) member who applied for the pediatric endorsement and sent in his 20 cases. The cases were reviewed and a number of them were denied because they underwent expert review, and the expert felt that they did not meet the definition of general anesthesia. He verbalized that that is highly subjective going on a paper record. Dr. Whitcher suggested the Board look at that and think about calibrating the experts to ensure that they are all going by the same standards.

Agenda Item 15.c.: Discussion and Possible Action Regarding Appointment of General Anesthesia, Medical General Anesthesia, and Moderate Sedation Permit Evaluators
Ms. Olney provided the report, which is available in the meeting materials.

Board Member Joni Forge asked how long the process takes from applying to being accepted or rejected. Ms. Olney replied that when the applications are received, Board staff review them and ensure that applicants have held the permit for at least three years, or in this case for the moderate sedation permit holders that they previously held a conscious sedation permit. Board staff also review and make sure that there are no pending enforcement actions. Unfortunately, Board staff does have to wait until the next Board meeting to be able to present them for approval by the full Board.

Board Member Molina asked whether a Board member would need to recuse themselves from voting if they know one of the candidates. Ms. Welch recommended refusal; there are conflicts of interest, financial or personal, and perceived conflicts where some may argue that if you have a personal relationship with a candidate, you may have a particular bias for or against that person. She recommended recusing oneself from the vote if a Board member had a personal relationship with one of the candidates.

Dr. Montez pointed out that contacting newly approved permit holders to become evaluators was a recommendation made at the last Board meeting.

President Felsenfeld requested public comment on this item.

Dr. Witcher thanked President Felsenfeld for acknowledging this issue in his President's report and Dr. Montez for her acknowledgment as well. He reminded everybody that prior to SB 501, there were 150 moderate sedation or conscious sedation evaluators, so the Board has a long way to go to make up the backlog. He noted the Board's proposed legislative amendments to address that.

(M/S/C) (Felsenfeld/McKenzie) to appoint Dr. Rachelle Kim as an evaluator for the general anesthesia and moderate sedation onsite inspection and evaluation program.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Olague, Pacheco, Thakur.

Nays: None.

Abstentions: Molina.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

(M/S/C) (Felsenfeld/Chan) to appoint Dr. Christine Son as an evaluator for the general anesthesia and moderate sedation onsite inspection and evaluation program.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None.

Abstentions: None.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

(M/S/C) (Chan/Forge) to appoint Dr. Rajiv Bhagat as an evaluator for the moderate sedation onsite inspection and evaluation program.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None.

Abstentions: None.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

(M/S/C) (Thakur/Felsenfeld) to appoint Dr. Ryan Kearbey as an evaluator for the moderate sedation onsite inspection and evaluation program.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.
Nays: None.
Abstentions: None.
Absent: Medina, Yu.
Recusals: None.

The motion passed.

(M/S/C) (Molina/Olague) to appoint Dr. Michael Moreno as an evaluator for the moderate sedation onsite inspection and evaluation program.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.
Nays: None.
Abstentions: None.
Absent: Medina, Yu.
Recusals: None.

The motion passed.

(M/S/C) (Pacheco/Olague) to appoint Dr. Joan Otomo-Corge as an evaluator for the moderate sedation onsite inspection and evaluation program.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Larin, McKenzie, Olague, Pacheco, Thakur.
Nays: None.
Abstentions: Forge, Molina.
Absent: Medina, Yu.
Recusals: Felsenfeld.

The motion passed.

Agenda Item 16: Discussion and Possible Action Regarding Executive Officer Salary

Dr. Montez provided the report, which is available in the meeting materials. She disclosed that the exempt level increase for the Executive Officer (EO) position did clear DCA and Agency in January of 2023 and is sitting at California Department of Human Resources (CalHR). She hopes to get some resolution soon so that perhaps in August the Board can discuss this further.

President Felsenfeld mentioned that he was very proud to have written a letter of recommendation on Dr. Montez's behalf and that it is moving through.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 17: Recess Open Session Until May 19, 2023, at 8:00 a.m.

President Felsenfeld recessed Open Session at 12:32 p.m.

Agenda Item 18: Convene Closed Session

At 1:45 p.m., the Board convened Closed Session.

Agenda Item 19: Pursuant to Government Code Section 11126(e)(1) and (2)(A), the Board will Confer with and Receive Advice from Legal Counsel and Deliberate Regarding Sulitzer, et al. v. Tippins, et al., United States District Court, Central District of California, Western Division, Case No. 2:19-cv-08902-GW-MAA

The Board convened in Closed Session to discuss a pending litigation matter.

Agenda Item 20: Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session to Deliberate and Vote on Disciplinary Matters, Including Stipulations and Proposed Decisions

The Board convened in Closed Session to discuss disciplinary matters.

Agenda Item 21: Adjourn Closed Session

President Felsenfeld adjourned Closed Session at 3:32 p.m.

8:00 a.m., Friday, May 19, 2023

Agenda Item 22: Reconvene Open Session – Call to Order/Roll Call/Establishment of a Quorum

President Felsenfeld called the meeting to order at 8:04 a.m. Secretary Larin called the roll; 8 Board Members were present, and a quorum was established. Board Members Medina and Yu were absent. Board Member Thakur joined the meeting after roll call at 8:05 a.m.

Agenda Item 23: President's Report on Closed Session Items

President Felsenfeld provided a verbal report to the Board regarding Closed Session items. He reported that the Board adopted a proposed decision on the petition for early

termination of probation of petitioner J.D., and discussed and took action on a decision after reconsideration regarding respondent M.P. Additionally, President Felsenfeld reported that the Board heard an update on a pending litigation matter.

Agenda Item 24: Examinations

Agenda Item 24.a.: Report on Commission on Dental Competency Assessment, Western Regional Examining Board, and The Council of Interstate Testing Agencies (CDCA-WREB-CITA)

Shayna Overfelt, Senior Advisor to CDCA-WREB-CITA, provided a verbal report on their activities.

President Felsenfeld asked whether it is correct that failure rates are no longer five percent but are dropping down to 20 and 30 percent. Ms. Overfelt replied that it depends on how you look at the examination data. CDCA-WREB-CITA takes it by procedure instead of by the entire exam. However, schools will take the entire exam and if they have a student who is unsuccessful in the single component, they get tallied into this section of unsuccessful. However, we are not seeing a huge drop in procedure based as we look at it across the country. The one procedure that has shown a little bit of deficiency is the posterior restoration which is attributed to the CompeDont tooth. Our technology has somewhat become a process where each candidate is getting a tooth that we have deemed has appropriate carries, that it is no longer a small incipient lesion that warrants the removal of carries. They are actually doing a diagnosis of the tooth and determining if carries has been removed based on the treatment they have rendered that day in the clinic chair.

President Felsenfeld stated that if 100 individuals take this exam, how many of them actually get their license right then and there within that exam period. Ms. Overfelt replied that CDCA-WREB-CITA have integrated the examination process into their educational platform. Once they take that first component and if they are unsuccessful and the scheduling has been done properly, they will take that second attempt before they graduate. If they needed a retake that allows time for remediation, CDCA-WREB-CITA does not believe at this moment in doing on-site retakes. If you are unsuccessful during that first exam, faculty has an opportunity to remediate if necessary. If remediation was not necessary and it was a bad day, students still have an opportunity to retake at our next exam at no cost. Once we get through that second process, we are seeing our numbers up into the well 90 percent range. With some examinations if you are unsuccessful on Saturday, they will retest you on Sunday and then they give you the results all joined together on Monday. If we were to do the same thing, our numbers would look the same; we just divide it up based on examination. She conveyed that we are seeing 90 percent to 95-96 percent pass rate after a remediation if necessary.

Secretary Larin asked what the procedure is for California to become a member state. Ms. Overfelt replied that it is as simple as sending an email stating that California would like to become a member state and CDCA-WREB-CITA representatives would then gather the Board's information and get California into their system.

Board Member Chan asked how many candidates come from outside of California that are successfully passing the exam. Ms. Overfelt replied that she does not have that data at the top of her head and added that when students are taking the ADEX exam due to portability, they often state that California, Texas, and Florida are their highlights of where they may be looking to practice and why ADEX is valuable to them.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 25: Discussion and Possible Action on Office of Professional Examination Services (OPES) Survey Results Regarding the Use of Local Anesthesia and Nitrous Oxide in Procedures Performed by Registered Dental Assistants in Extended Functions (RDAEFs)

Dr. Montez provided the report, which is available in the meeting materials

Board Member Rosalinda Olague recalled that, five years ago, this issue was on the table for conversation. She voiced surveys had been reviewed and presented at the DAC and at the Board, but in her outlook, there has been little movement forward. Board Member Olague suggested that the Board consider revisiting this topic in 2024.

Dr. Montez noted that she would like to package this issue with the dental assisting regulations that had been tabled, so that when the Board takes a global look at things, it can add this to part of the pieces for consideration.

Ms. Welch noted that Joan Greenfield brought this issue to the DAC in 2018 for support to expand the duties of RDAEFs in the administration of nitrous oxide, and stated that the Board typically does not sponsor legislation for expansion of scope of duties. Ms. Welch added that one of the things that was discussed was to take a survey to see if professionals wanted this ability; that survey had been completed, and there had been objections to the survey in that it was not large enough in scope of the professionals who were surveyed because it was limited to dentists and RDAEFs. She pointed out that there is information now that stakeholders could utilize to take to legislators and seek a scope expansion bill themselves. Ms. Welch asked for clarification on what meeting materials would need to be prepared so the Board could have a full discussion if this issue was brought back in 2024.

Dr. Montez wanted to look at the dental assisting regulation package that was shelved, look at what was done, what is being done with AB 481, how this may fit into it, and any other pieces of information that are out there. She articulated that she would need some time to sort through projects relating to dental assisting that had been started and tabled and then bring it together. The meeting agenda item would be an update on the dental assisting regulations with this item folded in as possible recommendations; it would go to the DAC first with possible recommendations on next steps.

(M/S/C) (Olague/Chan) to revisit the item in 2024.

President Felsenfeld requested public comment before the Board acted on the motion. The Board received public comment.

Ms. Becker, representing the Alliance, encouraged continued conversation and understood the scope of practice discussion and how it needed to be routed. However, they encouraged continued conversation as it has been part of conversation for quite some time to be able to move forward on this.

Tooka Zokaie, representing CDA, verbalized that they supported the motion and the information Ms. Welch shared in her legal expertise. If the survey did continue to move forward with the package into 2024, they recommended ensuring that it is clear as there were leading and biased questions within the survey that was conducted. She noted that there was a question where RDAEFs were asked about the potential patient benefits that had clear confirmation biased language. As the package moves forward with the questionnaire, they encouraged the Board to keep in mind the way that the questions were asked for the survey results and the biases within them.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None.

Abstentions: None.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

Agenda Item 26: Discussion of Board Approval of Foreign Dental Schools

Dr. Montez provided the report, which is available in the meeting materials.

Board Member Molina thanked Board staff for providing a summary on the foreign schools and clarified that it only took two years for the foreign schools to become Board approved versus six years of De La Salle University School of Dentistry attempting to obtain approval from Commission on Dental Accreditation (CODA) and not being able to do so. Board Member Molina spoke to the issues raised by the flyer advertising State University of Medicine and Pharmacy “Nicolae Testemitanu” of the Republic of Moldova (SUMP). As far as she is concerned, she is advocating for schools to continue to be accredited because she believes that the community is not really being served and that there are not enough dentists. Board Member Molina affirmed that CDA has recently published that a lot of dentists are retiring due to the baby boomer generation and noted that students are graduating with an enormous debt on average of half a million dollars.

Organizations like AltaMed undoubtedly benefit from having these students come back and serve the communities.

President Felsenfeld requested public comment on this item. The Board received public comment.

Dr. Ariane Terlet, speaking on behalf of herself, shared that when she served on the Board, she certified De La Salle University School of Dentistry and agrees with Dr. Montez's comments. She disclosed that the process of accrediting schools is very difficult as is timely and costly and that you have to keep up with all the regulations. When she went down to Mexico originally, the issue was that CODA was not fully prepared to credit foreign schools; they were in the process of it. The Board did not wait for CODA accreditation and moved forward to start the approval process. It has always been the intention that when CODA was able to certify that this process would be turned over to CODA. Dr. Terlet communicated that the other issue is that it does not take 11 years to get CODA accreditation but will take about two years. SUMP started the accreditation, got their results back, found deficiencies, and did not appeal the deficiencies or correct them because they had a change of administration of the president of the university who did not want to move forward with it. Currently, the new president is very much in favor of getting CODA accreditation and the university is moving on it. She voiced that the issue with De La Salle University School of Dentistry is that they want international accreditation of their medical school and their dental school. Therefore, the university has restarted the process. Had they continued the process, there is not a reason to think that they would have been denied. As a dental director for a federally qualified health center, Dr. Terlet disclosed and that not everybody is going to serve the community and that it is not necessarily true that public health is being served.

Secretary Larin voiced that she agrees with Dr. Terlet's comments and that the only issue she has is that students who graduate after 2024 are no longer acceptable. She expressed that that is a short timeframe and requested that the Board give them a couple extra years.

Agenda Item 27.a.: Discussion and Possible Action on Legislative Proposal to Amend Business and Professions Code (BPC) Section 1634.1 Regarding Licensure by Residency Requirements

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

(M/S/C) (Chan/Forge) to include in the Board's next Sunset Review Report a recommendation to amend BPC section 1634.1 to clarify the Licensure by Residency requirements.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None.

Abstentions: None.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

At 9:12 a.m., the Board recessed for a break.

At 9:34 a.m., the Board reconvened

Agenda Item 27.b.: Discussion and Possible Action on Legislative Proposal to Amend BPC Sections 1601.1 and 1740 and Repeal BPC Section 1742 Regarding Dental Assisting Council

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

The Board was asked to consider Board staff's request to include in the Board's Sunset Review Report a legislative proposal to amend sections 1601.1 and 1740, and repeal section 1742 of the BPC. The Board was advised of the DAC recommendation issued on May 18, 2023, to amend BPC section 1601.1 to change the Board composition to increase the number of RDAs from one to three and add a new sentence at the end of subdivision (a) that would establish the following criteria for the three RDA members: one RDA with at least five years of professional experience; one RDAEF with at least five years of professional experience; and one RDA who is a member of the faculty of a Board approved RDA or RDAEF educational program and has at least five years of professional experience. The DAC rejected Board staff's recommendation to repeal the DAC.

Board Member Forge asked what the benefit or non-benefit would be if the Board eliminated the DAC. Dr. Montez replied that the concerns that were raised had to do with the fact that it is very time consuming with regard to staff resources and costs to develop and run the DAC. In an attempt to streamline dental assisting issues, the thought was to make the DAC a standing committee so that they could do different kinds of assignments and work offline, bringing issues to the Board meeting for discussion. Most of the time, items would be discussed at the DAC meeting and then they would be held over so that staff could do further research, develop agenda items, and then bring them to the Board meeting. This causes a delay as there are a lot of dental assisting items that need to be addressed. To not discourage transparency, everything that would be done behind the scenes would be brought to a Board meeting for discussions together. She voiced that there seemed to not be a good flow of

communication in action when the DAC meets first, and then the Board gets bits and pieces of what was discussed.

Ms. Welch added that part of the responsibilities of a potential two-member RDA working group or committee of the Board would be two Board members working together on RDA issues with the ability to engage stakeholders directly and potentially in a more robust process. The two members would be able to set up meetings with stakeholders, hear their issues, work on regulations or legislation, and then bring those concepts and worked through ideas and proposals to the Board for a broader discussion through the public process. Ms. Welch conveyed that it is intended to increase stakeholder engagement behind the scenes while working on issues between meetings and then bringing it to the public and the Board members for discussion on a on a more vetted proposal.

Board Member Olague voiced that over the five years, recruiting individuals to the DAC had been extremely challenging where even the DAC did not have an established quorum; she had seen it create a bottleneck for movement. Being one of the committee members involved in the recruitment process for DAC members, she is very proud of the DAC and their full engagement, but it did take quite a bit to get there. She asked whether the DAC would be sustainable in the future.

Board Member Molina indicated that she was part of the COMDA committee a few years ago and was happy to see that they had restructured it. By attending the DAC meetings and then the full Board meeting afterwards, she saw the value of having DAC meetings and talking about the issues that pertain to dental assisting specifically. She noted that there was going to be a fine line as to how the Board would have a subcommittee express their concerns and issues and then work with Board staff to ensure that they are not overburdened and are able to do their work. Board Member Molina stated that she could see why the DAC is important and understood that Dr. Montez and staff were concerned about the amount of work that they have to do.

Dr. Montez emphasized that it was not just the burden on staff, but it was the fact that the Board needs the DAC, if it continued, to be very active and to continue to do work to the extent that they cannot outside of those meetings and not rely on Board staff to do the work. She expressed that the standing committee is better because they can go out and work with the stakeholders without having to do the formality that has to be done with the DAC.

Secretary Larin was in favor of eliminating the DAC because as she had been to their meetings, she had seen them work for almost an hour and a half on topics, and when it is brought to the Board, it is rejected.

(M/S/C) (Larin/Olague) to amend BPC section 1740 to remove reference to the DAC and repeal BPC section 1742 which establishes the DAC and include this legislative recommendation in the Board's Sunset Review Report.

President Felsenfeld requested public comment before the Board acted on the motion. The Board received public comment.

Ms. Becker, representing the Alliance, voiced that the Alliance emphatically opposed the elimination of the DAC for representation of all dental assisting.

Ms. Cruz was in favor of keeping the DAC.

Dr. Whitcher, formerly a Board liaison to the DAC, representing CDA, noted that when the Legislature put the DAC together, the goal they saw was to include representation from a diverse profession including practicing RDAs, of which there are three, RDAEFs, of which there are two, and educators, of which there are two. He noted that the reason they did this was that there was a tendency for the educators, and to some extent the RDAEFs, to dominate the discussion, as they were often the most articulate and the loudest voices in the room. Dr. Whitcher indicated that the Board should not forget its goals are diversity, equity, inclusion, and belonging, and that that is the thing that CDA wanted to see on the DAC. He was against the elimination of the DAC, recognized the need for efficiency, and believed there may be other ways to achieve this through the use of electronic meetings. Having served on the DAC, there was a number of two-person subcommittees of which he was a member and supported that, as it was a very efficient way of doing things. Dr. Whitcher stated the goal of government is not always to be efficient but to be fair and to have adequate representation.

Dr. Lori Gagliardi, representing the Foundation for Allied Dental Education (FADE), a non-profit organization that advocates for standards of dental assisting education, quality assurance, and patient safety, concurred with the previous speakers. They understand that although the DAC may take a long time to come to a resolution on a topic and when it comes to the Board there is a short conversation, dental assisting community voices are heard during DAC meetings and are allowed the opportunity to voice their concerns and issues. By having issues presented at the DAC meetings, the Board did not waste a lot of time at their meetings going through those same issues. They encouraged the Board to not get rid of the DAC and support retaining the legislation as currently written.

Claudia Pohl, representing herself, voiced that to have the DAC repealed was taking away the voice of those 30,000 licensed RDAs, RDAEFs, Orthodontic Assistant Permit (OAP) holders, Dental Sedation Assistant (DSA) Permitholders, and the unlicensed dental assistants, and it is very difficult to replicate the diversity, experience, and background that those seven DAC members have with a two-person committee. She asked the Board to not repeal the DAC but to keep it and add in those work groups, which had been done before. She stated that there are other ideas that CDAA and the Alliance had for addressing some of the objections and barriers that were raised in the proposal by the Board.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Thakur.

Nays: None.

Abstentions: Pacheco.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

Mr. Bruggeman stated that the legislative proposal in the meeting materials would maintain the current total number of Board members but would reduce the number of dentist members by one and increase the number of RDA members by one. He stated that the DAC made a recommendation to expand the membership of the Board by two, maintaining the current level of dentist members, and to add two new RDA members with specifics on the qualifications for each of the RDA members.

Board Member Chan offered a substitution concept to maintain the current statutory census of 15 and within the 15, eight dentist members with the two qualifiers (the public health one and the educational one) and seven described as public members. He noted that he would advocate the composition of the described public members as one hygienist, two RDAs, and four public members. He stated that the key word in creating the Board is describing in BPC section 1601 practicing dentist, which is the primary deliverer in that system and also the primary responsibility of that system. Additionally, he noted that optics also plays a role.

Ms. Welch clarified that a public member on a board is not a licensee of that board, and that there are separate provisions, requirements, and conflicts of interest BPC sections specific to public members. She was not sure if the numbers Board Member Chan mentioned took that into account. Ms. Welch clarified who a public member actually is in relation to the Board's licensees and noted that the Board would really have eight licensed dentists, three dental auxiliary licensees, and five public members.

Board Member Chan stated that the proposed increase in RDA members would be to acknowledge some of the arguments for the organizational bottlenecks.

Dr. Montez reminded the Board members that although many of DCA's boards have a majority of professional membership, there is a lot of scrutiny with regard to antitrust concerns. Therefore, that is the reason why there is a balance of public members and professional members. As one of the suggestions was to address the RDAs and the need with regard to educators and specialties, Dr. Montez suggested that the Board think about whether they would want to add an additional RDA member. She stated it was important to keep the public members, and there was wide support for keeping the number of dentists, so the Board could look at increasing the number of RDAs by one

member. There may be concerns about having an even number of Board members for voting purposes, but at least adding an RDA sounded important with an educator background.

President Felsenfeld requested Board counsel comment on the issue of having an even number of 16 members on the Board. Ms. Welch stated that it can matter where there is not a majority of voting members. If that was the situation, the Board members likely would likely continue to have discussion and then additional votes to come up with the appropriate action that the majority of the members agreed with. She stated there are other boards with an even composition. The Board currently has an even number of members since it has three dentist member vacancies, and the Board is able to continue to do the business of the Board with an even composition.

Dr. Molina stated that at the May 18, 2023 DAC meeting, there was mention of suggesting two more members so that representatives such as dental assisting educators, RDAEFs, and RDAs will be represented in the Board. She noted that might take care of not having to have an even number for voting purposes, and the Board would have representation from different specialties and the dental assisting profession. President Felsenfeld replied that if a resolution comes up and there is a tie, that resolution does not pass as the Board needs a majority. To increase the number of Board members would be a little bit contrary to the way boards are supposed to be; larger boards are not needed, but boards that are more functional. In a recommendation such as Board Member Chan had mentioned, the Board would have two RDAs, one RDH, four public members, and eight dentists; it can be an even number.

Dr. Montez clarified the recommendation to reduce the number of public members from five to four.

(M/S/C) (Chan/Olague) to recommend a legislative proposal to amend BPC section 1601.1 for a Board composition of eight practicing dentists, including one educator and one in a public health community setting, two RDAs, with one with five years of professional experience and one RDA educator from a Board approved RDA educational program, one RDH, and four public members.

President Felsenfeld requested public comment before the Board acted on the motion. The Board received public comment.

Ms. Becker, representing the Alliance, expressed support of the DAC recommendation of three RDAs on the Board with the addition of the existing RDA, an additional RDAEF, and the addition of an RDA educator with the stipulations and the qualifications as previously discussed. With this new compromise, the tenor is that dental assisting will still be at a deficit in being represented on the Board.

Dr. Gagliardi, representing FADE, asked for clarification on the recommended RDA educator and asked whether it could be an educator from an RDA or an RDAEF approved program, so that it is not limited to only being an RDA educator.

Dr. Whitcher, CDA representative, suggested the Board keep in mind Dr. Montez's comments about removing one of the Board public members. He did not think that would work because of the question of oversight and balance on the Board. He reminded the Board that this is a legislative proposal that would go into a package and through a public process and then through approval. Coming from the Board, the proposal would carry a lot of weight, but it is not the final version. He noted that when the DAC was put together, it was considered to add an RDA position to the Board. For the very reasons heard that there are concerns about representation from the various members of the dental assisting community, the DAC was substituted for that additional member for all of the right reasons.

In response to public comment, President Felsenfeld said it would be fine to make the RDA educator member from a Board-approved RDA or RDAEF educational program.

Board Member Meredith McKenzie stated that given the balance here, to ensure the process works well and dental assisting voices are included, she was a little bit more inclined to keeping the public members and adding two additional members to eliminate the even number issue. She suggested to have two additional RDAs, including the broader educator and then additional RDA, which would help increase inclusion but also keep discussions altogether. She disclosed that could be a better potential option for balancing both sides.

Ms. Welch clarified the proposed amendment to the motion was to have two RDA members, one with five years of licensed experience and one faculty member of a Board-approved RDA or RDAEF educational program, and reduce the number of public members to four.

Board Member Chan clarified the total number of members with the revised motion would be 15.

Secretary Larin read the amendment to the motion to amend BPC section 1601.1 so that the Board would consist of eight practicing dentists, one RDH, two RDAs, one RDA with at least five years of practice and one educator from a Board-approved RDA or RDAEF educational program, and four public members.

President Felsenfeld called for a vote to amend the motion. Secretary Larin took a roll call vote on the amendment to the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, Molina, Olague, Pacheco, Thakur.

Nays: McKenzie.

Abstentions: None.

Absent: Medina, Yu.
Recusals: None.

The amendment to the motion passed.

(Amended M/S/C) (Chan/Olague) to recommend a legislative proposal to amend BPC section 1601.1 to change the composition of the Board to have eight practicing dentists, with one educator and one in a public health community setting, two RDAs, with one RDA with five years of professional experience and one RDA educator from a Board-approved RDA or RDAEF educational program, one RDH, and four public members.

President Felsenfeld requested public comment before the Board acted on the motion. The Board received public comment.

Ms. Becker, the Alliance representative, asked for clarification that the Board would be voting on two RDAs, not three RDAs. President Felsenfeld responded that was correct.

Dr. Montez asked, in the order of the motions, where did the comments about maintaining public membership fall, as she heard two Board members, as well as the public, express some concerns about this. President Felsenfeld replied that within the resolution, he believed the motion was for four public members, thereby decreasing it.

Board Member Chan stated that on the California Board of Naturopathic Medicine, there are nine members - five neuropathic physicians, two MDs, and two public members. On the Board of Chiropractic Examiners, there are seven members - five chiropractors and two public members. Therefore, it is not inconsistent with that precedent.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, Molina, Olague, Pacheco, Thakur.
Nays: McKenzie.
Abstentions: None.
Absent: Medina, Yu.
Recusals: None.

The amended motion passed.

Agenda Item 27.c.: Discussion and Possible Action on Legislative Proposal to Modify Statutes Related to General Anesthesia and Sedation Permits

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

Board Member Chan verbalized that he understands the rhetorical reasons for defining what good standing means and clarified that it is not for someone that is going through an unresolved complaint or going through the process yet. He disclosed that the intent

behind it is justifiable as it is a safeguard for someone continuing doing general anesthesia or sedation. He asked what happens if there is an unrelated action on the good standing and noted that all that is left is the language that is on paper and that there is another variation that needs to be worked out.

Ms. Welch responded that all the definitions for good standing were aimed at a license or permit that is active and unrestricted, and most public reprovals, if they contain a condition, that is not a restricted license. Therefore, a public reprovial being issued would not affect the ability to apply for a permit and largely what is happening is that the existing language requires good standing to administer general anesthesia and sedation. She clarified that good standing should not be required to administer but required to apply for the permit. If the dentist license was on probation or there was a pending disciplinary action, that would allow the Board to hold up that application and not issue a permit pending the consideration of the discipline or the pending restriction of the dentist license. Ms. Welch indicated that the intent behind this proposal was to not allow permits to be issued while there was a pending action on the dentist license. This would allow the licensing unit to hold up an application for a permit when they pull up in the system that an applicant has got some pending discipline. Until that gets resolved, the permit could not be issued. Separately, if a permit already was issued, the licensee could continue to administer.

(M/S/C) (Felsenfeld/Chan) to submit to the California State Legislature in the Board's Sunset Review Report a recommendation to add section 1646.12 to article 2.75 and sections 1647.35, 1647.36, and 1647.37 to article 2.87, amend sections 1646, 1646.1, 1646.2, 1646.3, and 1646.9 of article 2.75, sections 1647.2, 1647.3, and 1647.6 of article 2.84, sections 1647.18, 1647.19, 1647.20, and 1647.22 of article 2.86, sections 1647.30, 1647.31, 1647.35, and 1647.36 of article 2.87, and section 1724 of article 6, of Chapter 4, and repeal section 2079 of article 3 of Chapter 5, of Division 2 of the BPC.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None.

Abstentions: None.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

At 10:48 a.m., the Board recessed for a break.

At 11:06 a.m., the Board reconvened

Agenda Item 28: Update, Discussion, and Possible Action on Proposed Regulations

Agenda Item 28.a.: Status Update on Pending Regulations

Mr. Bruggeman provided the report, which is available in the meeting materials. He disclosed that since the last Board meeting, the rulemaking package concerning the implementation of AB 107, which would establish temporary licensure for military spouses and domestic partners, was with DCA for review, and once their review is completed, Board staff expected to be able to file that package with the Office of Administrative Law (OAL). Regarding the Board's Disciplinary Guidelines, the Board approved that language at the February 2023 Board meeting, and Board staff were working with the Department of Finance and other staff to prepare that package for review by DCA. He expressed that it is anticipated that package will have moved forward by the time there is another update at the August 2023 Board meeting.

Agenda Item 28.b.: Discussion and Possible Action to Initiate a Rulemaking to Amend California Code of Regulations (CCR), Title 16, Sections 1012, 1017.2, and 1021 (Replacement Licenses and Fees, and Inactive Licenses)

Mr. Bruggeman gave the report on this item. He referred to the meeting materials provided to the members including the revised meeting materials for this item. The materials were revised to add a workload analysis and revise the agenda item memo to explain the fee increase needed for replacement of a substitute pocket license or wall certificate (changes proposed to CCR sections 1012 and 1021).

Mr. Bruggeman described the proposed amendments as described in the revised memo in the meeting materials to CCR, title 16, sections 1012, 1017.2, and 1021, which would change the application processes for obtaining a replacement license including increasing the current fee for a replacement pocket license or wall certificate (CCR sections 1012 and 1021) and for changing a license status from active to inactive, or from inactive to active status (CCR section 1017.2).

For CCR section 1012, Mr. Bruggeman explained that the current fingerprint requirement for the replacement license would be eliminated, and the new LIC-9 form would be incorporated into the regulations by reference as the form to complete in order to obtain a replacement license. The fee for the replacement license would be increased from the current \$50 to \$111.

Secretary Larin expressed concerns about the quality of the current paper pocket license and the cost increase under this current proposal. She asked if the fee were to be increased if there were any way to improve the quality of the pocket license issued to licensees and cited the Contractors State License Board's hard plastic pocket license as an example. Mr. Bruggeman stated that these fees have not been changed in almost 20 years, and he believed this proposed increase reflects changes in the cost of staff time to process these requests. On the quality issue, Ms. Montez indicated that the Board could explore that issue with the vendor but reminded the Board that the contract is

DCA-wide. Ms Schieldge added that the fee for replacing a license has not been increased since 2006, and only the DCA has authority under current law to enter into or modify the contract, so the Board is bound to work under that contract at the moment.

Mr. Bruggeman further explained that for the process to change a licensee's status from active to inactive (or vice versa), the current application form would be repealed and replaced by a new one. The proposed changes include eliminating the requirement for inactive licensees to provide evidence of their completion of continuing education credits with application to restore their licenses to active status. They are currently required to provide evidence of completing the required number of credits, and the proposed language would have licensees only certify that they have completed the required credits as specified, which is similar to the current process for renewals. He further explained that if a licensee is selected for an audit, then they would be asked to provide physical evidence at that time, therefore, this proposal would be to provide consistency in processes, and reduce the workload for the staff.

(M/S/C) (Thakur/Pacheco) to approve the proposed regulatory text and incorporated forms for Sections 1012, 1017.2, and 1021 and submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the text and the package, and set the matter for a hearing if requested. If after the 45-day public comment period, no adverse comments are received, and no public hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking, and adopt the proposed regulations as noticed for 16 CCR Sections 1012, 1017.2, and 1021.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None

Abstentions: None

Absent: Medina, Yu

Recusals: None

The motion passed.

Agenda Item 29: Update, Discussion, and Possible Action on 2023/2024 Legislation Impacting the Board, the Department of Consumer Affairs, and/or the Dental Profession
Agenda Item 29.a.: 2023 Tentative Legislative Calendar – Information Only

Mr. Bruggeman provided an overview of the 2023 Tentative Legislative Calendar, which is available in the meeting materials. Mr. Bruggeman stated that the relevant deadlines

are April 28, which was the last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house for this year. This means that any legislation introduced in the Assembly would have had to have passed their appropriate Assembly Committee by that point to become law this year, and the Appropriations Committee had to have heard those bills by May 19, 2023, to move them forward in the legislative process for this year. He voiced that he highlighted this due to the fact that some of the legislation that the Board has been tracking did not meet those deadlines and therefore would not have an option to become law this year barring some exceptional circumstances.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 29.b.: Legislation of Interest

Mr. Bruggeman provided the report, which is available in the meeting materials. Board staff identified 16 bills, ACR 10, AB 481, AB 795, AB 883, AB 936, AB 996, AB 1028, AB 1257, AB 1395, AB 1396, AB 1398, AB 1552, SB 372, SB 544, SB 802, and SB 818 of potential interest to the Board.

AB 481

Mr. Bruggeman mentioned that this bill did pass the Assembly Appropriations Committee and was currently on the assembly floor. This bill would make significant changes to the dental assisting chapter of the Dental Practice Act.

Dr. Montez clarified that that once the Board takes a position, a letter can be crafted to the legislature noting what our concerns would be and that if the Board does choose to take a support if amended, she will refer to the comments that were discussed and brought to the Board's attention by the DAC and the concerns that the Board staff have raised and would put that together on behalf of the Board.

(M/S/C) (Felsenfeld/Molina) to support AB 481 if amended.

President Felsenfeld requested public comment before the Board acted on the motion. The Board received public comment.

Ms. McCune, representing CDA, noted that the DAC report was very reflective of the issues and the amendments that CDA was planning on taking once it hits either the Assembly floor or the Senate. She mentioned that CDA did take out two provisions of the bill when it was in Assembly Business and Professions Committee and that was related to changes proposed for the OAP. Specifically, these were around eliminating the PSI Examination for OAP applicants, in addition to a new duty for OAP holders that would allow for the use of a low-speed handpiece when removing directly bonded materials. As there were objections from the Alliance, CDA agreed to remove those provisions, punt it over to the Board to weigh in on it, and if there was agreement or consensus on one or both of those issues, CDA would go forward and move it back in

the bill. She stated that she did want to bring that to the Board and have the Council and staff figure out how to facilitate that conversation if appropriate and then turn it over to the California Association of Orthodontists (CAO), who is the strong proponent for both of those additions.

Dr. Harry Dougherty, president of the CAO, stated that one of the issues they had, at least for eliminating the exam for the OAP program, was that it does not reflect what is being taught, and there are educational guidelines that do not reflect what is going on. He suggested the Board think about changing or reviewing some of the educational guidelines to what was being done in practice now and how the technology reflects that. With regard to removing material with a slow speed handpiece, he noted that this already was being done with scalers and ultrasonics. Dr. Dougherty asked the Board to consider reviewing the educational requirements across the board to see that it reflects and mentioned that was one of the reasons why they wanted to ask that the exam is no longer there, as it does not reflect the educational requirements. They want to make sure that the public interest is protected, they are testing people on what is actually done, and the educational requirements are relevant to dental practice today.

Ms. Welch raised concern about timing because it seemed like CDA was requesting the Board's input on some additional amendments that the Board could not actually provide until the August meeting. While Board staff could facilitate conversations and provide recommendations on proposed amendments to a bill, Board staff could not represent that was a Board action unless the Board actually discussed and took a position.

Ms. McCune clarified that she was proposing that if there were additional amendments that were responsive to those two OAP issues, the Board could include that in its letter, as that would be a better way to work within the confines of the agenda.

Dr. Dougherty explained that what he was proposing was not to make those changes but to inform the Board that the CAO would be more than happy to work with the Board for the educational guidelines.

Ms. Becker, representing the Alliance, voiced appreciation for CDA's openness in working with them on the bill and said that as the current language is published, the Alliance still opposed the bill in regard to the lab for the infection control portion unless amended. She noted that the Alliance continued to work with CDA on amendments and suggestions to hopefully find a compromise.

Dr. Gagliardi, representing FADE, voiced their appreciation of CDA's collaboration on this bill and the inclusiveness and sensitivity for involving multiple stakeholders. FADE had two areas related to the bill that they would like to have their concerns noted, one being that they supported CDA's proposal to add an alternative eight-hour infection control course while ensuring education, training, and public protection are central to the outcome. She stated that employees are required to have annual California Division of Occupational Safety and Health (Cal/OSHA) training, including bloodborne pathogens,

and there are no total course hours, no hands-on elements, and no evidence to suggest the absence of a hands-on lab component would in any way negatively impact the employee's ability to protect themselves or the public. FADE also noted that the Board had concerns regarding the preceptorship and how they would validate their CE or their units to fulfill that. She stated that oftentimes they go to workshops that are multiple days and have one certificate for 80 hours that just lists the content. She suggested that the review of CE certificates might not be quite as strenuous as the Board thinks it will be. The last area Dr. Gagliardi mentioned was on the CDA pathway to licensure for an RDA. She noted that they were not sure whether the information in the Board packet accurately reflected it, as it is an eligibility pathway and not necessarily a pathway to maintain both licenses or credentials. Additionally, they believed this provides for the military dental assisting workforce in California, and mentioned that those teaching CODA accredited programs and those working in a veterans dental clinic who must have a CDA to be employable could also get an RDA and contribute to California's workforce. FADE encouraged the Board to support this bill if amended.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None.

Abstentions: None.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

AB 936

Mr. Bruggeman noted that this bill would extend the eligibility of dental students to participate in sponsored healthcare events from what is currently limited to the final year dental students to students that have entered the clinical training portion of their education. The bill would stipulate that the supervising dentist would be responsible for assessing the ability of these students to address the specific cases that are presented at these health care events. The bill has been designated as an urgency statute which means that it will become effective immediately upon signing.

(M/S/C) (Felsenfeld/Olague) to support AB 936.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None.
Abstentions: None.
Absent: Medina, Yu.
Recusals: None.

The motion passed.

AB 1552

Mr. Bruggeman declared that this that was amended in March of 2023 and addresses the foreign dental school approval process and the legislation as written would effectively reinstate the process by which the Board used to approve foreign dental schools and essentially set the clock back a few years.

(M/S/C) (McKenzie/Pacheco) to oppose AB 1552.

President Felsenfeld requested public comment before the Board acted on the motion. The Board received public comment.

Ms. McCune, CDA representative, stated that they are in strong support of the staff recommendation for this bill and reminded the public that CDA sponsored a cleanup bill back in 2021 to address some concerns that were brought up by a previous Board member earlier in this meeting. She stated that the students who were enrolled at both SUMP and De La Salle University School of Dentistry at the time of January 1, 2020, will still be eligible to receive licensure and wanted to clarify that CDA cleaned that up after passage of AB 1519.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, McKenzie, Olague, Pacheco, Thakur.
Nays: Molina.
Abstentions: Larin.
Absent: Medina, Yu.
Recusals: None.

The motion passed.

SB 372

Mr. Bruggeman specified that this bill concerned the access to licensee registration records and instances where there were name and/or gender changes.

Dr. Montez emphasized that Board staff would need to establish procedures for removing a licensee's former name and gender from the online verification system and to disclose a licensee's current name in connection with a request linked to enforcement

action or search of a licensee by a previous name. She noted that the concern, expressed by some of the other boards at the department, is enforcement and making sure that there is continued public protection. By taking a position, the Board will be able to engage with the author on discussions about this and join the other boards who have also taken positions and are having these discussions. The intent is good but for consumer protection, we need to ensure that if an individual is looking to use the services of a dentist or a dental assistant, that they can be confident that there is not enforcement action or history decisions there.

Ms. Welch noted that a few boards for which she provides legal counsel had taken a watch position with concerns and submitted a letter stating they were watching the bill and supported the intent behind it, but there was concern about implementation of the bill with respect to disclosure of the licensee's name, in particular with respect to discipline. Ms. Welch stated that BPC section 27 requires the Board to post online disciplinary actions, and this bill seemed to create a conflict with that other statutory requirement to remove the former name from the Board's website. She stated that the other boards expressed the need for some clarification and hoped to work with the author to figure out an appropriate resolution to ensure that consumers are still receiving important information about their health care providers.

(M/S/C) (Felsenfeld/McKenzie) to watch SB 372 and express concerns.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None.

Abstentions: None.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

SB 544

Mr. Bruggeman indicated that this bill would amend provisions of the Bagley-Keene Open Meeting Act to preserve, for the most part, the procedures the Board was able to use to utilize teleconferencing in the Board's meetings during the COVID-19 pandemic. This bill would permit participation via teleconference, and the law would no longer require that all teleconference locations be noticed in the agenda and be available to the public, as long as there was a meeting location that was available for teleconference and accessible to the public.

(M/S/C) (Chan/McKenzie) to support SB 544.

President Felsenfeld requested public comment before the Board acted on the motion. There were no public comments made on the motion.

President Felsenfeld called for the vote on the motion. Secretary Larin took a roll call vote on the motion.

Ayes: Chan, Felsenfeld, Forge, Larin, McKenzie, Molina, Olague, Pacheco, Thakur.

Nays: None.

Abstentions: None.

Absent: Medina, Yu.

Recusals: None.

The motion passed.

Agenda Item 30: Discussion on Prospective Legislative Proposals

Mr. Bruggeman introduced the report, which is available in the meeting materials.

President Felsenfeld requested public comment on this item. There were no public comments made on this item.

Agenda Item 31: Adjournment

President Felsenfeld adjourned the meeting at 12:05 a.m.