



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

NOTICE OF LEGISLATIVE AND REGULATORY COMMITTEE MEETING

Monday, November 7, 2011

Upon Conclusion of Dental Assisting Committee Meeting
Sportsmen's Lodge, 12825 Ventura Blvd.
Studio City, CA 91604
818-769-4700 or 916-263-2300

**LEGISLATIVE & REGULATORY
COMMITTEE**

Chair – Fran Burton, Public Member
Vice Chair – Stephen Casagrande, DDS
Steven Afriat, Public Member
Luis Dominicis, DDS
Huong Le, DDS
Suzanne McCormick, DDS
Steven Morrow, DDS

CALL TO ORDER

ROLL CALL AND ESTABLISHMENT OF QUORUM

LEG 1 - Approval of the August 11, 2011 Legislative and Regulatory Committee Meeting Minutes

LEG 2 - 2011 Tentative Legislative Calendar – Information Only

LEG 3 - 2011 End-of-Year Legislative Summary

LEG 4 - Dental Board of California Legislative Proposals for 2012

PUBLIC COMMENT

ADJOURNMENT

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



**Legislative and Regulatory Committee
Meeting Minutes
Thursday, August 11, 2011
1625 North Market Blvd., 1st Floor Hearing Room, S-102
Sacramento, CA 95834
DRAFT**

Members Present:

Fran Burton, Public Member, Chair
Stephen Casagrande, DDS, Vice Chair
Steven Afriat, Public Member
Luis Dominicis, DDS
Huong Le, DDS
Steven Morrow, DDS

Members Absent:

Suzanne McCormick, DDS

Staff Present:

Richard DeCuir, Executive Officer
Kim A. Trefry, Enforcement Chief
Karen Fischer, Licensing Analyst
Sarah Wallace, Legislative and Regulatory Analyst
Linda Byers, Executive Assistant
Kristy Shellans, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Roll Call and Establishment Of Quorum:

Chair Fran Burton called the meeting to order at 4:58 p.m. and established a quorum.

LEG 1 – Approval of the May 19, 2011 Legislative and Regulatory Committee Meeting

Minutes:

M/S/C (Morrow/Afriat) to approve the May 19, 2011 Legislative and Regulatory Committee meeting minutes. The motion passed unanimously.

LEG 2 – 2011 Tentative Legislative Calendar – Information Only:

The Committee reviewed the 2011 Legislative Calendar, and Chair Burton noted that the Legislature will reconvene from summer recess on August 15th and the last day for fiscal committees to meet and report bills to the floor is August 26th.

LEG 3 – Discussion and Possible Action on the Following Legislation:

AB 127 (Logue) Regulations: effective date. The Committee decided to hold any discussion regarding AB 127 (Logue) because it is designated as a two-year bill and will not be taken up again in the Legislature until early 2012. This bill would require a regulation or an order of appeal to become effective on January 1 next following a 90-day period after filing with the Secretary of State. Currently, regulations become effective following a 30-day period after filing

with the Secretary of State. The Committee and the Board took a “watch” position on AB 127 at the May 2011 meeting. The Committee did not take action.

AB 991 (Olsen) State government: licenses: California Licensing and Permit Center. The Committee decided to hold any discussion regarding AB 991 (Olsen) because it is designated as a two-year bill and will not be taken up again in the Legislature until early 2012. This bill would establish the California Licensing and Permit Center to assist the public with licensing, permitting, and registration requirements of all state agencies. The Committee and the Board took a “watch” position on AB 991 at the May 2011 meeting. The Committee did not take action.

AB 1088 (Eng) State agencies: collection of demographic data. This bill will require state agencies to update survey forms to use separate collection categories for other identified Asian, Native Hawaiian, and Pacific Islander groups. This bill will affect the Dental Board of California, the Medical Board of California and the Dental Hygiene Committee of California, as these agencies are currently collecting demographic data via surveys. This bill will not affect the revenues of these agencies and the expected fiscal impact is minor and absorbable. The Committee and the Board took a “watch” position on AB 1088 at the May 2011 meeting. The Committee did not take action to recommend changing the position of the Board regarding this bill

AB 1424 (Perea) Franchise Tax Board: delinquent tax debt. This bill was hand carried to the meeting as staff became aware of its amendments after the meeting was noticed. This bill would require Franchise Tax Board (FTB) to update the Top 500 tax debtor list at least twice a year and would require FTB to submit a certified list of tax debtors appearing on the Top 500 list to state governmental licensing agencies. This bill provides for the suspension of licensure for a licensee who is listed on FTB’s Top 500 tax debtors until all taxes are paid. M/S/C (Casagrande/Afriat) to recommend the Board take a “watch” position on AB1424.

SB 103 (Liu) State government: meetings. This bill would make changes to the provisions of the Bagley-Keene Open Meeting Act. Most notably, this bill would provide that any member of a state body may request that a meeting be held by teleconference. It was noted that the California Board of Accountancy that should the bill pass, it would be possible for a member of a state body to abuse the privilege and never attend a meeting in person. The Committee discussed the importance of government transparency and human interaction at Board meetings. The Committee and the Board took a “watch” position on SB 103 at the February 2011 meeting. The Committee did not take action to recommend changing the Board’s position regarding this bill.

SB 540 (Price) Dentistry. This bill was not discussed during the Committee meeting because it was placed on the agenda to be discussed as a full board item.

SB 541 (Price) Regulatory boards: expert consultants. This bill is an urgency measure that would authorize any board, within the Department of Consumer Affairs, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California to enter into an agreement with subject matter expert and for the agreement to be exempt from the State Contract Act. The Committee and the Board took a “support” position on SB 544 at the February 2011 meeting. The Committee did not take action to recommend changing the Board’s position regarding this bill

SB 544 (Price) Professions and vocations: regulatory boards. This bill was not discussed during the Committee meeting because it was placed on the agenda to be discussed as a full board item.

SB 694 (Padilla) Dental care. The Committee decided to hold any discussion regarding 694 (Padilla) because it is designated as a two-year bill and will not be taken up again in the Legislature until early 2012. This bill would require the Director of the Department of Consumer Affairs and the Dental Board of California to convene a working group to conduct an analysis of the dental care needs of California. The Committee and the Board took a “watch” position on SB 694 at the February 2011 meeting. The Committee did not take action.

SB 943 (Committee on Business, Professions and Economic Development) Healing Arts. This bill is one of three omnibus bills authored by the Senate Business, Professions, and Economic Development Committee and non-controversial changes to update the provisions of some of the healing arts boards. This bill does not change the provisions of the Dental Board of California but does contain changes to the provisions of the Dental Hygiene Committee of California. The Committee did not take a position on this bill

Public Comment:

There was no additional public comment.

Adjournment :

The meeting adjourned at 5:11 p.m.



MEMORANDUM

DATE	October 14, 2011
TO	Legislative and Regulatory Committee, Dental Board of California
FROM	Sarah Wallace, Legislative & Regulatory Analyst Dental Board of California
SUBJECT	Agenda Item LEG 2: 2011 Tentative Legislative Calendar – Information Only

Background

The 2011 Tentative Legislative Calendar is enclosed.

Action Requested:

No action necessary.

TENTATIVE STATE LEGISLATIVE CALENDAR 2011
First Year of 11-12 Biennial Session

January 1, 2011	Statutes take effect
January 3	Legislature reconvenes
January 10	Budget must be submitted by Governor
January 17	Martin Luther King, Jr. Day
January 21	Last day to submit bill requests to the Office of Legislative Counsel
February 18	Last day for bills to be introduced
February 21	Presidents' Day observed
March 28	Cesar Chavez Day observed
April 14	Spring Recess begins at end of this day's session
April 25	Legislature reconvenes from Spring Recess
May 6	Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house
May 13	Last day for policy committees to hear and report to the floor non-fiscal bills introduced in their house
May 20	Last day for policy committees to meet prior to June 6
May 27	Last day for fiscal committees to hear and report to the floor bills introduced in their house. Last day for fiscal committees to meet prior to June 6
May 30	Memorial Day observed
May 31 - June 3	Floor session only. No committee may meet for any purpose
June 3	Last day to pass bills out of house of origin
June 6	Committee meetings may resume
June 15	Budget Bill must be passed by midnight
July 4	Independence Day observed
July 8	Last day for policy committees to meet and report bills.
July 15	Summer Recess begins at the end of this day's session, provided Budget Bill has been enacted.
August 15	Legislature reconvenes from Summer Recess
August 26	Last day for fiscal committees to meet and report bills to the Floor
August 26 - September 9	Floor session only. No committees, other than conference committees and Rules Committee, may meet for any purpose.
September 2	Last day to amend bills on the Floor
September 5	Labor Day Observed
September 9	Last day for each house to pass bills. Interim Study Recess begins at end of this day's session.
October 9	Last day for Governor to sign or veto bills passed by the Legislature on or before September 9 and in the Governor's possession after September 9.
January 1, 2012	Statutes take effect
January 4, 2012	Legislature reconvenes.



MEMORANDUM

DATE	October 18, 2011
TO	Legislative and Regulatory Committee, Dental Board of California
FROM	Sarah Wallace, Legislative & Regulatory Analyst Dental Board of California
SUBJECT	Agenda Item LEG 3: 2011 End-of-Year Legislative Summary

Background

Throughout 2011, the Legislative and Regulatory Committee and the Board have been tracking several bills impacting the Dental Board of California, as well as healing arts boards in general. Board members and staff have actively partaken in this year's Legislative Session by attending hearings, communicating with Legislators and their staff, and taking positions on proposed bills. The bills that the Committee and the Board have followed include:

- AB 127 (Logue) Regulations: effective date
- AB 991 (Olsen) State government: licenses: California Licensing and Permit Center
- AB 1088 (Eng) State agencies: collection of demographic data
- AB 1424 (Perea) Franchise Tax Board: delinquent tax debt
- SB 103 (Liu) State government: meetings
- SB 540 (Price) Dentistry
- SB 541 (Price) Regulatory boards: expert consultants (SME contracts)
- SB 544 (Price) Professions and vocations: regulatory boards
- SB 694 (Padilla) Dental care
- SB 943 (Committee on Business, Professions, and Economic Development) Healing Arts

The following bills have been designated as 2-year bills and will be taken up again by the Legislature in 2012:

- AB 127 (Logue) Regulations: effective date
- AB 991 (Olsen) State government: licenses: California Licensing and Permit Center
- SB 103 (Liu) State government: meetings
- SB 544 (Price) Professions and vocations: regulatory boards
- SB 694 (Padilla) Dental care

Staff will continue to monitor these two-year bills and will provide reports at upcoming meetings.

The remaining bills that were followed by the Committee and the Board have been signed by Governor Brown. A summary of those bills and provisions follows:

2011 LEGISLATIVE SUMMARY

AB 1088 Eng (Chapter 689, Statutes of 2011)

STATE AGENCIES: COLLECTION OF DEMOGRAPHIC DATA

AB 1088 requires every state agency, board, or commission that directly or by contract, collects demographic data as to the ancestry or ethnic origin of Californians shall use additional separate collection categories and tabulations for each major Asian groups, including, but not limited to, Bangladeshi, Fijian, Hmong, Indonesian, Malaysian, Pakistani, Sri Lankan, Taiwanese, Thai, and Tongan Asian Indian, Bangladeshi, Cambodian, Chinese, Filipino, Hmong, Indonesian, Japanese, Korean, Laotian, Malaysian, Pakistani, Sri Lankan, Taiwanese, Thai, Vietnamese, Fijian, Native Hawaiian, Guamanian (also known as Chamorro), Samoan, and Tongan. This information shall be included in every demographic report on ancestry or ethnic origins of Californians that it publishes or releases on or after July 1, 2012, and be available to the public in accordance with state and federal law. A state agency shall, within 18 months after the United States Census is released to the public; update their data collection to reflect the additional Asian groups and additional Native Hawaiian and Pacific Islander groups as they are reported by the United States Census Bureau.

This bill further requires the State Department of Health Care Services, the State Department of Public Health, the Department of Industrial Relations, and the Department of Fair Employment and Housing to make this information publicly available, except for personal identifying information, which shall be deemed confidential, by posting the data on the Internet Website of the agency on or before July 1, 2012, and annually thereafter. This would not prevent any other state agency from posting the information on their Internet Web site.

AB 1424 Perea (Chapter 455, Statutes of 2011)

FRANCHISE TAX BOARD: DELINQUENT TAX DEBT

AB 1424 requires the State Board of Equalization, quarterly, and the Franchise Tax Board, at least twice each calendar year, to make available a list of the 500 largest tax delinquencies in excess of \$100,000. This bill requires the Franchise Tax Board to include additional information on the list with respect to each delinquency, including the type, status, and license number of any occupational or professional license held by the person or persons liable for payment of the tax and

the names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. This bill requires a person whose delinquency appeared on either list and whose name has been removed, as provided, to comply with the terms of the arranged resolution, and would authorize the State Board of Equalization and the Franchise Tax Board, if the person fails to comply with the terms of the arranged resolution, to add the person's name to the list without providing prior written notice, as provided.

This bill requires a state governmental licensing entity, other than the Department of Motor Vehicles, State Bar of California, and Alcoholic Beverage Control Board, as provided, that issues professional or occupational licenses, certificates, registrations, or permits, to suspend, revoke, and refuse to issue a license if the licensee's name is included on either list of the 500 largest tax delinquencies described above. This bill would not include the Contractors' State License Board in the definition of "state governmental licensing entity." This bill also requires those licensing entities to collect the social security number or federal taxpayer identification number of each individual applicant of that entity for the purpose of matching those applicants to the names on the lists of the 500 largest tax delinquencies, and would require each application for a new license or renewal of a license to indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid. This bill authorizes the State Board of Equalization and the Franchise Tax Board to disclose to state governmental licensing entities identifying information, as defined, of persons on the list of the 500 largest tax delinquencies, as specified. This bill authorizes a motor carrier permit of a licensee whose name is on the certified list of tax delinquencies to be suspended, as provided. The bill requires the State Board of Equalization and the Franchise Tax Board to meet certain requirements and would make related changes.

SB 540

Price (Chapter 385, Statutes of 2011)

DENTISTRY

SB 540 extends the operation the Dental Board of California until January 1, 2016, and specifies that the board would be subject to review by the appropriate policy committees of the Legislature. The bill changes the membership of the board to include one additional public member, to be appointed by the Governor. The bill creates a Dental Assisting Council of the board, to be appointed by the board, to consider matters relating to dental assistants and make recommendations to the board and standing

committees of the board, as specified. This bill contains other related provisions and other existing laws.

SB 541

Price (Chapter 339, Statutes of 2011)

REGULATORY BOARDS: EXPERT CONSULTANTS

SB 541, sponsored by the Medical Board of California and the Contractors State License Board, is an urgency measure that authorizes any board, within the Department of Consumer Affairs, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California to enter into an agreement with an expert consultant to do any of the following:

- Provide an expert opinion on enforcement-related matters, including providing testimony at an administrative hearing.
- Assist the board as a subject matter expert in examination development, examination validation, or occupational analyses.
- Evaluate the mental or physical health of a licensee or an applicant for a license as may be necessary to protect the public health and safety.

An executed contract between a board and an expert consultant shall be exempt from the State Contract Act. Each board is required to establish policies and procedures for the selection and use of expert consultants. Nothing in this bill should be construed to expand the scope of practice of an expert consultant providing services pursuant to this section.

SB 943

Senate Business, Professions and Economic Development Committee (Chapter 350, Statutes of 2011)

HEALING ARTS

SB 943 makes several non-controversial, minor, non-substantive or technical changes to various miscellaneous provisions pertaining to healing arts boards of the Department of Consumer Affairs and professions regulated under the Business and Professions Code, including the Dental Hygiene Committee of California.

Action Requested:

No action necessary.



MEMORANDUM

DATE	October 18, 2011
TO	Legislative and Regulatory Committee, Dental Board of California
FROM	Sarah Wallace, Legislative & Regulatory Analyst Dental Board of California
SUBJECT	Agenda Item LEG 4: Dental Board of California Legislative Proposals for 2012

Background

In September 2011, the Department of Consumer Affairs' Division of Legislative and Policy Review contacted boards and bureaus requesting 2012 legislative proposals. The Governor's Office requested that the legislative proposals to be submitted either have no cost or be absorbable, save money, meet Federal compliance, or contain unopposed technical clean-up language.

Board staff submitted two legislative proposals that the Board pursued in the 2011 legislative session. Those legislative proposals were relative to:

1. Additional Enforcement Tools
2. Foreign Dental Schools

Summary of the Additional Enforcement Tools Legislative Proposal:

Currently, the Dental Board of California's (Board) enforcement program is limited to two methods to address violations of the Dental Practice Act (Act); issuance of a citation and administrative filings with the Office of the Attorney General. The Board has identified additional enforcement methods that will require legislative action. These additional methods include specific time limitations on public disclosure for citations issued for less egregious violations, Notice of Correction, and Letter of Admonishment. The Board will be able to utilize these tools to address minor to moderate violations of the Act.

Time Limitations on Public Disclosure of Administrative Citations:

Currently, the Board is able to address violations of the Act by issuance of an administrative citation. This method is used to address minor violations that do not warrant more severe disciplinary measures. However, because a citation remains on the licensee's record indefinitely, and the information is available to the public via the Internet, licensee's routinely request an informal hearing to challenge the merits of the allegation. In most cases, the licensee questions the fairness of a permanent mark

against their license for a minor violation of the Act. The amount of time devoted to the informal hearing process limits the efficiency of the citation as an intermediate disciplinary tool. By comparison, citations issued by other Boards have a statute of limitations placed on the length of time posted for public disclosure (i.e. Medical Board of California, 5 years; Board of Registered Nursing, 3 years). The Board is seeking a comparable statute so that the citation method will be efficiently utilized and reduce the time and expense associated with informal hearings.

Letter of Admonishment:

In addition, the Letter of Admonishment, as used by the Board of Pharmacy, would be used by the enforcement staff who have already performed an investigation and have identified areas of concern that do **not** rise to the level of filing of a formal accusation. The results of the investigation need to be brought to the attention of the practitioner so that they can take the necessary steps to address the deficiency (i.e. record keeping course, remedial education). This method allows for an additional level of consumer protection without the lengthy administrative hearing process, and would be publically disclosed, including via the Internet.

Notice of Correction:

The final proposed method is the implementation of a Notice of Correction, as also currently used by the Board of Pharmacy. As opposed to the Letter of Admonishment, this would be used as an alternative to the method of citation during an inspection of a licensee's workplace when an incident does not rise to or warrant a formal citation but should be brought to the practitioner's attention (i.e. name of licensed practitioners not posted in the office, failure to wear a name tag, failure to post auxiliary duties). The notice will serve as documentation for the Board in the event of a repeated violation, but is not publically disclosed.

During the 2011 Legislative Session, Board staff sent a letter to the Senate Business, Professions, and Economic Development Committee Chief Consultant, Bill Gage, requesting the additional enforcement tools be included in the Board's sunset bill, Senate Bill 540. However, the requested provisions were not included.

Summary of Foreign Dental School Legislative Proposal:

Per California Code of Regulations, Title 16, Section 1024, It is the intent of the Dental Board of California (Board) to approve only those schools which continuously maintain a high quality standard of instruction. Currently, the Board is responsible for conducting the evaluation and review for the approval of a foreign dental school. The Board is seeking statutory amendments that would allow the Board to accept the findings of any commission or accrediting agency, approved by the Board, and adopt the findings as its own for the approval of foreign dental schools.

Assembly Bill 1116 (Chapter 792, Statutes of 1997) established requirements for the approval, registration and renewal of foreign dental programs, stating that "*the Legislature recognizes the need to ensure that graduates of foreign dental schools who have received an education that is **equivalent** to that of accredited institutions in the United States and that adequately prepares their students for the practice of dentistry shall be subject to the same licensure requirements as graduates of approved dental*

schools or colleges" (emphasis added). Under the Board's authorization to approve foreign dental schools, Universidad De La Salle Bajio was approved in December 2004.

In 2004 no other entity had established policies, procedures or regulations that allowed for the approval of foreign dental programs. Since that time, the American Dental Association's Commission on Dental Accreditation (CODA) has developed and established an accreditation process for foreign dental programs. Currently, the Board accepts the findings of any commission or accreditation agency for graduates of dental programs in the United States, California Code of Regulations Section 1024(b). There is no current equivalent provision for the Board to accept the findings of any commission or accreditation agency for foreign dental schools.

At its February 25, 2011 meeting, the Board voted to seek statutory amendments to California Business and Professions Code Section 1636.4 to accept the findings of any commission or accreditation agency and adopt those findings as its own for foreign dental schools. The Board proposes to add the following language to Section 1636.4:

The board may, in lieu of conducting its own independent investigation, accept the findings of any commission or accreditation agency approved by the board and adopt those findings as its own.

This language would allow the Board to defer to commissions or accreditation agencies that are equipped with the experience, education, and resources necessary to conduct evaluations of foreign dental schools. As of right now, the Board does not have the time, expertise, or resources available to continue evaluating and approving foreign dental schools itself.

This proposed language was provided to Assembly Member Lara requesting statutory amendments. The Board will be discussing this item during the full Board meeting on November 7, 2011.

Board staff has been advised by the Department of Consumer Affairs that the Board will need to take the lead on finding its own author for both proposals for the 2012 Legislative Session.

Action Requested:

No action necessary.