



TELECONFERENCE – BOARD MEETING AGENDA
Wednesday October 9, 2013
(916) 263-2300 (Board Office)

Members of the Board

Huong Le, DDS, MA, President
Fran Burton, Public Member, Vice President
Steven Morrow, DDS, MS, Secretary

Steven Afriat, Public Member
Stephen Casagrande, DDS
Yvette Chappell-Ingram, Public Member
Katie Dawson, RDHAP
Luis Dominicus, DDS
Judith Forsythe, RDA

Kathleen King, Public Member
Ross Lai, DDS
Meredith McKenzie, Public Member
Thomas Stewart, DDS
Bruce Whitcher, DDS

One or more Board Member(s) will participate in this meeting at the teleconference sites listed below. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Dental Board of California at each teleconference location. The public teleconference sites for this meeting are as follows:

TELECONFERENCE MEETING LOCATIONS:

Dental Board of California Offices:

Fran Burton, Public Member
Stephen Casagrande, DDS
2005 Evergreen Street, Ste. 1290 A & B
Lake Tahoe Conference Room
Sacramento, CA 95815
(916) 263-2300

Judith Forsythe, RDA
Steven Morrow, DDS, MS
333 S. Anita Drive
Basement Conference Room
Orange, CA 92780
(714) 923-9725

Other Teleconference Locations:

Bruce Whitcher, DDS
1428 Oak Street
Paso Robles, CA 93446
(916) 263-2300

Huong Le, DDS, MA
Katie Dawson, RDHAP
818 Webster Street
Third Floor Small Conference Room
Oakland, CA 94607
(916) 263-2300

Steven Afriat, Public Member
4107 Magnolia Blvd.
Burbank, CA 91505
(916) 263-2300

Thomas Stewart, DDS
3809 San Dimas, Ste. B
Bakersfield, CA 93301
(916) 263-2300

Luis Dominicis, DDS
8202 Florence Avenue, Suite 101
Downey, CA 90240
(916) 263-2300

Ross Lai, DDS
456 Montgomery St., Ste. GC-3
San Francisco, CA 94104
(916)263-2300

Meredith McKenzie, Public Member
1133 Innovation Way
Sunnyvale, CA 94089
(916)263-2300

Yvette Chappell-Ingram, Public Member
1000 North Alameda St., Ste. 240
Los Angeles, CA 90012
(916)263-2300

Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. Time limitations for discussion and comment will be determined by the President. For verification of the meeting, call (916) 263-2300 or access the Board's website at www.dbc.ca.gov. This Board meeting is open to the public and is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Karen M. Fischer, 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.

12:00 NOON FULL BOARD - TELECONFERENCE

1. Call to Order/Roll Call/Establishment of Quorum
2. Discussion and Possible Action Regarding:
 - (A) Comments Received During the 45-Day Public Comment Period and During the Regulatory Hearing for the Board's Proposed Rulemaking to Amend California Code of Regulations, Title 16, Section 1021 Relevant to a Dentistry Fee Increase; and
 - (B) Adoption of Proposed Amendments to California Code of Regulations, Title 16, Section 1021 Relevant to a Dentistry Fee Increase
3. Public Comment of Items Not on the Agenda
The Board may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 and 11125.7(a)).
4. Adjournment



MEMORANDUM

DATE	October 3, 2013
TO	Dental Board Members
FROM	Sarah Wallace, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 2(A): Discussion and Possible Action Regarding Comments Received During the 45-Day Public Comment Period and During the Regulatory Hearing for the Board's Proposed Rulemaking to Amend California Code of Regulations, Title 16, Section 1021 Relevant to a Dentistry Fee Increase

Background:

At its March 1, 2013 meeting, the Dental Board of California (Board) discussed and approved proposed regulatory language relative to a fee increase for dentists. The Board directed staff to initiate a rulemaking. Board staff filed the initial rulemaking documents with the Office of Administrative Law (OAL) on July 30th. The rulemaking was published in the California Regulatory Notice Register on Friday, August 9th and was noticed on the Board's web site and mailed to interested parties. The 45-day public comment period began on August 9th and ended on September 23rd, and a regulatory hearing was held in Sacramento on September 23rd to receive verbal and written testimony. The Board received comments from the California Dental Association.

Pursuant to the Administrative Procedure Act, the Board is required to respond to any adverse comments received during the 45-day public comment period or during the regulatory hearing.

Comments Received from the California Dental Association and Staff Recommendations for Response:

The California Dental Association (CDA) submitted the attached letter in response to the Board's proposed rulemaking to amend California Code of Regulations, Title 16, Section 1021 relative to the dentistry fee increase:

Summary of Comments from CDA:

The CDA commented that its membership makes up for approximately seventy (70) percent of licensed dentists in California, and that the Board's oversight of the profession is important to its organization. The CDA recognizes and supports the Board's role in the licensure and enforcement of the practice of dentistry that set the standard of professionalism in California. The CDA agrees that it is necessary for the

Board to have resources available to carry out its responsibilities, and that those resources must come from the dentists who benefit from the Board's oversight.

The CDA recognized that the Board had not increased the initial licensure and biennial renewal fees since 1998 and that those fees constitute the largest source of the Board's revenue. Additionally, the CDA commented that it recognized that in addition to the impact of inflation, the Board had been given "spending authority" but no direct revenue source to pay for the additional enforcement program expenses that came as part of the Department of Consumer Affairs' Consumer Protection Enforcement Initiative (CPEI). The CDA commented that it believes that consumer protection is the most important responsibility of the Board, and that it has seen demonstrable improvements in the Board's enforcement caseload management that have been a result of the additional staff. The CDA commented that they do not want to see those gains eroded due to insufficient resources.

The CDA acknowledged the primary importance of the Board's enforcement program as the basis for the proposed fee increase, but expressed disappointment that the supporting rulemaking documents did not address basic customer service. The CDA have expressed multiple times in past public discussions that for the majority of dentists who will never face Board disciplinary action, their only contact with the Board is to solicit answers to licensure questions or to rectify paperwork issues. The CDA commented that the Board's customer service track record in recent years has been dismal and that member dentists routinely turn to the CDA to intervene on their behalf when they are unable to reach Board staff by phone or email. The CDA recognized and appreciates that managerial changes made earlier this year have seemed to reduce the frequency of such occurrences. The CDA notes that it would be difficult to explain to member dentists why they should pay an additional \$85 in licensure fees when they are unable to reach anyone at the Board to answer basic questions.

The CDA commented that without continued demonstrable and sustained improvements in customer service, it will be difficult, if not impossible, for the CDA to support legislation to increase the statutory cap on initial licensure and biennial renewal fees. The CDA notes that such support would be particularly difficult in 2014, when the current regulatory proposed increase of \$85 would just be going into effect. The CDA understands the Board's desire to plan ahead for future fee increases, which would need to be approved via the formal rulemaking process, but is still concerned that 2014 would be too soon to consider additional fee increases without clear evidence that the currently proposed increase will result in overall performance improvements that are visible to the average licensee. The CDA commented that raw numbers alone should not be used to justify an almost immediate further increase without a thorough examination of the Board's spending priorities and potential for improved efficiencies. The CDA noted that it looks forward to engaging in that discussion with the Board as it moves forward.

The CDA hopes that, in the future, the Board will begin to more carefully forecast its revenue needs on a yearly basis; the CDA believes that dentists would prefer a more incremental approach to fee increases so that this type significant one-time jump would become unnecessary. The CDA recognizes that the board is following the standard budgetary process for all professional licensing boards, but would like to see improved clarity in budget documentation and explanation in the future, so that licensees and

Board members may more easily comprehend why fee increases are deemed necessary even when the Board is not spending its entire annual budget augmentation.

Staff's Recommended Response to the CDA's Comments:

Staff recognizes the concerns of the CDA; however, staff recommends the Board reject these comments because if the Board averts or delays an immediate fee increase, and subsequent fee increase, the Board's State Dentistry Fund will become insolvent and the structural imbalance between its revenue and expenditures will continue to grow.

The Board must assess fees to licensees to sustain the financial resources necessary to carry out the methods of meeting its highest priority of consumer protection. Since 1998, the Board's enforcement program has grown exponentially in (1) response to consumer protection issues that have surfaced, and (2) response to new statutory and regulatory requirements. Over time, the Board has been authorized to increase its staffing resources to meet consumer protection needs in California, without having to increase its licensing fees to offset such expenses; however, the Board cannot continue to absorb additional expenses without increasing fees. In May 2010, the Board's Executive Officer reported at a quarterly meeting, that the Board would need to look at fee increases in Fiscal Year 2012-2013 due to increased enforcement costs.

The CDA's concerns regarding staff resource availability to respond to licensee's questions have been recognized by the Board. However, this proposed fee increase has not been presented as a mechanism to improve customer service. Rather, this fee increase has been proposed to sustain existing resources, especially enforcement related resources. It should be noted that the Board and Executive staff continue to evaluate and develop processes to improve access and communication between staff and licensees on an ongoing basis. Additionally, the Board's Executive Officer maintains open communication with the CDA to address communication issues and immediately resolve CDA members' licensure concerns.

If the Board does not correct the structural imbalance between its revenue and expenditures through this proposed fee increase, and a subsequent fee increase once the Board obtains statutory authority via increasing the fee caps, the Board will be forced to: (1) reduce staffing in licensing and enforcement, and (2) reduce operating resources and equipment to offset expenditures. The Board's licensing and enforcement programs would suffer from reductions in staffing and would result in delayed response times to licensing inquiries, application approvals, processing of consumer complaints, conducting investigations, and referring egregious cases to the Attorney General's Office for prosecution. Such staffing reductions would make continued demonstrable and sustained improvements in customer service improbable and the Board would be unable to provide efficient and effective consumer protection.

Board staff agrees that "raw numbers alone" do not justify further fee increases, which is the reason that Board staff works in consultation with the Department of Consumer Affairs' Budget Office to continually analyze the condition of the State Dentistry Fund and annual budget appropriations. Board staff has provided budget reports at quarterly Board meetings to indicate the need for a fee increase, including information regarding the condition of the State Dentistry Fund and the annual budget appropriations. The Board has experienced reversions to the State Dentistry Fund at the conclusion of past fiscal years and such reversions have delayed the need for a fee increase. Previous

budget reports have clarified that unexpected restrictions on the spending of budget appropriations produce such reversions (e.g. Executive Orders that have resulted in furloughs, hiring freezes, travel restrictions, etc.); therefore, the Board is unable to depend on reversions to justify the further delay of the proposed fee increase. This proposed fee increase is necessary to support the State Dentistry Fund because it is insufficient to be able to sustain the Board's annual budget appropriation.

Board staff recognizes that this proposal equates to a 23% overall increase in biennial renewal fees that have been assessed since 1998. However, Board staff concludes that this proposed fee increase, that is the equivalent to an annual increase in the cost of licensure of less than 0.03% of an average dentist's annual income, is difficult to characterize as a dramatic one-time jump in licensure fees.

The Board's Executive Officer has previously indicated that she will be working with the CDA and other stakeholder groups to address concerns regarding forthcoming fee increases. Additionally, staff will strive to improve the presentation of budget information to maintain transparency so that necessary budgetary changes in the future may be easier to understand and anticipate by Board members, stakeholders, and members of the public.

Action Requested:

The Board may take action to accept, reject or modify staff's recommended response. If the Board votes to reject or modify staff's recommended response, staff requests the Board provide a rationale for inclusion in the rulemaking file.



September 23, 2013

Dental Board of California
2005 Evergreen Street, Suite 1550
Sacramento, CA 95815

Attn.: Sarah Wallace, Legislative and Regulatory Analyst

SUBJECT: Proposed Regulation -- Dentistry Fee Increase

Dear Ms. Wallace,

The California Dental Association appreciates the opportunity to provide comment on the Dental Board's proposed regulations to increase the initial and renewal licensure fees for dentists from \$365 to \$450, along with several other fees statutorily linked to these ones.

The members of CDA constitute roughly 70 percent of licensed dentists in California, and thus the Dental Board's regulatory oversight of the profession is very important to us, as all of our members are touched by it at least every other year when they renew their licenses. CDA recognizes and supports the vital role the board plays in dental licensure and in enforcement of the laws and regulations that rightfully set a standard of professionalism that all dentists should strive to meet. The board clearly, therefore, needs to have the resources available to it to productively and efficiently carry out its responsibilities, and those resources appropriately by law must come from the dentists who ultimately benefit from its oversight.

With those thoughts in mind, CDA recognizes and appreciates that the initial and biennial licensure fees have not been increased since 1998, and that they are by far the largest source of the board's revenue. We also recognize that, in addition to the unavoidable impact of inflation over the last 15 years, the board has been given "spending authority" but no direct revenue source to pay for the additional investigators that came as part of the Department of Consumer Affairs' Consumer Protection Enforcement Initiative (CPEI). CDA believes that consumer protection is the Dental Board's most important responsibility, and we have seen the demonstrable improvements to the board's enforcement caseload management that have resulted from the additional staff support. We would not want to see those gains eroded due to insufficient resources.

While acknowledging the primary importance of enforcement as a basis for this proposed fee increase, we feel compelled to express some disappointment that the supporting documents for this increase say absolutely nothing about basic customer service. As we have expressed multiple times in past public discussions of this issue, for the vast majority of dentists who will never face a board enforcement action, their only contact with the Dental Board is when they have a

question that needs to be answered or a licensure "paperwork" issue that needs to be addressed. In recent years, the board's track record in that area has been dismal, with member dentists regularly turning to CDA to intervene on their behalf when they are unable to reach anyone at the board by phone or email, sometimes after weeks or even months of attempts. Managerial changes made earlier this year do seem to be reducing the frequency of these occurrences, which is much appreciated, yet just this past week we heard from a member who had been trying for 3-4 months to reach someone on two separate, relatively straightforward issues, without success. It is difficult to explain to one of these members why he/she should happily pay an additional \$85 in licensure fees when he/she cannot reach anyone at the board to solve a basic problem.

We bring the customer service issue to the board's attention primarily because, without continued demonstrable and sustained improvements in that area, it will be very difficult, if not impossible, for CDA to support legislation to increase the \$450 statutory cap on initial and biennial renewal fees, especially in 2014, when the currently proposed \$85 increase will just be going into effect. While we understand the practical desire to plan ahead for future increases, which would have to go through the full regulatory process, we feel that 2014 is simply too soon to be talking about additional increases without clear evidence that the increase now under discussion will result in overall performance improvements that are visible to the average licensee. Raw numbers alone, which we acknowledge indicate that this current fee increase will not leave the board fully "above water" in 2014-15, should not be used to justify an almost immediate further increase without a thorough examination of the board's spending priorities and potential for improved efficiencies. CDA looks forward to engaging in that discussion as we move forward.

As we move forward, we would also hope that the board would begin to more carefully forecast its revenue needs on a year-to-year basis. While dentists no doubt have appreciated the consistency of their licensure fee levels since 1998, we believe that most would prefer a more incremental approach to fee increases, so that this type of dramatic, one-time jump (with the possibility of further increases soon thereafter) would become unnecessary. Also, while recognizing that the board is following the standard budgetary process for all professional licensing boards, CDA would also in the future like to see improved clarity in budget documentation and explanation, so that licensees (and board members, for that matter) could more easily understand why fee increases are deemed necessary even when the board is not spending its entire annual budget augmentation.

Thank you again for the opportunity to comment on these proposed regulations.

Sincerely,

A handwritten signature in cursive script that reads "Bill Lewis".

Bill Lewis
Manager, Regulatory Affairs



MEMORANDUM

DATE	September 24, 2013
TO	Dental Board Members
FROM	Sarah Wallace, Legislative and Regulatory Analyst
SUBJECT	Agenda Item 2(B): Discussion and Possible Action Regarding Adoption of Proposed Amendments to California Code of Regulations, Title 16, Section 1021 Relevant to a Dentistry Fee Increase

Background:

The Board may consider comments received during the 45-day public comment period, hold discussion, and take action to adopt proposed amendments to California Code of Regulations, Title 16, Section 1021 relevant to the dentistry fee increase.

Action Requested:

The Board may hold discussion regarding adverse comments received during the 45-day public comment period and may take one of the following actions:

- A. If the Board rejects the comments received during the 45-day public comment period, and does not vote to modify the text in response to comments, then the Board would:

Direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law and authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed amendments to California Code of Regulations, Title 16, Section 1021 relevant the dentistry fee increase as noticed in the proposed text.

- B. If the Board accepts any comments received during the 45-day public comment period, or modifies the text in response to comments, then the Board would:

Modify the text in response to the comments received and direct staff to take all steps necessary to complete the rulemaking process, including preparing the modified text for a 15-day public comment period, which includes the amendments accepted by the board at this meeting. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the

rulemaking process, and adopt the proposed amendments to California Code of Regulations, Title 16, Section 1021 relevant to the dentistry fee increase as noticed in the modified text.