



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

Thursday, November 4, 2010

Upon Conclusion of Enforcement Committee Meeting
Embassy Suites LAX/South
1440 E. Imperial Avenue
El Segundo, CA 90245
1-310-640-3600

AGENDA

CALL TO ORDER

ROLL CALL AND ESTABLISHMENT OF QUORUM

LEG 1 – Approval of the May 5, 2010 Legislative and Regulatory Committee Meeting Minutes

LEG 2 – 2011 Tentative Legislative Calendar – Information Only

LEG 3 – End of 2-Year Legislative Session Summary

- | | |
|---------|--|
| AB 171 | Jones (Chapter 418, Statutes of 2009)
DENTAL SERVICES: CREDIT |
| AB 403 | Fuller (Chapter 104, Statutes of 2009)
DENTAL HYGIENISTS: EXAMINATION AND LICENSURE |
| AB 583 | Hayashi (Chapter 436, Statutes of 2010)
HEALTH CARE PRACTITIONERS: DISCLOSURE OF EDUCATION |
| AB 667 | Block (Chapter 119, Statutes of 2009)
TOPICAL FLUORIDE: APPLICATION |
| AB 1116 | Carter (Chapter 509, Statutes of 2009)
COSMETIC SURGERY |
| AB 1524 | Hayashi (Chapter 446, Statutes of 2010)
DENTISTRY: EXAMINATION REQUIREMENTS |
| AB 1659 | Huber (Chapter 666, Statutes of 2010)
STATE GOVERNMENT: AGENCY REPEALS |
| AB 2130 | Huber (Chapter 670, Statutes of 2010)
PROFESSIONS AND VOCATIONS: SUNSET REVIEW |

**LEGISLATIVE & REGULATORY
COMMITTEE**

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

- AB 2699 Bass (Chapter 270, Statutes of 2010)
HEALING ARTS: LICENSURE EXEMPTION
- SB 294 Negrete McLeod (Chapter 695, Statutes of 2010)
PROFESSIONS AND VOCATIONS: REGULATIONS
- SB 442 Ducheny (Chapter 502, Statutes of 2010)
CLINIC CORPORATION: LICENSING
- SB 599 Negrete McLeod (Chapter 642, Statutes of 2009)
WORKFORCE DEVELOPMENT
- SB 630 Steinberg (Chapter 604, Statutes of 2009)
**HEALTH CARE COVERAGE: CLEFT PALATE RECONSTRUCTIVE SURGERY:
DENTAL AND ORTHODONTIC SERVICES**
- SB 700 Negrete McLeod (Chapter 505, Statutes of 2010)
HEALING ARTS: PEER REVIEW
- SB 1172 Negrete McLeod (Chapter 517, Statutes of 2010)
REGULATORY BOARDS: DIVERSION PROGRAMS

LEG 4 – Update on Pending Regulatory Packages

- A. Disciplinary Guidelines (*California Code of Regulations, Title 16, Section 1018*)
- B. Retroactive Fingerprinting (*California Code of Regulations, Title 16, Section 1007, 1008 and 1017.2*)
- C. Dental Assisting Educational Programs and Courses (*California Code of Regulations Title 16, CCR, Sections 1070, 1070.1, 1070.2, 1070.6, 1070.7, 1070.8 and 1071*)
- D. Infection Control (*California Code of regulations, Title 16, Section 1005*)

LEG 5 – Request for Prospective Legislative Proposals

Stake holders Are Encouraged to Submit Proposals in Writing to the Board Before or During the Meeting for Possible Consideration by the Board at a Future Meeting

LEG 6 – Regulatory Priorities for 2011

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
Wednesday, May 5, 2010
South San Francisco, CA
DRAFT Meeting Minutes

Members Present:

Fran Burton, Public Member, Chair
Stephen Casagrande, DDS, Vice Chair
John Bettinger, DDS
Luis Dominicis, DDS

Members Absent:

Huong Le, DDS
Suzanne McCormick, DDS

Staff Present:

Richard DeCuir, Executive Officer
Karen Fischer, Administrative Analyst
Sarah Wallace, Legislative and Regulatory Analyst
Donna Kantner, Licensing and Examination Unit Manager
Kristy Schieldge, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Ms. Burton, Chair, called the committee meeting to order at 5:35 p.m. The Chair requested that Dr. Bettinger, Board President, appoint himself to the committee for this meeting because two committee members were absent and important legislation pertaining to the Dental Board was on the agenda. Dr. Bettinger appointed himself to the Legislative and Regulatory Committee for this meeting.

LEG 1: Approval of the February 25, 2010 Legislative and Regulatory Committee Meeting Minutes

M/S/C (Casagrande/Bettinger) to approve the February 25, 2010 Legislative and Regulatory Committee meeting minutes. The motion passed unanimously.

LEG 2: Update on Implementation of the Legislative Bill Tracking Service

Sarah Wallace, Legislative and Regulatory Analyst, reported that the Dental Board of California contracted with Wavelength Automation, Inc. to provide legislative bill tracking services. The company offers a web-based bill tracking program called Capitol Track that enables staff to access personalized bill tracking reports, the full text of legislative bills and Committee/Floor analyses, daily calendar of events, and vote records and scores.

LEG 3: 2010 Tentative Legislative Calendar – Information Only

The 2010 Tentative State Legislative Calendar was provided for informational purposes. Dr. Casagrande requested that the calendar be provided in every meeting packet.

LEG 4: Discussion and Possible Action on the Following Legislation:

Assembly Bill 456 (Emmerson) Dentistry: diversion program
The Board previously took a support position and remains in support.

Assembly Bill 583 (Hayashi) Health care practitioners: disclosure of education and office hours
Inactive file – no position

Assembly Bill 684 (Ma) – Claim reimbursement: late payments: dental services
The Board previously took a support position and remains in support.

Assembly Bill 1310 (Hernandez) Healing arts: database
The Board previously took an oppose position and remains in opposition.

Assembly Bill 1524 (Hayashi) Dentistry: examination requirements (Portfolio Pathway to Licensure)
The Board previously took a support position and remains in support.

Assembly Bill 1659 (Huber) State government: agency repeals
M/S/C (Burton/Bettinger) to watch this legislation. The motion passed unanimously.

Assembly Bill 2130 (Huber) Professions and vocations: sunset review
M/S/C (Burton/Bettinger) to watch this legislation. The motion passed unanimously.

Assembly Bill 2699 (Bass) Healing arts: licensure exemption
M/S/C (Burton/Dominicis) to oppose if not amended. The motion passed unanimously.

Senate Bill 294 (Negrete McLeod) Healing arts
M/S/C (Bettinger/Casagrande) to oppose if resurrected. The motion passed unanimously.

Senate Bill 389 (Negrete McLeod) Professions and vocations
M/S/C (Burton/Casagrande) to continue to support. The motion passed unanimously.

Senate Bill 442 (Ducheny) Clinic corporation: licensing
M/S/C (Bettinger/Dominicis) to watch this legislation. The motion passed unanimously.

Senate Bill 638 (Negrete McLeod) Regulatory boards: operations
No action taken.

Senate Bill 700 (Negrete McLeod) Healing arts: peer review
M/S/C (Bettinger/Dominicis) to watch this legislation. The motion passed unanimously.

Senate Bill 1094 (Aanestad) Healing arts: peer review
M/S/C (Burton/Dominicis) to watch this legislation. The motion passed unanimously.

Senate Bill 1111 (Negrete McLeod) Regulatory boards
No action. The legislation is dead.

Senate Bill 1172 (Negrete McLeod) Regulatory boards: diversion programs
M/S/C (Casagrande/Bettinger) to watch this legislation. The motion passed unanimously.

Other Legislation Impacting the Board's Jurisdiction

Assembly Bill 1938 (Fletcher) Dentistry
The Committee discussed this spot bill by CDA. M/S/C (Burton/Bettinger) to watch this legislation.
The motion passed unanimously.

Assembly Bill 2334 (Salas) Malpractice insurance: volunteer dentists
M/S/C (Burton/Casagrande) to watch this legislation. The motion passed unanimously.

Senate Bill 1132 (Negrete McLeod) Healing arts
M/S/C (Burton/Casagrande) to watch this legislation. The motion passed unanimously.

Senate Bill 1171 (Negrete McLeod) Regulatory boards: operations
M/S/C (Burton/Bettinger) to watch this legislation. The motion passed unanimously.

LEG 5: Update of Proposed Regulatory Packages

A. Disciplinary Guidelines (*California Code of Regulations, Title 16, Section 1018*)

The Disciplinary Guidelines completed rulemaking file was disapproved by the Office of Administrative Law (OAL) on March 19, 2010 due to a form that was not referenced within the regulations. Board staff has 120 days to make the necessary corrections, notice the changes for 15-day public comment, and resubmit the final rulemaking file to OAL. The proposed changes are to be presented to the Board during the full Board meeting on May 6, 2010. If the Board moves to accept the proposed changes, staff will notice the modified text for 15-day notice on Monday, May 10th. The Board will need to address any adverse comments received during the 15-day comment period at a Board meeting or a teleconference meeting before the next scheduled Board meeting on July 26, 2010.

B. Continuing Education (*California Code of Regulations, Title 16, Sections 1016 & 1017*)

This rulemaking file is complete and became operative on March 9, 2010. Information pertaining to these regulations are available on the Dental Board Web site under the Laws and Regulations link.

C. Retroactive Fingerprinting (*California Code of Regulations, Title 16, Section 1008*)

The modified text for the Retroactive Fingerprinting regulations were publicly noticed for fifteen (15) days. The comment period ended on April 30, 2010. The Board did not receive any adverse comments. The language will be presented to the Board during the full Board meeting on May 6, 2010. If the Board adopts the final text as noticed, then the Board would need to direct staff to take all steps necessary to complete the rulemaking process. Staff anticipates filing the final rulemaking package with the OAL by close of business on Friday, May 28, 2010. OAL will have 30 working days to review and either approve or disapprove the file.

D. Dental Assisting Duties (*California Code of Regulations, Title 16, Sections to be assigned*)

The Board requested staff initiate the rulemaking approved at the November 2009 meeting. Board staff is in the process of completing the Initial Statement of Reasons, Std. 399 Economic & Fiscal Impact Statement, and Notice of Public Hearing. Board staff anticipates submitting the Notice of Public Hearing and supporting documentation to OAL by May 25, 2010. The 45-day comment period will end on July 19, 2010. Any comments received during the comment period will be brought to the Board at the July 26, 2010 meeting.

E. Infection Control (*California Code of Regulations, Title 16, Section 1005*)

The Board accepted language at the February 2010 meeting and directed staff to move forward with the initial rulemaking file. However, a request was received from the Dental Hygiene Committee of California (DHCC) to give input prior to noticing the amendments. The Board will also need to review corrected text during the full Board meeting on May 6, 2010. The Board will need to accept corrections to the text and will need to reconsider its action to initiate the rulemaking process so that the Board may receive input from the DHCC prior to noticing the

proposed amendments. Any revisions must be considered by the Board before the initial rulemaking can begin.

LEG 6: Discussion About Prospective Legislative Proposals From Board Members

Dr. John Bettinger proposed that the Dental Board sponsor legislation. He would like to appoint a two person subcommittee to work with staff to develop clean-up language for AB 2637. He requested that the subcommittee address RDA issues such as whether or not to eliminate the duty of adjusting dentures outside of the mouth; whether or not a supervising dentist can determine if RDA allowable duties are direct or general; and determine if there is an adequate pool of procedures to test on the exam. Kristy Schieldge, legal counsel further clarified the question: Does there need to be added discretion for the board to select additional procedures to be tested.

With regard to RDAEFs, Dr. Bettinger outlined tasks the subcommittee might consider: Are RDAEF exam procedures adequate? For example, should the Board test clinically for permanent restorations and root canals? Or, will the subcommittee recommend language to eliminate a procedure? The subcommittee should also consider whether or not to eliminate any duties and/or to recommend what educational requirements need to be added. For example, require programs to clinically teach permanent fillings. Finally, decide if there are enough procedures to choose from to test. Include endodontic and composite restorations portion too.

Dean Chaliros, CDA, stated that the passage of AB 2637 has been a seven year process. He strongly suggested seeking other alternatives to address concerns, other than a legislative change. If no other alternative can be determined, he suggested the Board seek legislative remedy as narrowly as possible. He offered to work with the subcommittee to reach some resolution to the issues.

Karen Wyant, Dental Assisting Alliance, also offered her willingness to work with subcommittee. Since the dental assisting education programs defined in statute are going away January 1, 2010, Ms. Wyant suggested that the subcommittee look at the regulations currently being developed by Board staff to see if educational requirement changes could be made through the regulatory process instead of legislation.

M/S/C (Casagrande/Burton) to recommend to the Board, that Dr Bettinger appoint a two person subcommittee to evaluate RDA and RDAEF issues relating to AB 2637, as discussed in Committee, and to recommend to the full Board, legislative or alternative changes to address these concerns. The motion passed unanimously.

There was no additional public comment.

ADJOURNMENT

The Committee adjourned at 7:20 p.m.



MEMORANDUM

DATE	October 26, 2010
TO	Legislative and Regulatory Committee Dental Board of California
FROM	Sarah Wallace Legislative & Regulatory Analyst
SUBJECT	Agenda Item LEG 2: 2011 Tentative Legislative Calendar – Information Only

To date, the 2011 Tentative Legislative Calendar has not been made available. Staff will notify the Board once the calendar is available.



MEMORANDUM

DATE	October 27, 2010
TO	Legislative and Regulatory Committee Dental Board of California
FROM	Sarah Wallace Legislative & Regulatory Analyst
SUBJECT	Agenda Item LEG 3: End of 2-Year Legislative Session Summary

This report will be hand carried to the meeting.



MEMORANDUM

DATE	October 26, 2010
TO	Legislative and Regulatory Committee Dental Board of California
FROM	Sarah Wallace Legislative & Regulatory Analyst
SUBJECT	Agenda Item LEG 4: Update on Pending Regulatory Packages: Disciplinary Guidelines, CCR, Title 16, Section 1018; Retroactive Fingerprinting, CCR, Title 16, Section 1007, 1008, and 1017.2; Dental Assisting Educational Programs and Courses, CCR, Title 16, Sections 1070, 1070.1, 1070.2, 1070.6, 1070.7, 1070.8, and 1071; and Infection Control, CCR Title 16, Section 1005

Update Regarding Disciplinary Guidelines, CCR, Title 16, Section 1018:

The Board's Disciplinary Guidelines have not been revised since 1996. This rulemaking has been in process since 2007 and was disapproved by the Office of Administrative Law (OAL) on March 19, 2010. The Board re-submitted the rulemaking package to OAL on July 15, 2010. While reviewing the re-submitted file, OAL found inconsistencies between the modified text and meeting minutes from the November 9, 2009 Board meeting.

The Board was granted an additional 120 days to make corrections and notice the modified text for public comment. Board staff made the corrections to the text based on the Board's direction as specified in the November 9, 2009 meeting minutes. The modified text was mailed and posted on the Board's web site for 15-day public comment from August 31, 2010 to September 14, 2010. No comments were received during the public comment period.

During the September 16, 2010 meeting, the Board adopted the amendments to the Disciplinary Guidelines to incorporate the Board's response to comments as specified in the November 9, 2009 meeting minutes. Staff prepared the re-submittal documents and delivered them to the Department of Consumer Affairs on October 12, 2010 for the Director's review. The package was returned to the Board on October 25, 2010. Staff will deliver the re-submittal documents to OAL on October 28, 2010. OAL will have 30 working day to review the final rulemaking file. If the package is approved, OAL will file it with the Secretary of State and the regulations will become effective 30 days after filing.

Update Regarding Retroactive Fingerprinting, CCR, Title 16, Section 1007, 1008, and 1017.2:

The proposed regulatory language regarding Retroactive Fingerprinting was noticed on the Board's website and mailed to interested parties on December 17, 2009. The public comment period began on December 18, 2009 and ended on February 4, 2010. The regulatory hearing was held on February 4, 2010.

Recommendations and comments received at the regulatory hearing were considered by the Board at their February 26, 2010 meeting. A number of modifications were made to the regulatory language based upon comments received from the California Dental Association. The modified text was noticed on the Board's website and mailed on April 15, 2010 for 15-day public comment. The public comment period began on April 16, 2010 and ended on April 30, 2010. No comments were received during the public comment period.

Board staff has prepared the final rulemaking file to be submitted to the Office of Administrative Law (OAL). The rulemaking file was delivered to the Department of Consumer Affairs for the Director's review on July 9, 2010. The file is currently being reviewed by the State and Consumer Services Agency Secretary. Once Agency and DCA complete the review of the final rulemaking, staff will submit the file to OAL. Once submitted, OAL will have 30 working days to either approve or disapprove the Retroactive Fingerprinting rulemaking file. If the package is approved, OAL will file it with the Secretary of State and the regulations will become effective 30 days after filing.

Update Regarding Dental Assisting Educational Programs and Courses, CCR, Title 16, Sections 1070, 1070.1, 1070.2, 1070.6, 1070.7, 1070.8, and 1071:

Assembly Bill 2637 was passed by the Legislature and signed into law on September 28, 2008. The provisions of this bill relate to the allowable duties and settings for dental assistants, Registered Dental Assistants (RDA), Registered Dental Assistants in Extended Functions (RDAEF) and the two new permit categories for Orthodontic Assistant (OA) and Dental Sedation Assistant (DSA) become effective on January 1, 2010. AB 2637 included an expiration date on the Sections of law pertaining to educational program and course approvals, with the understanding that regulations would be pursued to clarify specific standards and criteria that these programs and course must meet to obtain Board approval to teach newly allowed duties and conform to the statutory changes.

The Board adopted proposed regulatory language at the November 2009 meeting. The proposed regulatory language regarding Dental Assisting Educational Programs and Courses was noticed on the Board's website and mailed on June 4, 2010 for the 45-day comment period. The comment period began on June 4, 2010 and ended on July 19, 2010. The regulatory hearing was held on July 19, 2010.

At the September 16, 2010 meeting, the Board reviewed the comments received during the 45-day comment period. The Board voted to accept modified text and directed staff to notice the modified text for 15-day public comment. The comment period began on September 28, 2010 and ended on October 12, 2010. Comments were received from

the Butte Sierra District Dental Society, the California Association of Dental Assisting Teachers, the California Dental Association, and the Dental Assisting Alliance. The comments will be addressed by the full board on November 4, 2010.

Update Regarding Minimum Standards for Infection Control, CCR Title 16, Section 1005:

At the July 26, 2010 Board meeting, the board directed staff to initiate the formal rulemaking process. The proposed regulatory language was noticed on the Board's web site and mailed to interested parties on August 26, 2010. The 45-day public comment period began on August 27, 2010 and ended on October 11, 2010. The regulatory hearing was held on October 11, 2010. Comments were received from the Dental Hygiene Committee of California, the California Dental Association, the California Association of Dental Assisting Teachers, the Dental Assisting Alliance, OSHA Review Incorporated, and Dr. Earl Johnson. The comments will be addressed by the full board on November 4, 2010.



MEMORANDUM

DATE	October 26, 2010
TO	Legislative and Regulatory Committee Dental Board of California
FROM	Sarah Wallace Legislative & Regulatory Analyst
SUBJECT	Agenda Item LEG 5: Request for Prospective Legislative Proposals

Stakeholders are encouraged to submit proposals in writing to the Board before or during the meeting for possible consideration by the Board at a future meeting.



MEMORANDUM

DATE	October 27, 2010
TO	Legislative and Regulatory Committee Dental Board of California
FROM	Sarah Wallace Legislative & Regulatory Analyst
SUBJECT	Agenda Item LEG 6: Regulatory Priorities for 2011

Background:

Currently, staff has the following pending regulatory items that the Board will need to address in 2011.

- New Regulations to Implement the Portfolio Examination
- Consumer Protection Enforcement Initiative (CPEI) Proposed Changes (SB 1111)
- Uniform Standards Regarding Substance-Abusing Healing Arts Licensees Proposed Changes (SB 1441)
- Revise Current Regulations for Use of Conscious Sedation, Use of Oral Conscious Sedation for Pediatrics Patients, and Use of Oral Conscious Sedation for Adult Patients
- Teaching Methodology Regulations
- New Regulations for Elective Facial Cosmetic Surgery Permit
- Licensure Exemption for Out-of-State Healthcare Providers for a Short-Term, Voluntary Basis (AB 2699)
- Minimum Standards for Infection Control (Required by Statute to review this regulation annually)

Staff Action Requested:

Discuss and consider the pending regulatory items that will need to be addressed in 2011 and establish a priority list to assist staff with determining workload.