



Dental Bureau Advisory Committee Meeting
August 28, 2008
Sacramento, California
Meeting Minutes

Chair McCormick called the meeting to order at 10:30 a.m. and established a quorum.

Members Present:

Chair, Suzanne McCormick, DDS
Vice Chair, John Bettinger, DDS
Luis Dominicis, DDS
Harriet Seldin, DMD, MBA
Joyce Yale, RDH
Stephen Casagrande, DDS
Michael Lew, DDS
Larry Sheingold, Public Member
William A. Baker, Public Member

Members Absent:

None

Staff Present:

Cathleen Poncabare, Executive Officer
Richard DeCuir, Assistant Executive Officer
Theresa Lane, Interim Enforcement Chief
Sarah Wallace, Administrative Analyst
Donna Kantner, Legislative & Regulatory Analyst
Jessica Olney, Examination Analyst
LaVonne Powell, DCA Legal Counsel
Gregory Salute, Deputy Attorney General

AGENDA ITEM 1: Chair's Report

Chair McCormick welcomed everyone to the first Dental Bureau meeting and explained that the Committee would be acting in an advisory capacity to Director Carrie Lopez of the Department of Consumer Affairs until January 1, 2009. The Chair noted there have been some changes to the composition of the Dental Bureau during the sun-setting process. She thanked Dr. Turchi, Dr. Mito and Richard L. Wallinder Jr. for their contribution to the Dental Board of California. Cathleen Poncabare was welcomed to the Dental Bureau of California to serve as the new Executive Officer.

Chair McCormick reported that she had the opportunity to meet with Cathleen Poncabare in the new office building and met with Director Lopez at the Department of Consumer Affairs. Director Lopez's vision is to utilize this time as a Bureau to implement and try new formats to the meeting structure as well as give leadership opportunities to the members of the Advisory Committee. Chair McCormick reported this meeting was

operating as a one-day meeting and that the standing committees have been incorporated into the agenda. The Chair hopes that all members of the Dental Bureau Advisory Committee will be involved in all stages of discussion. The Advisory Committee is looking forward to the possibility of using the new one-day meeting format moving forward into 2009.

The Dental Bureau is looking forward to the Professionals Achieving Consumer Trust (PACT) Summit occurring November 19-21, 2008 in Los Angeles. The Chair encourages Advisory Committee members and public participants to attend. This Summit will provide opportunities to exchange ideas and observe how the other Boards and Bureaus operate under the Department of Consumer Affairs.

AGENDA ITEM 2: Executive Officer's Report

Cathleen Poncabare thanked the members of the Advisory Committee for their support, guidance, and patience during her transition into the position of Executive Officer.

Ms. Poncabare reported that the Executive Staff was working to coordinate participation as an exhibitor at the California Dental Association Scientific Session from September 12-14, 2008. Each unit of the Bureau will be represented at the booth to answer questions that licensees and participants may have. Recent legislation, AB 269, has passed that requires the Dental Bureau to survey all licensees, and the Dental Bureau will be offering a test sample survey at the exhibit booth.

There will be a strong contingent of Advisory Committee members and staff from the Dental Bureau attending the PACT Summit in November. The Dental Bureau meeting will be held on Thursday, November 20th at 2pm and will continue on Friday, November 21st. On Wednesday, November 19th there will be a series of workshops and speakers. Ms. Poncabare encourages staff and the public to attend.

The Dental Bureau will also be rolling out new workplace procedures for the office in early September.

Ms. Poncabare reported that there are three investigators from our Enforcement unit attending the training academy and will graduate by December. The Complaint and Compliance Unit has caught up on the backlog of cases due to outstanding management and the hiring of two new intake coordinators. The unit is currently conducting desk audits to help minimize caseload. The manager, Lori Reis, has conducted a survey with other Boards in regards to caseload and found that the Dental Bureau caseload was a bit higher compared to others. However, management has been devoting resources to get the caseload down.

Jessica Olney has been transferred from the Examination Unit to the General Anesthesia/Conscious Sedation permit desk. In a short amount of time, Jessica has been able to catch up on the backlog of permits and is now in the process of reviewing

evaluator candidates. Sarah Wallace is coordinating the Elective Facial Cosmetic Surgery permit desk and has recently issued five permits and has four applications to be viewed by the Credentialing Committee.

The Portfolio Exam is in the first phase of development. Ms. Poncabare signed a contract for the Alternative Exam Study and has selected the vendor to perform the service. Due to the budget impasse, she could not announce the vendor at the time of her report.

AB 269 was passed and now requires the Dental Bureau and the Committee on Dental Auxiliaries to survey all licensees beginning January 1, 2009. The law also states that they are required to notify all licensees prior to January 1st. Staff has been working diligently on the notification process and a postcard will be mailed to all licensees once the State Budget is passed.

The recent Executive Order affected the Dental Bureau. The Dental Bureau had to release Retired Annuitants and Student Assistants due to the Executive Order; however, staff has worked hard to fill the voids. The Committee on Dental Auxiliaries received one exemption for the RDA exam in San Francisco.

Ms. Poncabare reported that she has been having lunch with each of the units in an effort to learn more about the department and she has learned that the Dental Bureau has an outstanding operation.

Ms. Poncabare thanked staff for their hard work in organizing the day's potluck lunch, especially Shirley Boldrini, Jessica Olney, Virginia Marquez, Jeane Ward, Dee Jorz, and Cristina Hall.

AGENDA ITEM 3: Fiscal Year 2007-2008 year-end Budget & Expenditure Report

Richard DeCuir, Assistant Executive Officer, reported that the budget report that was prepared by Budget Analyst, Anthony Lum, gives the information for the last fiscal year.

Dr. Bettinger asked if per diem expenses for Diversion Evaluation Committee members were included in the budget report. Mr. DeCuir reported that those expenses are covered by the contract that the Dental Bureau has with Maximus and the contract is a line item on the budget report. There is not an additional expense on top of the contract.

Dr. Casagrande asked if the budget will be affected when the Dental Bureau absorbs the Registered Dental Assistants. Mr. DeCuir stated that the new law comes into effect on January 1, 2009; however there would be a six-month grace period that would fold the RDA's into the Dental Board. As of July 1, 2009 the transition would be complete. Preparation has already begun. The Department of Consumer Affairs has already looked at COMDA's budget and has separated the RDA revenues from the RDH

revenues. The RDA Revenues will come over as a reserve account and will be incorporated into the Dental Board's budget.

Mr. Baker noted that Bureau Examination costs went up per exam. He stated that the Dental Board established a policy a year ago that exams would be revenue offset. Mr. Baker asked if the Bureau was doing anything to support that policy. Mr. DeCuir reported that overall examinations continue to decrease. He researched exams over the last four years, and noticed the revenue has dropped by over \$250,000 dollars. As exam costs decrease, the exam revenue will also decrease. LaVonne Powell, DCA Legal Counsel, reported that we do not know what the actual offset is because of the extreme decrease in examinees. Ms. Poncabare, Executive Officer, reported that her understanding is the facilities are charging quite a bit more and they are not interested in renting the facilities to the Dental Bureau for exams. Chair McCormick asked for definitive numbers to be presented at the next meeting in November.

Ms. Poncabare reported that there had originally been two Budget Change Proposals (BCP's) that had been submitted. One was to increase staff in the Enforcement Unit by adding a supervising investigator in the Sacramento and Tustin offices. The other BCP was to add a staff member to the Administrative Unit to oversee outreach functions. After further thought, they decided they did not need to hire another person for outreach functions because of the level of talent that was currently available in the office.

AGENDA ITEM 4: Committee on Dental Auxiliaries' Report

The Committee on Dental Auxiliaries (COMDA) held a teleconference on Tuesday, August 26th to make recommendations of RDA courses. Judith Forsythe, COMDA Chair, reported that COMDA recommends that the Advisory Committee recommend for approval the following courses:

M/S/C (Casagrande/Lew) to fully approve the following RDA Programs:

- i. Heald College – Hayward
- ii. Heald College – Concord
- iii. Heald College – Stockton
- iv. Maric College – Salida

The following RDA programs were deferred:

- i. Western Career – Citrus Heights
- ii. California College of Vocational Careers

M/S/C (Lew/Dominicis) to approve the following pit and fissure sealant courses:

- i. Mt. Diablo – Loma Vista Site in Concord
- ii. Professional Dental Enterprise

M/S/C (Casagrande/Bettinger) to approve the following radiation safety courses:

- i. Heald – Stockton

- ii. Heald – Hayward
- iii. Heald – Concord
- iv. Dental Career Systems – Alameda

The following radiation safety course was deferred:

- i. Career Care Institute – Ventura

M/S/C (Bettinger/Casagrande) to approve the following coronal polishing courses:

- i. Pacific Dental Services – Tustin
- ii. Pacific Dental Services – San Marcos
- iii. Pacific Dental Services – Riverside
- iv. Pacific Dental Services – Rancho Cordova
- v. Pacific Dental Services – Northridge

AGENDA ITEM 5 (a) Enforcement Statistics

Theresa Lane, Interim Enforcement Chief, reported that Gregory Salute, the Deputy Attorney General, and she visited a senior dental student class at the University of California, Los Angeles as guest lecturers. They spent about an hour answering questions and informing the students about the Dental Practice Act, Dental Bureau operations, and typical complaint and enforcement issues that arise. Dr. McCormick asked if the Dental Bureau staff would be able to speak to the other dental schools on the same issues. Ms. Lane stated that she hoped the Dental Bureau would have more opportunities to speak at the dental schools regarding enforcement issues.

Ms. Lane reported that staff members Lori Reis, Dawn Dill, and Richard DeCuir attended the CDA's Peer Review session the Friday before to answer questions about the Dental Bureau's complaint process. Ms. Lane felt it was well received and would enjoy the opportunity to visit again.

M/S/C (Seldin/Yale) to agendaize outreach to the dental schools for the purposes of preventative enforcement education on the November agenda. Dr. Casagrande recommended having Board members attend the guest lectures as well as a form of public relations with stakeholders. Audience member, Dr. Earl Johnson recommended that the Executive Officer contact each dental school to advise them that staff is willing to visit and lecture on preventative enforcement education.

Ms. Lane reported that the 2007-2008 Fiscal Year Enforcement data included all of the complaints, inspections, and disciplinary data that had been received over the past fiscal year. She also reported that the Enforcement unit has hired four new investigators, all of which have been very productive.

Dr. Bettinger recommended including cease practice statistics at future meetings.

AGENDA ITEM 5(b): Discussion and recommendations re Disciplinary Guidelines

Ms. Theresa Lane reported that sub-committees, staff, and legal counsel had worked on the Disciplinary Guidelines for the last two years. The guidelines had not been revised since 1996, and the guidelines presented at this meeting were ready to move to the regulatory process.

Ms. Lane and Mr. Salute, Deputy Attorney General, reported that they had some changes to the most current draft versions. Ms. Powell reminded everyone that the guidelines are overdue and the goal of the day is to get them ready for the regulatory process.

Ms. Lane and Mr. Salute recommended that Condition four (4) Address Change, Name Change, License Change within the List of Standard Probationary Terms and Conditions be changed to include “physical residence address” and “physical employment address”. Mr. Salute pointed out that from an enforcement perspective, it is important to have a physical address to find a person without difficulty. The Advisory Committee members consented to approve the proposed change.

Ms. Lane and Mr. Salute recommended that a sentence in Condition eleven (11) Function as a Licensee, within the List of Standard Probationary Terms and Conditions, be corrected to state “In the event Respondent ceases to practice a minimum of sixteen 16 (or as determined by the Board) per calendar week or sixty-four hours per calendar month in California, Respondent must provide written notification of that fact to the Board.” The Advisory Committee members consented to approve the grammatical correction.

Ms. Lane and Mr. Salute pointed out that Condition fifteen (15) Examination, within the List of Optional Probationary Terms and Conditions, does not indicate how many years the Respondent may continue to take the exam. Dr. McCormick advised staff to make a recommendation on how many years the Respondent may continue to take the exam.

Ms. Lane and Mr. Salute recommended that a the first sentence in Condition seventeen (17) Restricted Practice, within the List of Optional Probationary Terms and Conditions, be changed to state “Respondent shall not practice, consult, examine, or treat in *(area of noted deficiency) (shall not treat {male}{female}{minors} patients {without the presence of another party})*.” This change is needed to specify the chaperone conditions. The Advisory Committee members consented to approve the proposed change.

Ms. Lane and Mr. Salute recommended that Condition nineteen (19) Sale or Closure of an Office or Practice, within the List of Optional Probationary Terms and Conditions, be moved to the List of Standard Probationary Terms and Conditions. Mr. Salute reasoned that it applies to anyone that goes out of business during probation and provides for the transfer of records and refunds money for work not performed. The Advisory Committee members consented to move Condition nineteen (19) to the List of Standard Probationary Terms and Conditions.

Ms. Lane and Mr. Salute questioned what “(add release form and 1698(b) confidentiality)” meant in Condition twenty-three (23) Psychotherapy, within the List of Optional Probationary Terms and Conditions. Ms. Powell, DCA Legal Counsel, stated that she would add the appropriate language pertaining to the release form and confidentiality statute. The Advisory Committee members consented.

Mr. DeCuir recommended adding, “drug testing” as a component of Condition twenty-five (25) Diversion Program, within the List of Optional Probationary Terms and Conditions. The Advisory Committee members consented to the addition.

Mr. DeCuir recommended striking “If a test results in a result that indicates the urine admission was too diluted for testing shall be considered an admission of a positive urine screen and constitutes a violation of probation” from Condition twenty-six (26) Biological Testing. He recommended using “out of range”, which is the current standard term used in the Diversion Program. “Out of range” is a term that includes testing of the creatine levels, PH levels, as well as the urine. The Advisory Committee members consented to have staff develop language that includes “out of range”.

Ms. Lane and Mr. Salute recommended that Condition thirty-three (33) Notification, within the List of Optional Probationary Terms and Conditions, be moved to the List of Standard Probationary Terms and Conditions for the purpose of consumer protection. The Advisory Committee members consented to the change.

Mr. DeCuir recommended that Condition twenty-two (22) Psychological Evaluation, within the List of Optional Probationary Terms and Conditions, be changed to “Clinical Assessment” to allow the Board to dictate the clinical profession of the evaluator. Ms. Powell pointed out that the subcommittee agreed that they wanted a psychologist to administer the evaluation because they felt they were uniquely trained to perform those assessments. Mr. DeCuir felt that the current language limited the ordering of an evaluation on an individual in regards to the professional being used. Ms. Powell stated that the Disciplinary Guidelines need to have specified licensed professionals perform the evaluations. Enforcement needs to be able to check the qualifications of the evaluator. The Advisory Committee members consented to change the condition to include “Psychiatric/Psychological Evaluation” and direct staff to rewrite the condition.

Dr. Bettinger recommended that “Cease Practice” be added the List of Optional Probationary Terms and Conditions to create an alternative to suspension. Mr. Salute stated that if the dentist is not suspended, it makes enforcement monitoring difficult. Ms. Lane suggested not including “Cease Practice” and a separate conditions, but to include it within the other conditions where appropriate. The Advisory Committee members consented to include the term “Cease Practice” within the other optional conditions where appropriate.

Mr. Salute recommended striking “drug abuse” from the rationale on Condition sixteen (16) Supervised Practice. He reasoned that the Respondent would be undergoing drug testing and they would be in the Diversion program. The condition of supervised practice pertains to quality of care issues within the office. The Advisory Committee members consented to strike “drug abuse” from the rationale under Condition sixteen (16) Supervised Practice.

Dr. Casagrande recommended changing the minimum penalty under Subversion of Examination to “Revocation stayed, five (5) years probation” in regards to Business and Professions Code Section 123. This change was needed to maintain consistency with recommended penalties of similar violations. The Advisory Committee consented to approve the proposed change.

Dr. Seldin recommended adding “Options and Additions Where Appropriate” to Refusal to Treat Patients in regards to Business and Professions Code Section 125.6 under Recommended Penalties. She recommended that “2. Suspension, 30 days (13)” be moved under “Options and Additions Where Appropriate”. The Advisory Committee members consented to approve the proposed change.

Dr. McCormick recommended moving “Sale or Closure of Office or Practice (19)” from the List of Optional Probationary Terms and Conditions to the List of Standard Probationary Terms and Conditions in order to maintain consumer protection. The Advisory Committee members consented to approve the proposed change.

Mr. Salute recommended changing “Community Service (21)” to forty (40) hours per year to maintain consistency throughout the Recommended Penalties. The Advisory Committee members consented to approve the proposed change.

Dr. Seldin recommended that “2. Suspension, 60 days (13)” under Excessive Prescribing or Treatment or Administration of Drugs, in regards to Business and Professions Code Section 725, be moved to “Options and Additions Where Appropriate”. She recommended adding “In less serious cases, conditions should be given to...” within the same recommended penalty. The Advisory Committee members consented to approve the proposed change.

Dr. Casagrande recommended changing the minimum penalty under Psychological/Physical Illness to “Revocation stayed, minimum probation of three (3) years, depending on severity” in regards to Business and Professions Code Section 822. This change was needed to offer the Administrative Law Judges a more definitive minimum penalty. The Advisory Committee members consented to approve the proposed changes.

Dr. Seldin recommended adding “Options and Additions Where Appropriate” to Continuing Education Violations in regards to Business and Professions Code Section 1645. She recommended moving “2. Suspension, 30 days (13)” under “Options and

Additions Where Appropriate”. The Advisory Committee members consented to approve the proposed changes.

Dr. Casagrande recommended changing the minimum penalty to “Revocation stayed, five (5) years probation” as a recommended penalty under the following violations: Administration of General Anesthesia (GA) Without a Permit/Failure to Renew a Permit (B&P § 1646.1), Administration or Conscious Sedation Without a Permit/Failure to Renew a Permit (B&P § 1647.2), Administration of Oral Conscious Sedation Without a Permit – Minors (B&P § 1647.11), and Administration of Oral Conscious Sedation Without a Permit – Adults (B&P § 1647.19). Dr. Casagrande felt that the minimum penalty should be changed due to of the severity and risk of the violations involved. The Advisory Committee members consented to approve the proposed changes.

Ms. Powell suggested that recommended penalties for Dental Material Fact Sheet, Duty to Register Place of Practice, and Additional Office be removed from the Disciplinary Guidelines. These violations do not warrant anything more than a citation. The Advisory Committee members consented to the removal of these violations under Recommended Penalties of the Disciplinary Guidelines.

Dr. Casagrande recommended changing the minimum penalty under Gross Negligence, Incompetence, Repeated Acts of Negligence to “Revocation stayed, three (3) to five (5) years probation, depending on severity.” Ms. Powell suggested clarifying the terms and conditions that would be placed under “Options and Additions Where Appropriate”. The Advisory Committee agreed that the following conditions should be placed under options and additions: Suspension (13), Examination (15), Restricted Practice (17), Restitution (20), Solo Practice (31), and Clinical Training Program (34). The Advisory Committee consented to these proposed changes.

Ms. Powell suggested removing “These optional conditions are predicated upon the possibility of harm to the patient which was caused by the actions of the Respondent.” from the following violations under Recommended Penalties: Employment of Suspended or Unlicensed Dentist (B&P § 1680(b)), Aiding or Abetting Unlicensed Practice (B&P § 1680(c)), Aiding or Abetting Licensed Person to Practice Dentistry Unlawfully (B&P § 1680(d)). The Advisory Committee members consented to approve these changes.

Mr. Salute recommended changing the name of the violation in regards to Business and Professions Code Section 1680(e) from Gross Immorality to Sexual Abuse or Misconduct for clarification purposes. The Advisory Committee members consented to the proposed change.

Mr. Salute recommended changing the minimum penalty under Accepting or Receiving Rebates to “Revocation stayed, five (5) years probation and at least forty (40) hours of community service if the unlawful practice was extensive” in order to provide minimum

penalty continuity with similar violations, i.e. Obtaining Fee by Fraud. The Advisory Committee members consented to approve the proposed change.

Legal Counsel advised removing the violation Any Advertising Which Violates Section 651 of the Business and Professions Code in regards to the Business and Professions Code Section 1680(k).

Mr. Salute recommended changing the title of the violation pertaining to Business and Professions Code Section 1680(o) from Radiation Safety to Aiding and Abetting Use of X-Ray Equipment. He also advised changing the minimum penalty to "Revocation stayed, 5 years probation" to maintain consistency with similar violations pertaining to unlicensed activity. The Advisory Committee members consented to the advised changes.

Mr. Salute recommended changing the minimum penalty under Clearly Excessive Prescribing or Treatment to "Revocation stayed, five (5) to seven (7) years probation depending on severity" due to potential patient harm and consumer protection. Harriet Seldin suggested moving the following conditions under "Options and Additions Where Appropriate": "4. Supervised Practice (16)", "6. Restitution (20)", and "12. Clinical Training Program (34)". The Advisory Committee members consented to the proposed changes.

Legal Counsel advised changing the name of the violation pertaining to the Business and Professions Code Section 1680(q) to "Use of Threats or Harassment to Dissuade Testimony" for clarification to any Administrative Law Judge referring to the Disciplinary Guidelines.

Legal Counsel advised staff to rewrite the minimum penalty under Misrepresenting the Facts Regarding Disciplinary Action pertaining to Business and Professions Code Section 1680(v) to make it consistent with similar penalties.

The Advisory Committee members suggested adding language "Depending on Severity" to the condition of suspension on the following violations: Accepting or Receiving Rebates (B&P § 1680(g)), Clearly Excessive Prescribing or Treatment (B&P § 1680(p)), Alteration of Patient Records (B&P § 1680(s)), Unsanitary Conditions (B&P § 1680(t)), Abandonment of Patient (B&P § 1680(u)), and Failure to Report a Patient Death (B&P §1680(z)). The Advisory Committee members consented to the proposed changes.

Legal Counsel advised amending the conditions for Fraud in the Procurement of Any License (B&P § 1680(w)), and Actions which would Warrant Denial of a License (B&P § 1680(x)) to be the same as the conditions for License Secured by Fraud or Misrepresentation (B&P § 498) to maintain consistency throughout the Disciplinary Guidelines. The Advisory Committee members consented to the proposed changes.

The Advisory Committee members consented to add the condition of Remedial Education (14) to the violation pertaining to Failure to use a Fail-Safe Machine (B&P § 1680(bb)).

The Advisory Committee members consented to change the second condition of suspension to “Suspension, 30 days if warranted (13)” for clarification purposes.

The Advisory Committee members consented to have staff make the necessary changes to the violation pertaining to Unsafe and Sanitary Conditions (B&P § 1680(dd)) to make it consistent with the penalties and conditions set forth under the violation pertaining to Unsanitary Conditions (B&P § 1680(t)).

The Advisory Committee members consented to change the conditions and penalties under The Use of Auxiliaries Beyond the Scope of the License to be consistent with other violations pertaining to unlicensed activity.

The Advisory Committee members consented to changing the minimum penalty under Unlawful Possession of Controlled Substances to “Revocation stayed, five (5) years probation” in order to make the penalties consistent with similar violations. The Advisory Committee members consented to moving the following conditions under “Options and Additions Where Appropriate”: Psychological Evaluation (24), Psychotherapy (23), Diversion (25), and Biological Fluid Testing (26).

The Advisory Committee members consented to changing the penalties and conditions to be consistent with the violation Excessive prescribing or Treatment or Administration of Drugs.

The Advisory Committee members consented to moving the condition of suspension to be under “Options and Additions Where Appropriate” in regards to the violation “Patients Undergoing Conscious Sedation or General Anesthesia (B&P Code § 1682)”. They also agreed to change the condition of suspension to “Suspension, 60 days (13), depending on the severity of the offense”.

The Advisory Committee members consented to moving the following conditions under “Options and Additions Where Appropriate” in regards to the violation of Service Beyond the Scope of Practice (B&P Code § 1684): Suspension (13), Remedial Education (14), Examination (15), Supervised Practice (16), Restricted Practice (17), Restitution (20), and Clinical Training Program (34). The Advisory Committee also consented to adding the condition of Law and Ethics Course.

The Advisory Committee members consented to moving the following conditions under “Options and Additions Where Appropriate” in regards to the violation of Permitting Dental Care that Discourages Necessary or Encourages Excessive or Improper Treatment (B&P Code § 1685): Suspension, 30 days (13), Remedial Education (14), Examination (15), Restitution (20), and Clinical Training Program (34).

The Advisory Committee members consented to deleting the section pertaining to Practicing While Under the Influence of Alcohol or a Controlled Substance (B&P Code § 1700(e)) because the violation is a criminal offense and has its own criminal penalty.

M/S/C (Bettinger/Seldin) to recommend approval of the proposed amendments to the Disciplinary Guidelines and move forward with the regulatory process and to delegate any technical or non-substantive changes to legal counsel and the Dental Bureau's Executive Officer.

AGENDA ITEM 6(a): Report on Licensure by Residency, and progress on completion of Certificate of Compliance

Ms. Donna Kantner, Legislative and Regulatory Analyst, reported that the Dental Bureau is currently awaiting a response from the Office of Administrative Law (OAL) regarding Licensure by Residency and the Certificate of Compliance. There was no action required of the Advisory Committee. There have been approximately 30 people in the last 4 months that have been licensed through the Licensure by Residency program.

AGENDA ITEM 6(b): Licensure by Credential (LBC) Program Statistics

There was no comment on this agenda item.

AGENDA ITEM 6(c): Licensure Statistics

There was no comment on this agenda item.

AGENDA ITEM 6(d): Update on Portfolio Licensure concept

Dr. Casagrande reported that a group had met at the California Dental Association's Scientific Session this last May to discuss Portfolio licensure. Cathleen Poncabare, Executive Officer, reported that a contract has been signed with a vendor selected to perform the Alternative Exam study. The vendor could not be announced due to the budget impasse. The Alternative Exam Study has a due date of November 30th and the Dental Board is hoping to introduce legislation in January 2009. Dr. Casagrande stated that Portfolio is a viable product that will assess the candidates better than the current methods.

Dean Chalios, Vice President of Public Policy, spoke on behalf of the California Dental Association and agreed with Dr. Casagrande, but believes that moving forward with legislation in January 2009 is too early. Mr. Chalios expressed a need to wait a year or two to take the time to educate everyone that will be involved in the process, particularly members of the legislature. Considering California will be at the forefront of the Portfolio model movement in the country, all parties involved need to take the time to introduce it correctly.

Dr. McCormick stated that she wanted to plan strategically concurrent to the exam study so that time is not wasted. She requested that members of the Dental Bureau meet with the California Dental Association to talk about the process ahead. Questions developed at the May meeting will be forwarded to the Dental Bureau by Mr. Chalios. There is also a need to discuss what kind of an author is needed in the legislature. LaVonne Powell, Legal Counsel, stated that regulations would be needed. Dr. McCormick requested to have a meeting with CDA before the next meeting Advisory Committee meeting in November.

AGENDA ITEM 7(a) Examination Statistics

Jessica Olney, Examination Analyst, reported that there are two more Restorative Technique examinations in October. The Dental Bureau is still administering the Law and Ethics Exam twice a month until the end of the year. Ms. Olney is having trouble scheduling exams at the Dental schools for the 2009 year. The University of Pacific is the only school that has agreed to have an exam. Ms. Olney does not expect to have many candidates at the exams in 2009. There were fourteen candidates at the last exam. Dr. Casagrande requested that the issue be agendized for the meeting in November.

AGENDA ITEM 7(b) Report from Dr. Dominicis re: WREB Board meeting

Dr. Dominicis reported that he attended the Western Regional Examination Board (WREB) meeting in July in Big Sky, Montana. Representatives from fifteen states attended the meeting. Dr. Dominicis reported that WREB will not be administering an examination in the state of Florida in 2009 due to a Florida law that prohibits any testing agency from examining anyone by current students. The University de la Salle requested that WREB conduct an examination at their school in 2009; however, the request was denied due to concern from the Border States. They were worried that the students would be able to practice in their states. The WREB examination fees have been increased for 2009 and they have revised the criteria to become an examiner to include a requirement that the examiner has to have actively practiced in their state for at least five years. As of June 30, 2008, WREB had had thirteen exam appeals, and ten were denied. Mr. Dominicis reported that WREB is developing Curriculum Integrated Patient Crown Preparation (CIPCP). It is similar to Portfolio licensing and will begin field-testing in Texas this fall. WREB is changing their grading criteria for passing the examination. They are discontinuing an average score of 75%, and now require that the examinee must obtain a 75% in all five sections in order to pass. In order to qualify to retake one section of the exam, the examinee cannot fail more than two sections.

Dr. Dominicis reported that the next WREB meeting is scheduled for January 10, 2009 in Austin, Texas.

Dr. Casagrande requested that WREB send their statistics in relation to California to be presented at the next Advisory Committee meeting in November.

Agenda Item 7(c): Recommendation of New Examiner(s) Appointment

There were no new examiners for recommendation of appointment.

AGENDA ITEM 8 (a) Diversion Program Statistics

Richard DeCuir, Assistant Executive Officer, reported that the Dental Bureau went out to bid for a new contract for the Diversion program. The bid was contested and there will be litigation behind the new contract. The Dental Bureau is moving with the existing contract and have a six-month extension with Maximus. Since a bidding contractor contested the awarded contract, it is now sitting with the contracts office and legal affairs at Department of Consumer Affairs.

AGENDA ITEM 8(b) Recommendation for Appointment/Reappointment of Diversion Evaluation Committee Members

There were no new Diversion Evaluation Committee members for recommendation of appointment. There will be applications that will be addressed at the November meeting.

AGENDA ITEM 9(a): Report from sub-committee regarding evaluation of Continuing Education Classifications

Dr. Seldin and Ms. Yale were appointed to a sub-committee to review proposed continuing education regulations. They reviewed and made recommendations on the outstanding issue of adding CERP and PACE approved courses. The sub-committee had assistance from Gayle Mathe and LaDonna Drury Klein from the California Dental Association (CDA), as well as Donna Kantner, Dental Bureau Legislative and Regulatory Analyst, and LaVonne Powell, DCA Legal Counsel.

AGENDA ITEM 9(b): Recommendations relating to amended regulatory language to allow CE credit for CERP and PACE courses by their approved providers and other possible revisions to CCR Sections 1016-1017 for regulatory action

Gayle Mathe, California Dental Association, recommended moving “Courses in human resource management and employee benefits” from Section 1016(b)(3)(F) to be included under Section 1016 (b)(2) pertaining to courses limited to a maximum of twenty percent of the licensees total required course unit credits for each license or permit renewal period. CDA feels that this course contains important information for dentists to maintain staff and continuity of care.

Gayle Mathe suggested that Section 1016(i)(1) be replaced by the alternate language provided by legal counsel but retained the language allowing the attendee to petition the Board to consider Out-of State courses by non-approved providers by submitting information on course content, course duration, and evidence of course completion to be inserted under Section 1016 (i)(2) to allow licensees to petition the Board for out-of-state course credit.

M/S/C (Seldin/Bettinger) to approve the amended continuing education regulatory package and to delegate any technical or non-substantive changes to legal counsel and the Dental Bureau's Executive Officer.

AGENDA ITEM 10: Discussion of application process for dental offices applying for a permit to administer General Anesthesia or Conscious Sedation

This agenda item had been requested by the previous chair. The Dental Bureau of California is in discussions with stakeholders concerning the application process and will report any changes at the next meeting.

Dr. Bruce Whitcher, California Association of Oral and Maxillofacial Surgeons (CALAOMS), reported that he and Cathy had been working on the application issue, there had been a fantastic amount of progress and outstanding permits have been granted. There is an updated form now being used for evaluations. Cathy reported that Dr. Whitcher had been very helpful with the development of the revised evaluation form and it was ready to go to legal counsel for technical and legal review.

Dr. Whitcher invited anyone that is interested to attend one of the Medical Emergencies Courses sponsored by CALAOMS designed for GA/CS providers. CALAOMS will be offering Calibration courses in 2009 with the idea of improving the process further. Dr. Seldin requested that Dr. Whitcher notify the Board of the upcoming Calibration courses.

AGENDA ITEM 11: Legislation

Ms. Donna Kantner reviewed the bills that were listed on the Bill Status Summary and she reported that legislative session is almost over.

Bills reported on were as follows:

AB 1060 (Laird) Tissue banks: licensure is a bill that resulted from the discussion at the last Board meeting in May relative to licensure of tissue banks and how the requirement affects periodontists and oral surgeons. CDA pursued legislation to address the issue and the result was AB 1060. It is an emergency measure that would take effect immediately upon signing. M/S/C (Dominicis/Lew) to make a recommendation to Director Lopez to support the signing of this bill.

AB 1545 (Eng) Professions and vocations was chaptered into law on June 23, 2008 and re-establishes the Dental Board as of January 1, 2009, with a new sunset date of January 1, 2012. Former Board members may serve as members of the new Board, and the new board will have the same powers and responsibilities as the previous board. The Dental Board of California had previously taken a position of support for this bill.

AB 2210 (Price) Dentistry: Emergency Services had been sent to enrollment and would allow licensees to provide emergency care during a declared state of emergency, according to his or her dental education and emergency training, and would allow the board to suspend a licensee's compliance with the provisions of the chapter or any regulation adopted under the chapter that would adversely affect the licensee's ability to provide emergency services

AB 2229 (Huffman) Medi-Cal: dental examiners was still in Assembly appropriations. This bill would add one dental examination per year as a covered benefit for Medi-Cal beneficiaries in long term care facilities, to the extent that funds are made available in the Budget Act. An amendment specifies that nothing in the section is intended to place a requirement on long term care facilities. This bill did not leave its house of origin by May 30, so is not likely to pass during the current session. The Dental Board of California had previously taken a position of support for this bill.

AB 2393 (Emmerson) Dental Board of California: seal was not expected to go anywhere this legislative year. When the board's name was changed, the law specified that for purposes of the act, any reference to the "Board of Dental Examiners" is deemed a reference to the Dental Board of California, to recognize that the board is that same entity. This bill requires that the board have and use a seal bearing the name: "Dental Board of California." This is a technical change that will require the board to have a new seal made for embossing documents. This is a spot bill for future legislative action.

AB 2637 (Eng) Dental auxiliaries is the bill containing the regulatory language that the Board worked on for specialty categories. This bill establishes specialty permits as of January 1, 2010 and specifies the requirements for all required courses and programs related to those licenses or permits. The bill also specifies examination requirements, and establishes a registered dental assistant examination committee to select the clinical or practical exam procedures to be tested. The bill would require all registered dental assistants in extended functions licensed on or after January 1, 2010 to complete a course in pit and fissure sealants prior to their first license renewal or the license cannot be renewed. The bill also contains a provision to allow the board to approve a course in basic life support. The bill includes a sunset date of January 1, 2011, so regulations must be pursued immediately to meet this timeframe, or the program will expire on that date. The bill had passed to the Assembly. The Dental Board of California had previously taken a position of support for this bill.

AB 2734 (Krekorian) Health care practitioners: advertisements is a bill that the Dental Board opposed. The bill was still in Assembly and was not expected to move anywhere this year. The bill requires practitioners to list their license number in any business card, professional card, advertisement or promotional material, and specifies the format in order to allow consumers to identify a licensee. The bill requires that the advertising must contain the licensing agency's website to contact for further information. The bill requires that business cards, advertisements and promotional materials contain a licensee's fictitious name and fictitious name permit number. This bill was still in Assembly and was not expected to pass during the current session. The Dental Board of California had previously taken a position of oppose unless amended for this bill.

SB 255 (Aanestad) Dentistry was not moving through the legislative process and was not expected to pass during the current session. This bill makes technical, non-substantive changes to the definition of the practice of dentistry.

SB 797 (Ridley-Thomas) Professions and vocations was chaptered into law on June 23, 2008. This bill was an urgency measure that provided for the Board's reappointment as an advisory committee, subject to all per diem provisions and procedural requirements of the prior board, and is effective until January 1, 2009, when AB 1545 re-establishes the Dental Board of California. The Dental Board of California had previously taken a position of support for this bill.

SB 853 (Ridley-Thomas) Professions and vocations was chaptered into law on June 23, 2008. This bill re-establishes the Dental Board as of July 1, 2009, abolishes COMDA and transfers its functions to the Board, while retaining a separate Fund for dental assistant funds and establishing a manager position to manage matters relative to dental assisting. The bill creates a new Dental Hygiene Committee of California under the jurisdiction of the Board, consisting of 9 members appointed by the Governor: 4 public members, 1 dentist member, and 4 dental hygiene members, one of which shall be an educator and one to be an extended functions or alternative practice hygienist. The Dental Board of California had previously taken a watch position for this bill.

SB 963 (Ridley-Thomas) Regulatory boards was last amended on August 8, 2008 and was on the Assembly floor. This bill abolishes the Joint Committee on Boards, Commissions, and Consumer Protection and authorizes the appropriate standing committees of the Legislature to assume its duties. The bill would authorize boards to develop and pursue regulations dealing with requirements for reporting of ex parte communications and sanctions for noncompliance. The bill would impose new requirements on boards, board members and board staff including: boards' websites, ex parte communication, and reports to the appropriate Legislative standing committee. The Dental Board of California had previously taken a watch position for this bill.

SB 1178 (Aanestad) Dentistry: Registered sex offenders was held at enrollment and was ready to go to the Governor's office for signature. The bill specifies that the board shall not reinstate a license and issue a stay of denial and place the license on

probation, and that a petition for reinstatement of a revoked or surrendered license shall be considered a proceeding and the prohibition for reinstating a license shall be applicable in an administrative adjudication. The Dental Board of California had previously taken a position of support for this bill.

SB 1387 (Padilla) Dental Coverage: provider overpayments had been moved to enrollment. This bill would clarify the procedure for providers who wish to dispute a health care plan's notice of overpayment. The bill allows the collection of contested overpayments to be delayed until the conclusion of the dispute resolution process. The bill makes special provision for overpayment disputes issued by health insurers covering dental services, including specialized health insurers. The Dental Board of California had previously taken a position of support for this bill.

SB 1441 (Ridley-Thomas) Healing arts practitioners: alcohol and drug abuse had been moved to enrollment. The bill applies to seven Boards within DCA, and requires an audit of all the diversion programs. It also requires that the Department of Consumer Affairs' Executive Office develop standardized policies and procedures for diversion programs with the assistance of Executive Officers and Bureau Chiefs within the department. The Dental Board of California had previously taken a watch position for this bill.

SB 1454 (Ridley-Thomas) Healing arts: outpatient settings had been held in committee. This bill would add a requirement that any advertising by a licensee must contain the type of license held by the licensee and the type of degree received by the licensee upon graduation. This bill would require health care practitioners to either wear a nametag in at least 18-point type including the practitioner's name and license status or to disclose this information verbally, and delete the exemption for those who post their license in the practice or office. The Dental Board of California had previously taken a watch position for this bill.

SB 1633 (Kuehl) Dental services: credit had been amended since the last Board meeting. Some of the Board's proposed amendments were included in the bill. Dean Chalios reported that CDA was supportive of the amended bill, and had learned that the Senate had concurred in Assembly amendments and the bill went to enrollment. Greg Santiago, DCA Legislative Analyst, reported that DCA remains neutral on the bill. M/S/C (Dominicis/Lew) to make a recommendation to Director Lopez to have DCA change their position from neutral to support on SB 1633.

AGENDA ITEM 12: Discussion and recommendation of Bureau's role in approving out of country dental schools pursuant to B&P Code § 1636.4

This agenda item had been requested by the previous chair and there was no discussion at the meeting.

AGENDA ITEM 13: Report from Dr. Bettinger re: Airway Management Course

Dr. Bettinger attended the June 1st California Association of Periodontists Airway Management Course. He attended the lecture in the morning and the afternoon was dedicated to hands on experience by using mannequins at different stations. Attendees learned more about emergency airway management by using life-sized computer operated mannequins.

Dr. Bruce Witcher added that it was a good course and the SimMan is a very sophisticated piece of equipment.

Dr. Bettinger posed the question of whether or not the Dental Board of California should adopt the ADA guidelines for anesthesia in the teaching and use of sedation. He requested that it be a future agenda item.

AGENDA ITEM 14: Appointment of Subcommittee to review Infection Control regulations as required by CCR Section 1005(d)

Dr. McCormick, Advisory Committee Chair, appointed Committee Member Dr. Michael Lew and COMDA Chair Judith Forsythe to the subcommittee to review Infection Control regulations as required by CCR Section 1005(d).

AGENDA ITEM 15: Recommendation of Dental Board meeting dates for 2009

The Advisory Committee recommends that the Dental Board meet for one day each quarter on the following dates:

Wednesday, January 21, 2009
Wednesday, April 22, 2009
Wednesday, July 22, 2009
Wednesday, October 21, 2009

PUBLIC COMMENT

There was no public comment.