



**Legislative and Regulatory Committee Meeting Minutes
Wednesday, May 5, 2010
South San Francisco, CA**

Members Present:

Fran Burton, Public Member, Chair
Stephen Casagrande, DDS, Vice Chair
John Bettinger, DDS
Luis Dominicus, 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 Chalios, 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.