



TELECONFERENCE MEETING OF THE DENTAL BOARD OF CALIFORNIA
Tuesday, December 14, 2010

Members Present:

John Bettinger, DDS, President
Bruce Witcher, DDS, Vice President
Steve Afriat, Public Member
Fran Burton, Public Member
Steve Casagrande, DDS
Rebecca Downing, Public Member
Huong Le, DDS
Suzanne McCormick, DDS
Steve Morrow, DDS
Thomas Olinger, DDS

Members Absent:

Luis Dominicus DDS, Secretary
Judith Forsythe, RDA

Staff Present:

Richard DeCuir, Executive Officer
Karen Fischer, Administrative Analyst
Sarah Wallace, Legislative & Regulatory Analyst
Kristy Shellans, Legal Counsel
Jocelyn Campos, Enforcement Coordinator
Linda Byers, Executive Assistant

TELECONFERENCE LOCATIONS WITH PUBLIC ACCESS:

Contractors State Licensing Board:

9246 Lightwave Avenue, Suite 130, San Diego, CA 92123

Dental Board of California Offices:

2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
333 S. Anita Drive, Suite 930, Orange, CA 92780

Other Locations:

1304 15th Street, Suite 100, Santa Monica, CA 90404
990 Boysen Avenue, San Luis Obispo, CA 93405
338 8th Street, Allied Health Services Room, 1st Floor, Oakland, CA 94607
4107 Magnolia Blvd., Burbank, CA 91505

Dr. Bettinger, President, called the meeting to order at 12:05 p.m. Dr. Casagrande called roll and a quorum was established.

AGENDA ITEM 1(A)-Discussion and Possible Action to Consider comments Received During the 15-Day Modified Text Notice Comment Period (November 16, 2010 to December 1, 2010) Relative to Amendments to Title 16, CCR, Section 1005 for the Minimum Standards for Infection Control:

Sarah Wallace, Legislative & Regulatory Analyst, reported that in response to the comments discussed by the Board at the last meeting, staff noticed the modified text regarding minimum standards for infection control for a 15-day public comment period. The public comment period began on November 16th and ended on December 1st. The Board received adverse comments from the Dental Assisting Alliance, Dr. Earl Johnson, and OSHA Review Inc.

The comments submitted by the Dental Assisting Alliance asked for clarification as to whether instruments needed to be sterilized prior to packaging and wrapping or after packaging and wrapping. Staff recommended rejection of the comments provided by the Dental Assisting Alliance because they are not specific to the noticed modified text and unnecessary; the existing accepted language is sufficient to promote safe sterilization and disinfection practices. Staff stated that the existing language was clear that the pre-cleaning, packaging or wrapping, and sterilization of critical items and semi-critical items is the process that should be followed after each use. M/S/C (Afriat/McCormick) to accept staff's recommendation to reject the Dental Assisting Alliance's comments. The motion passed unanimously.

Dr. Earl Johnson's comment addressed concerns with packaging instruments prior to dry-heat sterilization. Staff recommended rejection of the comment because research found that according to the Centers for Disease Control (CDC), the acceptable materials to be used for packaging during dry heat sterilization include paper bags, aluminum foil, polyfilm plastic tubing, and wrapped perforated cassettes. The text supports the CDC's recommendations and promotes safe infection control practices for patient protection. Dr. Johnson provided public comment that the CDC regulations for sterilization were written 20 years ago and they don't work. He maintained that you cannot wrap the instruments before dry heat sterilization because the wrapper itself impedes the sterilization process. Dr. Le commented that dry heat is an acceptable form of sterilization using the packaging listed in the CDC guidelines. Dr. Johnson argued that the paper wrap burns at high temperatures. Dr. Le reiterated that CDC guidelines recommend acceptable materials to be used for dry heat sterilization. M/S/C (Burton/Le) to accept staff's recommendation to reject Dr. Earl Johnson's comment. The motion passed unanimously.

The comments submitted by OSHA Review, Inc. refer back to and attempt to further clarify their previously submitted comments concerning the effectiveness of specific disinfectants. Staff recommended rejection of the comments because the Board had already rejected these comments during the initial 45-day comment period. The comments were not specific to the modified text and the suggested modifications did not further promote better infection control practices than what is currently written in the regulatory language. Staff maintained that the current language is consistent with the CDC's recommendations for non-critical clinical surfaces. M/S/C (Morrow/Olinger) to accept staff's recommendation to reject the comments submitted by OSHA Review Inc. The motion passed unanimously.

AGENDA ITEM 1(B) - Discussion and Possible Action to Consider Adoption of Amendments to Title 16, CCR, Section 1005 for the Minimum Standards for Infection Control:

M/S/C (McCormick/Afriat) to 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 Title 16, CCR, Section 1005 as noticed in the modified text. The motion passed unanimously.

AGENDA ITEM 2(A) - Discussion and Possible Action to Consider comments Received During the Second 15-Day Modified Text Notice Comment Period (November 18, 2010 to December 3, 2010) Relative to Amendments to Title 16, CCR, Sections 1070, 1070.1, 1070.2, 1071, and Proposed Additions to Title 16, CCR, Section 1070.6, 1070.7, 1070.8 for Dental Assisting Educational Programs and Courses

Ms. Wallace reported that in response to the comments discussed by the Board at the last meeting, staff noticed the second modified text regarding dental assisting educational programs and courses for a 15-day public comment period. The public comment period began on November 18th and ended December 3rd. The Board received adverse comments from the Dental Assisting Alliance, the California Association of Dental Assisting Teachers (CADAT), Dr. Michael W. Champeau and Bill Barnaby Sr. & Jr. on behalf of the California Society of Anesthesiologists

The first comment from the Dental Assisting Alliance pertained to the re-lettering of subdivisions due to other changes to Section 1070 that added subdivisions. The second comment addressed a discrepancy in the number of hours required for the Registered Dental Assistant Educational program. The third comment pointed out a duplication in the language regarding those responsible for clinical evaluation and the completion of a two-hour methodology course. The fourth comment related to the re-lettering of subdivisions due to changes to Section 1071 that added subdivisions. The staff recommended acceptance of all 4 of the Dental Assisting Alliance's comments. M/S/C (Burton/Le) to accept staff's recommendation to accept the Dental Assisting Alliance's comments. The motion passed unanimously.

CADAT commented about omissions of Section 1070.1 in the "Notices of Compliance." The staff recommended acceptance of their comments. M/S/C (McCormick/Olinger) to accept staff's recommendation to accept CADAT's comments. The motion passed unanimously.

Dr. Michael W. Champeau commented on recent changes to the American Society of Anesthesiologists' (ASA) Standards for Basic Anesthesia monitoring and the need for training of the Dental Sedation Assistant in the use of the capnograph. Bill Barnaby Sr. & Jr., CSA Legislative Counsel, on behalf of the California Society of Anesthesiologists mirrored the comments provided by Dr. Champeau. The staff recommended rejection of both Dr. Michael W. Champeau and Bill Barnaby Sr. & Jr.'s comments. Staff found that the comments they provided were not directly related to the noticed second modified text which the Board had previously approved. Staff noted that the ASA Standards were updated on October 20, 2010 but would not take effect until July 2011. If the text were to be changed, the Board would risk not meeting the one-year deadline to submit the rulemaking package to OAL. However, staff believed that this was an issue that should be addressed by the Board when reviewing the conscious sedation

and general anesthesia regulations, which had been deemed a regulatory priority for 2011. M/S/C (Downing/Olinger) to accept staff's recommendation to reject the comments. The motion passed unanimously.

AGENDA ITEM 2(B) - Discussion and Possible Action to Consider Adoption of Amendments to Title 16, CCR, Sections 1070, 1070.1, 1070.2, 1071, and Proposed Additions to Title 16, CCR, Section 1070.6, 1070.7, 1070.8 for Dental Assisting Educational Programs and Courses:

M/S/C (Afriat/McCormick) to direct staff to take all steps necessary to complete the rulemaking process, including preparing a third modified text for an additional 15-day 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 amendments to Title 16, CCR, Sections 1070, 1070.1, 1070.2, 1071, and proposed additions to Title 16, CCR, Section 1070.6, 1070.7, 1070.8 as noticed in the third modified text. The motion passed unanimously.

The Board went into Closed Session at 12:40 p.m. as authorized by Government Code section 11126(e) to confer with and receive advice from counsel on litigation *Levon Solak v. Dental Board of California*, Los Angeles County Sup.Ct., Case No. BS122529. The Board returned to Open Session at 1:00 p.m.

There was no public comment.

The meeting adjourned at 1:01 p.m.