



DENTAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1550, Sacramento, CA 95815
P (916) 263-2300 F (916) 263-2140 www.dbc.ca.gov

Dental Board of California Meeting
Friday, February 25, 2011
San Diego

Members Present:

John Bettinger, DDS, President
Bruce Witcher, DDS, Vice President
Luis Dominicis, DDS, Secretary
Steven Afriat, Public Member
Fran Burton, Public Member
Stephen Casagrande, DDS
Rebecca Downing, Public Member
Judith Forsythe, RDA
Huong Le, DDS
Suzanne McCormick, DDS
Steven Morrow, DDS, MS
Thomas Olinger, DDS

Members Absent:

Staff Present:

Richard DeCuir, Executive Officer
Kim A. Trefry, Enforcement Chief
Jocelyn Campos, Enforcement Coordinator
Donna Kantner, Licensing & Examination Unit Manager
Karen Fischer, Administrative Analyst
Sarah Wallace, Legislative/Regulatory Analyst
Linda Byers, Executive Assistant
Kristy Shellans, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Friday, February 25, 2011

8:00 a.m. DENTAL BOARD OF CALIFORNIA – FULL BOARD

ROLL CALL: Establishment of a Quorum

President Bettinger called the meeting to order at 8:08 a.m. Secretary Dominicis called the roll and established a quorum. Dr. Bettinger thanked all the Board Members for taking time away from their families and work to be a part of this Board for the purpose of public protection.

AGENDA ITEM 1: Approval of the Full Board Meeting Minutes from November 4-5, 2010 and December 14, 2010.

Karen Fischer, Administrative Analyst stated that there was a correction to the Thursday November 4, 2010 minutes. In the first paragraph it should be stated that "Dr. Bettinger thanked all Board Members for taking time away from their families and work to be a part of this Board for the purpose of public protection." The next correction was to Friday November 5, 2010, on page 2, Agenda item 2 to delete that whole section and put under the first paragraph on page 1 that Dr. Bettinger recognized Dr. William Langstaff, President of the California Academy of General Dentistry and under Agenda item 2 the President's report, insert that "Dr. Bettinger stated that this was the first Dental Board Meeting in California to be webcast live. Future meetings should be retrievable from archive on our website. Openness allows the public to see how we work on the many issues before us. Statute created last

minute without collaboration can result in increased costs and more time required to formulate regulations. Ideally, private groups, foundations, professional associations and organizations that influence public policy would function with equal transparency. Our Dental Board welcomes stakeholder opinions on policy issues and we thank those who come to our meeting to give their opinions. Thank you to all who collaborated to make the new Portfolio Pathway to Licensure in California a reality. Recognition goes to the Dental Schools in California, Dental Board members, staff and the California Dental Association.” Additionally, any reference to Kristy Schieldge was changed to Kristy Shellans. M/S/C (Afriat/Whitcher) to approve the November 4-5, 2010 minutes as amended. The motion passed unanimously. M/S/C (Olinger/McCormick) to approve the December 14, 2010 Teleconference minutes as amended. The motion passed unanimously.

AGENDA ITEM 2: President’s Report

Dr. John Bettinger reported that our enforcement committee Chair, Rebecca Downing’s work has been noticed by DCA and has reflected positively on our board. Rebecca Downing will be participating in the Sunset Review hearing March 14. Also participating will be Fran Burton, Legislative Chair. It is Fran’s committee that has empowered the Board to better comply with our Vision, to be the leader in public protection, promotion of oral health and access to quality care. Dr. Casagrande and Dr. Bettinger traveled to Chicago to discuss Portfolio pathway to licensure with ADEX. Dr. Dominicis and Dr. Bettinger met with the Panjabi International Dental Association along with Greg Salute and Teresa Lane to discuss infection control and California law and enforcement. Dr Le, Richard DeCuir and Dr. Bettinger met with the Dean and head of the international dental program of De La Salle Bajio at Pomona College for the purpose of establishing direct contact between the school and the Dental Board. Dr. Le, Richard DeCuir and Dr. Bettinger met with the Dean of the Western Sciences College of Dentistry in Pomona to discuss mobile dentistry/portable dentistry. Dr Bruce Whitcher has been very active in numerous board regulatory packages and the GA/CS calibration issues. Dr. McCormick has been active with the Elective facial plastic surgery committee and GA/CS calibration issues. Dr. Steve Morrow plans to present portfolio to the AADS in Anaheim in a panel with Carrie Gordon from CDA. Dr’s. Olinger and Morrow worked on the Dental Fact Sheet renewal project subcommittee. Judy Forsythe and Dr. Whitcher have been very active with the Dental Assistant Forum and Dental Assistant issues. Dr Casagrande and Dr. Morrow have been active on the Portfolio issue. Dr. Dominicis has been active as the WREB liaison and as a long time liaison to De La Salle. Now that direct communication has opened up between the school and Richard DeCuir and staff, more direct communication with the school will continue for mutual benefit. Dr. John Bettinger participated in the recent CODA site visit to UCLA as a Dental Board Representative as part of the Dental School accreditation process. The position was to fully participate in the visit but not to vote on the outcome. An initial study of the School’s Self Study was done which contained extensive documentation about the school. The Site visit began with an orientation session followed by 2 full days at the school. The benefit of this task was to learn the accreditation process first hand by fully participating in the process at a California School. Insight gained will enable the Board Subcommittee to better analyze the documentation submitted by De La Salle and in assembling a site visit team for De La Salle. We will need to develop guidelines for the site visit team based in part on the results of review of the documentation that is returned with their application. But this is a future topic. Please forgive me if any of your efforts have not been recognized today. The future newsletters will be available on the internet. Expanding interest in visiting our website will be an important outreach goal. Collecting and expanding our e-mail contact list should be incorporated into mailings so that we eventually can reach all our license holders by e-mail. Thanks again to all the Board members and Staff for working together harmoniously in the conduct of our business.

AGENDA ITEM 3: Executive Officer’s Report

Richard DeCuir, Executive Officer reported that the Newsletter and the Strategic Plan are done thanks to Karen Fischer. The 2011 Dental Practice Act should be out by the end of this month. Due to the new Administration and the new Governor, there were many changes made including a 50% reduction in the number of cell phones provided to the Dental Board. Mr. DeCuir reported that staff made him aware of the need for more Expert Consultants due to the growing number of investigations. An email blast was sent out via our website asking interested parties to contact the office as well as letters to specialty organizations seeking applicants. April Alameda’s new Investigative Analysis Unit has relieved the

Investigators of over 160 cases that they are now taking over and working which otherwise would have been put off for more egregious cases. Mr. DeCuir reported that most agencies work on 1-2 regulations per year, our Legislative and Regulatory Analyst, Sarah Wallace, is now working on 8. This is a huge workload. Dr. Bettinger recognized from CDA, Bill Lewis, Fred Noteware, and Alan Felsenfeld and welcomed them back. Dr. Bettinger asked for a moment of silence in remembrance of Dr. Jean Savage-Adams, the first female President of the Dental Board.

AGENDA ITEM 4: DCA Director's Report: (A) Update on Department of Consumer Affairs Substance Abuse Coordination Committee's Recommendations for the Board's Diversion and Probation Monitoring Programs, Pursuant to SB 1441

LaVonne Powell, former Legal Counsel for the Dental Board spoke on behalf of the Director of Consumer Affairs. She reported that the new hiring freeze implemented by Governor Brown does not seem to be as strict as the former one. She asked that Boards request exemptions and they will advocate on our behalf. She reported that there was a 50% cut in cell phones throughout DCA and they are looking at reducing the number of state vehicles again. She stated that boards were told that they needed to enter a more formal contract for their Expert Consultants. DCA is trying to find a way to streamline this process so that Enforcement processes are not held up. Ms. Powell stated that now that our Disciplinary Guidelines are done we need to reopen them and insert SB 1441, Uniform Standards for Drug Abusing Practitioners. Ms. Powell stated that the new "Breeze" computer system that will integrate our existing applicant tracking system and the CAS system which is the Enforcement system. Ms. Powell then read a statement regarding tax withholding. Ms. Powell thanked the Board for webcasting their meeting. She stated that more and more people are watching the webcast, not necessarily live but the archived version at their own convenience. Dr. Bettinger asked if there was any way to track how many are watching or have watched the webcast. Mr. DeCuir stated that there is a tracking system and that he will report those numbers at the next meeting in his Executive Officer's report.

AGENDA ITEM 5: Update on Dental Hygiene Committee of California (DHCC) Activities

Rhona Lee, President of DHCC, reported that Lori Hubble and Tom Jurach were with her to help put on a PowerPoint Presentation. Ms. Lee stated that Dr. William Langstaff is now a member of the Committee. At the last DHCC meeting in December 2010, the majority of the time was spent reviewing, revising and then adopting statutes and then promulgating regulations specifically focused on enforcement, licensing and education. Ms. Lee stated that they intend to focus their efforts this year on that as well in order to establish an infrastructure. Ms. Lee reported that during the past year, 682 candidates took the DHCC examination with only a 19% failure rate. This statistic correlates with the past four years when failure rates ranged from 14% - 21%. Western Regional Examination Board (WREB) tested about 117 California candidates who were also granted licensure. All of these statistics and others are available on their website: dhcc.ca.gov. Lori Hubble, Executive Officer of DHCC, reported that they have had an incredible year as evidenced by the video shown.

AGENDA ITEM 6: Update Regarding Dental Board of California's Sunset Review

Richard DeCuir stated that generally speaking Sunset Reviews are done every 4-6 years. The last time this Board went through the Sunset Review process was in 2001. The Board has been Sunset twice since then but not for reasons of performance and not for performance review. We submitted the initial document to the staff of the Business and Professions' and Economic Development Committee on October 1, 2010. We began answering questions from the staff in January. The majority of questions centered on the need for fee increases, the Enforcement program, specifically case aging. Mr. DeCuir suspects that the Diversion program will come into question especially regarding SB 1441 and possibly some Dental Assisting issues. Mr. DeCuir stated that he has been told that the staff report will be sent to Senator Price the chair of the Committee the week of 2/21/11 - 2/25/11. Our hearing was scheduled for March 14, 2011. Mr. DeCuir, Board Members, and all of the managers have devoted an extensive amount of time to this Sunset Review process. Dr. Casagrande asked how far back the Committee looks at this Sunset Review. Mr. DeCuir answered that we won't know until we get their report back. Dr. Casagrande stated that if they look back far enough, they will see that there was a time when there was such disinterest that they couldn't even gather a quorum of Board Members for a Meeting. Since then there have been many changes especially in the composition of the Board Members and now they are

accomplishing many, many good things. Dr. Casagrande wanted to send the message to the Committee that the Board is a constantly improving entity on a steady climb up to do bigger and better things. Dr. Morrow asked Mr. DeCuir what the reasons were for the last two Sunsets of the Board. Mr. DeCuir stated that the first time it was surrounding the Dental Materials Fact Sheet and a bill introduced by Senator Figueroa. The second time the Board was Sunset and became a Bureau involved a Dental Hygiene Bill. There was a Bill that was introduced to make Hygiene a separate Board which was vetoed by the Governor. There was a second Bill that was introduced the next year, again to make the Hygiene Board independent but there was a spin on that Bill that said if the Governor vetoed the Bill then the Dental Board would no longer be in existence. The Governor vetoed the Bill and the Board became a Bureau for about 6 months until it was reconstituted into a Board again. Dr. Morrow stated that we should look at Sunset Review as a positive experience of self evaluation to insure that we are achieving the goals and standards that we set out to achieve. Mr. Afriat stated that as a Legislative appointee he will stay in regular communication with the Speaker's office to keep us informed of potential changes that could have an impact on the Board. Mr. DeCuir stated that he sees this as an opportunity to investigate what avenues other Board's are using, for example, in their Enforcement units that may be useful, more efficient tools that the Dental Board may want to incorporate. Dr. Bettinger stated that Dr. Morrow's comment was very insightful because as the Dental Board went through the process of Sunset Review staff did see areas where they could improve so it was a learning experience for all of us. LaVonne Powell stated that obviously the focus of this Sunset Review is Enforcement, how far the Board has gotten with SB 1441 Substance Abuse developing regulations and implementing those standards and the Diversion Program. We know that these are the areas that they are focusing on. She urges the Board to be prepared to answer questions on these subjects.

AGENDA ITEM 7: Budget Reports: Dental Fund & Dental Assisting Fund

Richard DeCuir reported that originally part of the Governor's Budget was the repayment of \$3 million of the \$4.4 million still owed to the Board from prior loans. The Legislative hearings have reduced the repayment amount this year to \$1.2 million. Our Revenues and Expenditures have been nearly the same amount around \$7.8 million per year indicating that we have been operating within our yearly revenue base. With the implementation of the Consumer Protection Enforcement Initiative (CPEI) this balance will be thrown off. We will not be taking in as much as we will have to spend. Mr. DeCuir reported that the Dental Assisting Fund is running pretty much even as far as revenues and expenditures go.

AGENDA ITEM 8: Discussion and Possible Action to Consider:

(A)Comments Received During the 15-Day Third Modified Text Notice Comment Period 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, and

Sarah Wallace, Legislative and Regulatory Analyst, stated that at the December teleconference the board decided to modify the text. The notice of modified text went out on December 24, 2010. The comment period began on December 27, 2010 and ended on January 11, 2011. During that comment period the board received a comment of support from the California Association of Dental Assisting Teachers (CADAT) and we received an adverse comment from the Dental Assisting Alliance. After the comment period closed, we received an email from Karen Wyant from the Dental Assisting Alliance wishing to withdraw their comment. Ms. Wallace stated that the request to withdraw came after the comment period closed so she consulted with the Office of Administrative Law who informed her that there are no provisions in the Administrative Procedure Act dealing with the withdrawal of public comment. They suggested that it would be in the best interest of the board to be sure there was a clear record in the rulemaking about how the board dealt with it. Staff requests that the board either grant or deny the request to withdraw the comment. Dr. Olinger asked if it would be best to reject the comment on the grounds that the comment was withdrawn. Ms. Wallace agreed that that was an option as well. Dr. Olinger stated that to him that seems procedurally cleaner than to try to withdraw. M/S/C (Afriat/Morrow) to reject the comment on the grounds that the maker of the comment asked that the comment be withdrawn. The motion passed unanimously.

(B) 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

Ms. Wallace stated that the final step in this rulemaking process would be for the board to adopt the third modified text as its regulatory language to file with administrative law as the final rulemaking. Kristy Shellans stated that the only modification she would suggest making to the motion is that at the very end she would add “as noticed in the third modified text notice” so that the Office of Administrative Law knows which notice you’re adopting as your final text version. M/S/C (Forsythe/Burton) to adopt the final text as noticed and 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 none substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed 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.

Public Comment: Dr. Lori Gagliardi wanted to thank the staff and board for all their hard work. Bill Lewis also wanted to thank everyone involved.

AGENDA ITEM 9: Discussion and Possible Action to Consider:

(A) A Policy Decision to Extend Licensure Exemption for Out-of-State Licensed Dentists and Registered Dental Assistants to Provide Healthcare Services at Sponsored Free Health Care Events Pursuant to Business and Professions Code Section 901

Ms. Wallace stated that this policy deals with the regulations related to AB 2699 that was enacted into law last year. This bill provides for an out-of-state licensed practitioner to come in to California as an exemption and practice, for a sponsored event, on a voluntary basis to uninsured or under-insured populations in California. It is an “access to care” bill. The department has strongly encouraged the healing arts boards to pursue regulatory language as soon as possible due to the time constraints and especially due to Sunset hearings. Ms. Wallace stated that some language has been drafted. The first part of this language deals with regulations and forms for dentists. Licensing requirements and scope of practice for out-of-state dentists are similar from state to state. Staff was unable to come up with language for out-of-state dental auxiliaries as the licensing and scope of practice varies widely from state to state. Staff requested that the board discuss the necessity of authorizing out-of-state auxiliaries and if they find it necessary, help staff come up with the language. Dr. Olinger asked why we would bring in out-of-state Dental Assistants when we have local people available. Dr. Bettinger asked if CDA had a stand on this issue. Bill Lewis, CDA, stated that they don’t have a stand on this particular issue. Dr. McCormick asked if on a similar vein, this would be an opportunity to do outreach with our Dental Hygiene community to make it one package. Kristy Shellans stated that DHCC would have the authority to do their own package. We don’t have the authority to combine regulatory packages. Mr. Afriat stated that for his own clarification are we trying to decide whether or not to establish policy to allow registered dental assistants from out of state to come in and do voluntary clinical work for these special events as opposed to unlicensed dental assistants. He doesn’t understand why it would be better to use unlicensed California assistants as opposed to licensed out-of-state assistants. Mr. Afriat stated that he feels that a licensed assistant from any other state is a better option than an unlicensed dental assistant from California. Judith Forsythe stated that the scope of duties varies widely from state to state. Most states don’t even have RDA’s so to have these people come in to California, we don’t really know what they are qualified to do so her recommendation would be to have them come in to function as a DA. Dr. Olinger stated that we really haven’t established that there is even a need for dental assistants since many of the programs have local RDA’s who volunteer and in the interest of regulatory expediency we can bring in a non-licensed person without any regulations much quicker plus, if there is a need for RDA duties they’re available locally. Dr. Dominicis stated that he had participated in the 2 events down south along with Judy Forsythe and they could see that the need was dentists. Dr. Morrow stated that hearing that there really doesn’t seem to be a need for assistants, let’s expedite the process and go forward with just dentists. M/S/C (Morrow/Afriat) to move ahead with the process to initiate a rulemaking to extend licensure exemption to out-of-state licensed dentists to provide healthcare services at sponsored free health care events pursuant to Business and Professions Code 901 and, if in the future there is a demonstrated need, consider extending it to out-of-state dental auxiliaries. The motion passed unanimously.

Lori Gagliardi, CADAT, stated to keep in mind that most states do not have an RDA license; they have a certification program which is not a license.

(B) Initiation of a Rulemaking to Add Title 16, CCR, Sections 1023.15, 1023.16, 1023.17, 1023.18 and 1023.19 Relevant to Licensure Exemption for Out of State Licensed Practitioners to Provide Healthcare Services at Sponsored Free Health Care Events.

Sarah Wallace, Legislative and Regulatory Analyst, stated that this is the actual language we have drafted pertaining to dentistry exemptions for out-of-state dentists. We've modeled this language after the licensure by credential requirements. This language includes information regarding the sponsoring entity registering with the board to notify the board that there will be a sponsored event. There is an application tied to this regulation and that form is included in this language. This language also pertains to the out-of-state practitioner authorization to participate in the sponsored event. That participant would need to meet specified requirements. There is a form included in this language for acceptance as well. The language also outlines the requirements for termination of the authorization and finally there is a notice to patients regarding the practitioners' background information. There is a \$100 processing fee for the out-of-state practitioner to pay the board for the authorization processing. Another key part of this language is that participation is limited to a maximum of 3 events per year with each event being no more than 10 days. M/S/C (Burton/Afriat) to accept the proposed regulatory language based on the provisions of AB 2699 and direct staff to take all the necessary steps to initiate the formal rulemaking process, authorize the Executive Officer to make any non-substantive changes to the rulemaking package, and set the proposed regulations for a public hearing. The motion passed unanimously.

AGENDA ITEM 10: Discussion and Possible Action to Consider the Initiation of a Rulemaking to Amend Title 16, CCR, Section 1018 and 1020.5 Regarding Uniform Standards for Substance Abusing Healing Arts Licensees and Disciplinary Guidelines

Ms. Wallace stated that SB 1441 was signed into law in 2008 and established the Substance Abuse Coordination Committee comprised of all the executive officers of the healing arts boards of DCA. That committee created the 16 uniform standards for substance abusing licensees. The department is encouraging those boards to incorporate those standards into their disciplinary guidelines. There was lengthy discussion about the process. M/S/C (Afriat/McCormick) to initiate a rulemaking of the proposed regulatory amendments to the Dental Board's Disciplinary Guidelines to incorporate the Uniform Standards Related to Substance Abuse as established by the Department of Consumer Affairs Substance Abuse Coordination Committee, April 2010 and direct staff to take all steps necessary to initiate the formal rulemaking process, authorize the Executive Officer to make any non-substantive changes to the rulemaking package, and set the proposed regulations for a public hearing. The motion passed unanimously.

AGENDA ITEM 11: Discussion and Possible Action Regarding Proposals for Legislation to Exempt from Public Contracts Code Personal Services – Subject Matter Experts.

LaVonne Powell from DCA stated that she just came from a meeting at B & P where they are working hard to exempt most of the Boards and Bureau's from many parts of this contract. M/S/C (Casagrande/Le) to support a legislative proposal to allow the board to exempt subject matter experts it uses for administrative cases and exam development from the Public Contracts Code and authorize the Executive Officer and the Board President to pursue such a proposal on behalf of the Board. The motion passed unanimously.

AGENDA ITEM 12: Discussion and Possible Action Regarding Participation in the Office of Statewide Health Planning and Development's Phase 1 of the Clearinghouse Test Data Collection and the Impact on the Board's Staff Workload

Senita Robinson, Chief of OSHPD's Research Policy and Planning Section gave a report regarding this program that would serve as the central source of health care workforce and educational data in the state.

AGENDA ITEM 13: Examination Committee Report

Dr. Casagrande reported that roll was called and a quorum was established. The minutes from the November 4, 2010 meeting were approved. The calendar of upcoming Dental and Registered Dental Assisting Examinations was reviewed and there was a comment that we would like to see more RDA exams in the south because there seem to be none scheduled at this time. Dr. Dominicis gave an update on WREB activities. Dr. Bettinger asked if staff could provide several years of data on the trends in the PTY1 pathway to licensure. M/S/C (Bettinger/Burton) to accept the Examination Committee report. The motion passed unanimously.

AGENDA ITEM 14: Licensing, Certification & Permits Committee Report

Dr. Whitcher reported that roll was called and a quorum was established. The minutes from the November 4, 2010 meeting were approved. Dr. Whitcher reviewed licensing statistics and talked about trends. General Anesthesia and Conscious Sedation evaluations and permit statistics were discussed. Dr. Whitcher stated that the GA/CS program is current and seems to be functioning well however, they are experiencing a shortage of Conscious Sedation evaluators. Outreach is being done in an attempt to address that issue. The LCP committee then moved into Closed Session. They had 3 RDA applications to replace cancelled licenses. Those 3 RDA applications were reviewed, all met the criteria and 3 RDA licenses to replace cancelled licenses were issued. M/S/C (Dominicis/ Olinger) to accept the committee's recommendation to approve the 3 applications for replacement of cancelled license. The motion passed unanimously. M/S/C (Afriat/McCormick) to accept the Licensing, Certification and Permits Committee report. The motion passed unanimously.

AGENDA ITEM 15: Dental Assisting Committee Report

Judy Forsythe reported that roll was called and a quorum was established. The minutes from the November 4, 2010 meeting were approved. Board action was requested to accept, reject or table the Dental Assisting Forum's recommendation to consider changes to the examination outline to include infection control, dental radiation safety and preventative procedures after the current examination review is complete. The committee passed a motion to accept the DAF's recommendation to consider changes to the examination outline to include infection control, dental radiation safety and preventative procedures and to have staff incorporate this recommendation into the annual review of the examination. Ms. Forsythe stated that staff is working hard to secure a contract for a southern testing site for the RDA practical exam. Ms. Forsythe stated that there was a 3 part CADAT request, first, to allow RDA programs seeking to use a CPR provider who may not meet the Board's approval, to submit a request for approval as an equivalent provider. The second part is to consider for approval an RDA program to use CPR providers recognized by the Dental Assisting National Board (DANB). The committee passed a motion to have staff develop equivalency standards relating to CPR providers and bring them back to the committee at a future meeting. The third part of CADAT's request was to consider allowing clinical hours required for certification in coronal polishing, radiation safety and sealant education within the RDA programs to be performed within the school setting and still allow for those hours to be considered clinical in light of the new regulations requiring extramural facilities for all clinical training hours. The committee passed a motion to not reopen the regulatory comment period, which would be required to make these changes. Dr. Casagrande asked that alternative pathways to RDA licensure be put on the next agenda. Dr. Bettinger asked that the Board take action on each issue individually. M/S/C (Morrow/Afriat) to accept DAF's recommendation to consider changes to the examination outline to include infection control, dental radiation safety and preventative procedures after the current examination review is complete. The motion passed unanimously. M/S/C (Afriat/McCormick) to have staff develop equivalency standards relating to CPR providers and bring them back to the committee at a future meeting. The motion passed unanimously. M/S (Dominicis/Forsythe) to not reopen the regulatory comment period. Dr. Whitcher stated that he thought the intent was to include the hours but as written was confusing. Kristy Shellans stated that she would review the proposed regulations and see if it's possible to interpret them as intended. Dr. Whitcher asked to amend the motion. M/S/C (Whitcher/Afriat) to amend the previous motion to: move ahead with the regulatory process and direct staff to further look at the issue of extramural settings and how clinical instruction might be done and to report back to the Board at the next meeting. The motion passed unanimously. M/S/C (Dominicis/Casagrande) to accept the Dental Assisting Committee's report. The motion passed unanimously.

AGENDA ITEM 16: Legislative and Regulatory Committee Report

Fran Burton reported that roll was called and a quorum was established. The minutes from the November 4, 2010 meeting were approved. Ms. Burton went down the list of positions the Committee recommended taking on each of the Bills. A "Watch" position was recommended for: AB 28, AB, SB 100, SB 103, AB 536, AB 675, AB 958, AB 1207, AB 1328, SB 227, SB233, SB 399 and SB 544. A "Neutral" position was recommended for SB 540 and an "Oppose" position was recommended for AB 127. M/S/C (Afriat/Olinger) to accept the Committee's recommended positions on the Bills. The motion passed unanimously. Ms. Burton gave an update on pending legislation. Ms. Wallace reported on the prospective legislative proposal regarding Advertising of Specialty Licensure. Ms. Burton reported that the Committee voted unanimously to recommend that the language be forwarded to the full Board for approval and direct the Executive Officer to incorporate the language into Sunset Review or seek an author to introduce this language as an urgency measure during the 2011-2012 Legislative session to repeal Business and Professions Code Sections 651(h)(5)(A)(i) through Section 651(h)(5)(A)(iii). M/S/C (Olinger/Casagrande) to accept the committee's recommendation. The motion passed unanimously. M/S/C (Downing/Forsythe) to accept the committee's report. The motion passed unanimously.

AGENDA ITEM 17: Enforcement Committee Report

Rebecca Downing reported that roll was called and a quorum was established. The minutes from the November 4, 2010 meeting were approved. Ms. Downing reported that the Investigator Activity Reporting (IAR) system was up and running on a limited basis beginning in December 2010. This new system will assist the managers and chief in tracking how the investigators are spending their time as well as an efficiency and quality measure. Ms. Downing reported that the complaint unit is continuing to show a favorable downward trend in the amount of days it takes to close their cases. The Investigation unit is also showing a downward trend in its unassigned and pending cases equaling 36%. This decrease is largely due to the new non-sworn unit picking up some of the less egregious cases. Ms. Downing reported that the new contract, now in place, with Phamatech relieves staff from the duty of specimen collection. There was discussion regarding the Cite and Fine program and the fact that investigators are reluctant to use it because of the perception that licensee's will challenge them, resulting in a very time consuming hearing process. Ms. Downing is working with staff to come up with more streamlined reporting that would be more of a single page snapshot of the pathway of complaints and investigations. Ms. Downing again recognized Kim Trefry and Richard DeCuir and thanked them for encouraging staff to work harder, better and faster to do more to make improvements and to be proactive. M/S/C (Burton/Whitcher) to accept the committee's report. The motion passed unanimously.

AGENDA ITEM 18: Discussion and Possible Action regarding the Dental Board of California's Public Records Act Policy

Richard DeCuir, Executive Officer, requested that this item be deferred to the next Board Meeting. M/S/C (Afriat/McCormick) to defer the discussion and possible action regarding the Dental Board of California's Public Records Act Policy to the next Board Meeting in May. The motion passed unanimously.

AGENDA ITEM 19: Update from Subcommittee Regarding Portfolio Licensure Examination for Dentistry (AB 1524, Stats 2010 ch 446)

Dr. Casagrande reported that Portfolio became law on January 1, 2011. Dr. Casagrande recognized Bill Lewis and Dr. Alan Felsenfeld of CDA who contributed immensely to this project along with Dr. Suzanne McCormick and Dr. Steven Morrow. Dr. Casagrande reported that the all day marathon meeting with Drs. Morrow and Casagrande, Kristy Shellans, Sarah Wallace, and Donna Kantner produced 3 things. The first was that they were able to provide staff with the information that they needed about Portfolio. The second was that in going over the draft regulations, Ms. Shellans and Ms. Wallace helped everyone to understand the requirements for inclusion with the regulations. The third part was the readying of the Comira contract for signature in preparation of their implementation of Portfolio. Dr. Morrow also expressed his appreciation to staff, legal, and Dr. Casagrande for the long day spent finalizing some of the important details. Dr. Morrow reported that we are getting some notoriety around the country regarding the Portfolio process. Many other states and licensing authorities are looking at what we have developed. Dr. Bettinger and Dr. Casagrande have been to at least 2 out-of-state meetings to present

this concept and the American Student Dental Association has invited them to its annual meeting in March. Dr. Casagrande also thanked Georgetta Coleman for her invaluable contribution to this project. Dr. Felsenfeld, CDA - Speaker of the House of Delegates, stated that the work that the Dental Board has done on Portfolio is a very high profile examination process. We understand that the process will be long and we must be very careful to do everything right. Dr. Felsenfeld stated that we collectively have put together a very fine piece of legislation that is the first of its kind in the nation. He believes it will have long term implications that the rest of the nation will follow. Dr. Bettinger stated that this is a fine example of what collaboration can do.

AGENDA ITEM 20: Report on the January 19, 2011 meeting of the Elective Facial Cosmetic Surgery Permit Credentialing Committee, Discussion and Possible Action to Accept Committee Recommendations for Issuance of Permits, and Appointments of Credentialing Committee Member(s)

Dr. McCormick reported that the Elective Facial Cosmetic Surgery (EFCS) Permit Credentialing Committee met in January, 2011. She reported that this is the first meeting in over a year. Dr. McCormick thanked Karen Fischer for her eloquent summary of the committee's duties and oversight. The committee essentially reviews applications for Elective Facial Cosmetic Surgery Permits and brings recommendations back to the Board. On January 19, 2011, the committee met and reviewed three applications during closed session. The committee tabled one application (Applicant #1 – Dr. JPD) and is asking the applicant for additional information. The committee deemed another applicant ineligible (Applicant #2 – Dr. JAB) because he is only licensed by the Medical Board and therefore ineligible for the permit according to Business & Professions Code, Section 1638.1. Applicant #3 – Dr. Erik Feider's application was reviewed and the committee recommends issuance of an EFCS permit without limitation. The Credentialing Committee recommends approval of Category I and Category II permit issuance without limitation. M/S/C (Whitcher/Afriat) to accept the committee's recommendation to approve and issue a permit for Elective Facial Cosmetic Surgery in Categories I and II to Dr. Feider. The motion passed unanimously. Dr. McCormick reported that Dr. Karas tendered his resignation from the Committee on January 19, 2011 creating a vacancy. Staff asked that a 2 person subcommittee be appointed to review resumes which will then be taken to the Board. Ms. Fischer stated that the letters were mailed on February 22, 2011 and recipients were asked to respond by April 15, 2011 in order to give the subcommittee, if appointed, time to review and interview candidates to bring back a recommendation to the Board at the May Meeting. Dr. McCormick states that additionally the Committee is working on drafting regulations. M/S/C (Olinger/Afriat) to accept the subcommittee's report. The motion passed unanimously. Dr. Bettinger appointed Dr. McCormick and Dr. Whitcher to the subcommittee to review the applications and bring back recommendations to the Board at the May Board Meeting.

AGENDA ITEM 21: Discussion and Possible Action Regarding Length of Time for Retention of Inactive Patient Records

Dr. Casagrande reported that when this subject was brought up 2 years ago, it was found that 7 years seems to be the consistent number with many of the healing arts Boards. Kristy Shellans stated that she believes that the Board has Regulatory authority to set retention timeframes. Our standards would only apply to us. CDA, IRS, managed care and Medicare all have their own standards that must be adhered to. Dr. Dominicis stated that he thinks we should explore what we should do. He stated that Denti-Cal has one standard while Delta Dental requires another. Maybe start with 7 years and go from there. Dr. Le stated that community clinics require 7 years past 18 years of age. However, now, with electronic medical records, maybe we're supposed to keep them forever. Dr. Morrow stated that he questions the advisability of the Dental Board going on record as requiring a retention timeframe. He suggests that we make a recommendation as to how long to retain the records rather than making it a regulation. Kristy Shellans stated that record retention does protect the public. Ms. Shellans recommends setting a standard. Dr. Bettinger appointed a subcommittee of Dr. Morrow and Dr. Olinger to look into this matter and bring a recommendation back to the Board at the next Board meeting.

PUBLIC COMMENT

Dr. Earl Johnson, California Association of Orthodontists, stated that he was starting his ninth year coming to these meetings. He's seen the agenda all kinds of different ways. He stated that he'd like to

vote to have the Board arrange their schedules so that the Closed Session is the first thing on the first day so that the public who can't go to the Closed Session can use that time to travel. The second thing Dr. Johnson stated was that in all these 8 years he's always had access to one of the books that had all the paperwork for the meeting. He received a letter stating that the materials would be available on the website but the materials would not be mailed out. He printed out the 160 pages from the website but finds them useless. He stated that he was under the impression that no one would get the book but he stated that he thinks everyone in the room got a book except him. He says he talked to the President who will take care of this issue. The third thing Dr. Johnson wanted to say was that he is personally really impressed with Dr. Morrow and what he's done and how he's gotten involved with this Board and has produced good thoughts and good works in a very short period of time.

The meeting adjourned at 12:20 p.m.