



**Dental Board of California Meeting Minutes**  
**Friday, August 12, 2011**  
Department of Consumer Affairs  
1625 North Market Blvd, 1<sup>st</sup> Floor Hearing Room, S-102  
Sacramento, CA 95834

**Members Present:**

John Bettinger, DDS, President  
Bruce Whitcher, DDS, Vice President  
Luis Dominicis, DDS, Secretary  
Steven Afriat, Public Member  
Fran Burton, Public Member  
Stephen Casagrande, DDS  
Judith Forsythe, RDA  
Huong Le, DDS  
Steven Morrow, DDS  
Thomas Olinger, DDS

**Members Absent:**

Rebecca Downing, Public Member  
Suzanne McCormick, DDS

**Staff Present:**

Richard DeCuir, Executive Officer  
Denise Johnson, Assistant Executive Officer  
Kim Trefry, Enforcement Chief  
Sarah Wallace, Legislative and Regulatory Analyst  
Karen Fischer, Associate Analyst  
Linda Byers, Executive Assistant

President Bettinger called the meeting to order at 8:24 a.m. Secretary Dominicis called the roll and established a quorum.

**AGENDA ITEM 10: Approval of the Amended Full Board Meeting Minutes from February 24-25, 2011**

M/S/C (Afriat/Le) to approve the amended full Board meeting minutes from the February 24-25, 2011. There was no additional public comment. The motion passed unanimously.

**AGENDA ITEM 11: Approval of the Full Board Meeting Minutes from May 19-20, 2011**

M/S/C (Afriat/Dominicis) to approve the full Board minutes from the May 19-20, 2011 meeting. There was no additional public comment. The motion passed unanimously.

**AGENDA ITEM 12: President's Report**

President Bettinger reported that on the previous day in closed session the Board conducted the annual performance review of the Executive Officer. During that time it became very apparent to all Board members how important their decision had been several years ago to hire Richard DeCuir to be the Board's Executive Officer. Dr. Bettinger continued that there is not enough time to list all the accomplishments, but it is

apparent that Mr. DeCuir's leadership and placement of talented staff in key positions along with his positive management style enabled the Board staff to accomplish an unbelievable amount of work with diminished resources. To Richard and your staff, we owe you so much. Richard, we are proud, as I know your staff is, to have you continue as the Board's Executive Officer. (applause)

Dr. Bettinger commended Board members Judith Forsythe and Dr. Bruce Witcher for all their efforts in reaching out to the dental assisting community and their work with the Dental Assisting Forum. There has been much progress in resolving issues relating to the merging of the dental assistants into the Board. There is still much to do. Next year with the establishment of the Dental Assisting Council, many dental assisting issues will be efficiently addressed.

Dr. Bettinger recognized the California Dental Association's work in progress on a report regarding access to care. It is very significant and important that the Association has been reaching out throughout the state to get input. We will be hearing from Dr. Alan Felsenfeld, Speaker of the CDA House of Delegates and an esteemed Oral and Maxillofacial surgeon who will be making a presentation on access to care.

Finally, Dr. Bettinger thanked all the Board members for taking time away from family and work to attend these meetings and to participate in important Board issues.

### **AGENDA ITEM 13: Executive Officer's Report**

Richard DeCuir, Executive Officer thanked the Board. He said that in preparing his Executive Officer's report that he took input from his managers. He began his report by saying that there is a state budget. The Board's appropriation for FY 2011-12 is \$11.3 million for the Dentistry Fund and \$1.6 million for the Dental Assisting for a total appropriation of \$12.9 million. This includes a 5% reduction in personal services, and cell phone and home storage permit reductions. Additional reductions between 1-5% are expected.

While we anticipate that SB 541 will pass, Board staff is engaged in the daunting task of writing hundreds of expert consultant contracts in the event that it does not pass. Mr. DeCuir reported that he has received budget approval for a teleconferencing system between the Sacramento office and Orange office. This will enhance communication between the northern and southern California offices.

Mr. DeCuir reported that, to date there is a total of 72.8 positions at the Board; 61.8 filled and 11 vacant. Due to the state hiring freeze, recruitment has been difficult. Regarding the Complaint and Compliance Unit, monthly audits continue to take place to ensure that the CSAs are maintaining a current workload; Lori Reis, Manager is working with one of the senior dental consultants in revising and updating the current Dental Consultant procedure manual; and beginning June, 2011 a Consumer Satisfaction Survey was included with all complaint closure letters.

With regard to the Enforcement Unit, Mr. DeCuir reported that Supervising Investigator Teri Lane along with Supervising DAG Greg Salute spoke to the graduating dental students of the class of 2011 at the University of California, San Francisco. The presentation lasted about two hours and was heard by approximately 100 students.

Mr. DeCuir introduced the members of the new Investigative Analysis Unit: April Alameda, Unit Manager, Shannan Borton, Erica Cano, Sheila Keechel, and Sean Cogan, all Associate Enforcement Analysts. This group, along with Shirley Boldrini, Inspector in the Northern California office visited the Asian Health Services Dental Clinic in Oakland for a mock inspection with Board member Dr. Huong Le. The visit was very informative and provided new staff with an opportunity to see an actual dental clinic, how operatories are set up, how the instrument sanitation process works, and what an inspector looks for during an inspection.

Mr. DeCuir reported that Inspector Shirley Boldrini volunteered her time when she participated in the Remote Area Medical (ROM) Fair at Cal Expo this Spring. Shirley volunteered her time as a RDA-EF for over ten hours serving the underprivileged and individuals without medical or dental insurance. The dental portion of the fair served a total of 4700 people. The total tally was 5500 fillings, 1600 cleanings, 3600 extractions, and 1400 Panorex x-rays.

Mr. DeCuir further reported that sworn staff from both northern and southern offices served a search warrant on an office in Richmond alleged to have been providing unlicensed dentistry. Criminal charges are pending in Contra Costa County. He also reported that in response to a tip from a former employee, the Board sent investigators to the Napa area to investigate allegations that an unlicensed dental assistant was hired and allowed to perform prophys on children and place temporary crowns. The assigned investigator was able to get written admissions from both parties and subsequently filed criminal violations with the Napa County District Attorney's Office. Both the dentist and dental assistant pled no contest. This investigation was organized and directed by Investigator Kyle Clanton. Nancy Butler, Supervising Investigator introduced Kyle Clanton. Mr. Clanton gave a brief explanation of his work experience and education before coming to work for the Dental Board.

#### **AGENDA ITEM 14: Update on Dental Hygiene Committee of California (DHCC) Activities**

Dr. Bettinger reported that there are several members of the hygiene community in attendance. The newly elected president of the California Dental Hygienist Association was introduced. Dr. Bettinger mentioned that he accepted the resignations of the members of the Dental Assisting Forum (DAF).

#### **AGENDA ITEM 15: Budget Reports: Dental Fund & Dental Assisting Fund**

Richard DeCuir, Executive Officer before giving his budget report, introduced Ms. Sharon Langness, Budget Analyst for the Board. Mr. DeCuir reported that both funds should end the year with a reversion of approximately \$763,575 in the Dentistry Fund and approximately \$305,845 in the Dental Assisting Fund. These reversions are attributed to a number of factors such as reduced personal services in both funds due to the Governor's hiring freeze, and overall general expenses for both funds being reduced. The Board is currently being required to cut 5% from overall expenditures from both funds. There was a general discussion about the meaning of reversion and what happens to the monies that are reverted. Refer to Analyses of Fund Conditions in the meeting packet for further details. There was no additional public comment.

**AGENDA ITEM 16: Presentation by the California Dental Association (CDA) regarding Access to Care**

Dr. Alan Felsenfeld, Oral and Maxillofacial surgeon and Speaker of the CDA House of Delegates, reported that CDA has been actively looking at access to care issues in many ways; through advocacy, legislation and through activities of the CDA foundation. CDA has a resolution dating back to 2002 which deals with the issues of helping the underserved receive oral health care. The House of Delegates, in 2008, directed CDA to undertake a comprehensive study aimed at improving access to dental care for underserved populations. CDA has been deeply involved in this research and analysis project since 2009. At that time, two workforce groups were formed; an Access Workgroup and a Workforce Task Force. The goal of these groups was to identify ways to improve dental care for the nearly 30% of the state population that experiences barriers to dental care while preserving the dental delivery system that works very well for the majority of the rest of Californians.

Dr. Felsenfeld gave a summary of the Access report stating that the written analysis and associated research includes more than 500 pages of documentation and evidence based research which is available on CDA's website. There is also a 54 page executive summary available. The two recently released Institute of Medicine reports, the Kellogg, Pew and Macy foundations and Healthcare Reform are just some of the national organizations and activities that are placing pressure on the healthcare system to provide oral health care to more people. Healthcare Reform in particular, through passage of the Affordable Healthcare Act, is expected to provide dental coverage to between one and two million more children in California who are not receiving care now, beginning in 2014.

The recent loss of Denti-cal benefits to adults in California and suspension of the only state supported dental disease program have increased the burden and created even larger gaps in healthcare for children. Thirty percent of California's population has limited or no access to dental care and unfortunately this group suffers from disproportionate dental disease. Eleven million Californians have no dental coverage whatsoever with seven million considered low-income, or disadvantaged enough to be eligible for Medicaid. Of the Medi-cal/Medicaid eligible, one in three or 4.5 million are children. Data shows that in 2007, fewer than 4000 dentists provided significant amounts of dental care to Medi-cal beneficiaries. There are 900,000 children covered by the CHIP, Healthy Families program. One UCLA study designated over 200 areas of the state as being underserved where the ratio of dentists to people was such that it was not enough to provide adequate care to people living in those areas proving that existing programs are not getting the job done. The report emphasizes that just as there is not just one cause there will not be just one solution.

CDA has taken a comprehensive approach, committed to becoming the expert on the issue through a deliberative process with decision making based on comprehensive, accurate and evidence based information. Dr. Felsenfeld stated that the two volunteer workgroups that were previously mentioned were formed to study the issue from different perspectives. The groups examined existing research and also commissioned several studies. Commissioned research included; a comprehensive review of the oral healthcare systems in California, an analysis of the state oral healthcare infrastructure within the government, history and overview of the dental residency programs including their financing and an analysis of their potential to improve access to care for the underserved

population, the capacity of California's present dental delivery system, an economic analysis of new workforce models and the possible impact on private practicing dentists and the safety and quality of irreversible procedures being performed by dental providers worldwide. A report was developed that has a three-phase proposal for looking at this problem.

The proposals are structured in such a way that one effort is built on another focusing first on what has been shown to work and putting in efforts where they can be expected to have the greatest impact.

Phase one of the report contains eight objectives, the basis of which is to establish a foundation for public oral health programs and enhancing capacity by expanding what is working today. The first objective and CDA's first priority would be to build a high functioning state oral health infrastructure for the purposes of both management and leadership including a state Dental Director and staff placed at the executive level. This individual would have multiple functions but mostly he/she should be charged with assuring involvement in the decision making and being able to work across programs for the inclusion and advancement of oral health programs within the administration as well as developing a plan that envisions what is possible and structured in a participatory way emphasizing the collaboration of both the private and the public sectors.

The second objective the report emphasizes in response to the challenge of building adequate capacity is through the expansion of qualified health centers or FQAC's, that are funded to serve the very population that needs access the most whose full potential has not been realized. In 2009 the federal government approved the expansion of these centers beyond the four walls of the building allowing FQAC's to contract with dentists in the community to provide care to clinic patients in the providers' private offices. However, this has not yet been realized in California. The report states that the advantages to doing this would include Dentists' participation in serving the underserved population without the administrative burden of Medi-cal, arranging for a predetermined amount of time or a predetermined number of patients, expanding the capacity of health centers to meet the requirements to provide dental care while reducing the financial burden of expansion of capital facilities, staffing requirements and stabilizing costs for them with the most benefit being to patients allowing increasing access, from more locations for care and shorter waiting times for appointments.

The final phase one objective relates to recommendations with respect to dental workforce. The recommendation is twofold: first, it supports the use of community health workers also known as promotoras, who are highly effective in their communities in improving health outcomes because they know the social norms and the values and the culture of their communities and have been shown to be effective at assisting others in changing behavior. Secondly, it recommends a continuation of the research conducted on safety and quality; specifically that a scientifically rigorous investigation be completed to answer the questions that remain regarding safety, quality, cost effectiveness and patient satisfaction of irreversible dental procedures being performed by traditional and non-traditional providers including dentists and non-dentists. The report finds this to be a vital step in the analysis of the ability of dental healthcare providers to be more efficacious but more importantly safe in the delivery of dental healthcare. The proposal acknowledges that this is the necessary next step to build an evidence base to guide any new provider or scope of practice recommendations. The recommended study parameters will include

things such as multiple offices of dentist supervision, multiple pathways of education or training and evaluating dentists and non-dentists alike.

Phase two is based on the work in Phase one and it begins by recommending the development of a program to bring oral health care to children at or near where they live or go to school. Reducing the risk of dental caries before it begins or early in its progression assures that this highly preventable disease may be controlled before the onset of costly damage in both human and economic terms. Partnering with key organizations and agencies that naturally have groups of caregivers and children in attendance such as schools, WIC and Head Start programs can maximize the opportunities to deliver health education, preventative and restorative dental care services as well as assistance with access to ongoing care in the community. School based and school linked programs that provide dental education, services and case management have been heralded as valuable in reaching underserved communities for decades unfortunately, California suspended its 30-year-old school based programs but the federal government has made it a priority and includes funding to states to support these programs. The phase two recommendations also include the use of proven technology. This is not about new providers or changing scope. It is about maximizing the reach of the dentist to insure more people get the safe, high quality care they need sometimes over distances which would make access impossible. For example, technology now exists to support the collaboration of professionals working in community settings such as schools and long term care facilities. Electronic collaboration such as radiographs photos and charting have been used in medicine but are slow to be adopted in dentistry. These technologies could be used to bring many more patients into the delivery system with a supervising dentist making diagnostic decisions in support of allied professionals working within their scope and thus being able to serve patients in the community setting. The other phase two objective is the recommendation to extend access to early preventive services through augmentation of Medi-Cal reimbursement rates. This is based on the understanding of the importance of coordinating dental visits with preventive education and care to reduce the need for future costly work. It has been shown that even a small boost goes a long way to increasing access to services.

The final phase, Phase three is about dental delivery system innovation. The first objective is to re-establish adult dental benefits in the Medi-Cal program. The second objective is to expand the capacity of hospital based emergency dental care. Emergency departments cannot provide care for acute dental treatable conditions and they are limited to prescriptions for pain and infections along with dental referral. This recommendation seeks to include emergent dental care capacities within hospital facilities. The final objective in phase three seeks to optimize workforce capacity. This objective also calls for the support of a mandatory one year post graduate residency. The main purpose of the recommendation is to increase the competency of young dentists to provide complex care and advance the profession.

At this point these are just recommendations. The report and the recommendations will go to the CDA House of Delegates in November and the House will then decide what CDA's direction will be and the course of action at which time they will begin implementation. Dr. Casagrande asked Dr. Felsenfeld if he anticipated this resulting in Legislation down the road and how does he see the Board interacting with this? Dr. Felsenfeld stated that right now they anticipate nothing as there are too many

recommendations to be reviewed. The CDA House of Delegates will review it in November and come up with what they feel are good recommendations. Dr. Casagrande asked if anyone has done a statewide dental office production capacity to see if there is under utilization of space. Dr. Felsenfeld stated that one of the research projects that was commissioned did just that. The study found that private practices were 90% utilized and clinics were 80% utilized. Dr. Dominicus asked if one of the reports revealed certain areas that have a shortage of dental providers. Dr. Felsenfeld responded that the purpose of one of the studies was specifically to identify the areas where there are not enough dental providers. Dr. Casagrande asked if the polling that was done for dental office capacity went out to the entire dental community or only CDA member dentists. Dr. Felsenfeld stated that the poll was done by an outside research firm and he is not sure of the answer. Dr. Bettinger stated that whatever happens, he would hope that the Dental Board of California would have the latitude to develop regulations for education and testing so that new scopes of dentistry or new providers could be tested to insure public safety as well as licensing and compliance. Dr. Felsenfeld assured the Dental Board that they will be a key partner in all phases of this endeavor.

Dr. Morrow stated that the "Pipeline Project" was designed as a collaboration between government and educational facilities to create clinics in rural areas with dental students rotating through those clinics as providers. The Medi-Cal University Project was a very active source for providing for the underserved until adult medi-cal benefits were suspended. Dr. Morrow asked if CDA has looked at the possibility of a cooperative effort with the dental education community both in undergraduate pre-doctoral education as well as post graduate and PGY1 where assistance in funding for the development of clinics that could be rotated through by students as care providers for the underserved in rural areas. Dr. Felsenfeld stated that that was one of the factors that was in the reports.

Katie Dawson, California Dental Hygienists Association (CDHA), commented that UCSF has done extensive research on capacity to serve and the results of that report were that if all of the dentists in California were working at 100% capacity there would still be 30% of the population that would not have access because the current workforce could not handle all the need for dental care. CDHA as a whole welcomes the opportunity to be a part of this process. Ms. Dawson stated that her concern is that there may be several different dental support groups coming forward with possible new legislation when there are already highly trained and educated members of the team that are ready to go right now if there is interest in expanding the scope of practice for members of the dental team. Dr. Morrow pointed out that there is a difference between need and demand. Even if there are 30% of the population was in need of dental care, a portion would not seek care even if it were free therefore lessening the demand.

Jenny Katlove, Children's Partnership, commended CDA for the work they have done to identify the multiple barriers individuals face in accessing dental care and acknowledging that it is a very complex issue. She stated that in 2014 they anticipate about 1.2 million additional children will have dental coverage due to the implementation of the Affordable Care Act creating a increased demand. The Children's Partnership looks forward to working with CDA and the Dental Board in finding a solution to access to care. Dr. Sharon Golightly, stated that she would hope that the Board would consider legislative changes to the Loan Forgiveness Program for professionals. She requests that modifications be made to the loan program to forgive some of the debt if graduates, including dentists,

hygienists and registered dental assistants, agreed to practice in rural areas. There was no additional public comment.

#### **AGENDA ITEM 17: Examination Committee Report**

Dr. Casagrande Chair of the Examination Committee reported that the Committee met, roll was called and a quorum was established. The minutes of the May 19, 2011 meeting were approved unanimously. Dr. Casagrande reported that the Committee reviewed the dental assisting program examination statistics. He commented that while there is improvement in the pass rate for the Registered Dental Assistant written, he expressed his concern that the scores are still low. He went on to report that Dr. Dominicis gave the WREB report. The Committee reviewed the cost analysis of the RDA Practical and RDAEF exams prepared by staff. The RDA practical examination pays for itself; the RDAEF does not. The Committee asked for additional data before determining if exam fees will need to be increased.

Dr. Olinger commented that he was encouraged to see the break-out of RDA examination scores according to first time candidates, and repeat candidates He was pleased to see that 75% of the first time candidates were passing the exam. He feels that the first timers have worked very hard to prepare for the exam and have taken it seriously.

Board member Fran Burton expressed concern that the failure rates for all candidates taking the RDAEF written exam (41%), and the first time candidates (42%) are both high. Dr. Casagrande commented that it may be due to candidates not studying the subjects that appear on the exam. Dr. Dominicis asked if there was someone from the RDAEF community that could comment on the exam. He would like to hear from the teachers and those who prepare the students about the plausibility of the exam questions. Dr. Morrow commented that when your sample size is small, the data will be skewed. Dr. Whitcher commented that with some of the other examinations, associations have commented that there are problems with reference materials not being pertinent or available, and exam outlines and study guides may not be relevant. Dr. Whitcher and Ms. Burton would like input from the teaching community on this EF issue. Mr. DeCuir, Executive Officer commented that the staff has focused on the Registered Dental Assisting examination and not the RDAEF exam.

Ms. Burton went on to comment on the cost analysis performed by staff with regard to the RDA practical and RDAEF exams. She thought the analysis was very confusing and that it was difficult to determine whether or not the fees need to be raised. Mr. DeCuir reported that this item was discussed in Committee and it was determined that a more complete cost analysis will be brought back to the Committee in November. Dr. Dominicis asked that the most recent examinations being conducted between the August and November Board meetings be included in the new cost analysis. There was no additional public comment. M/S/C (Forsythe/Afriat) to accept the Committee's report. The motion passed unanimously.

#### **AGENDA ITEM 18: Examination Appeals Committee Report**

This Committee did not meet because there were no examination appeals to review.

#### **AGENDA ITEM 19: Licensing, Certification & Permits Committee Report**

Dr. Whitcher, Chair of the Licensing, Certification & Permits Committee reported that the Committee met, roll was called and a quorum was established. The minutes of the May 19, 2011 meeting were approved unanimously. He reported that the Committee reviewed dental and dental assisting program licensure and permit statistics. There was a 2% increase in delinquencies for dentists, 5% increase for RDAEFs and 9% for RDA licenses since October 2009. The Oregon Board reported similar statistics that may be related to the economy and tardiness in renewing. The Committee noted that 103 RDAs have received licenses since the April Board meeting. Dr. Whitcher also reported that the Committee reviewed the General Anesthesia/Conscious Sedation permit evaluation statistics. He noted that the General Anesthesia evaluation program is ahead of schedule and thanked Jessica Olney. However, there are a large number of postponements (nearly 50%) for conscious sedation evaluations, many due to licensees not yet having a place to practice and/or the availability of patients. An emerging trend is that there is a lack of conscious sedation evaluators. The Committee will be studying this further. It may be necessary to have a separate course to calibrate conscious sedation evaluators in order to fill the evaluator pool. The Committee also received a staff report on the new fingerprinting requirements for licensees. The program is exceeding expectations in that there is less difficulty with administration than anticipated. Dr. Whitcher reported that there was one application for a new licensee to replace a cancelled license that was considered in closed session. The Committee tabled the application until staff can bring back further information. M/S/C (Afriat/Burton) to accept the Committee's report. There was no public comment. The motion passed unanimously.

#### **AGENDA ITEM 20: Dental Assisting Committee Report**

Ms. Judith Forsythe, Chair of the Dental Assisting Committee reported that the Committee met, roll was called and a quorum established. The minutes of the May 19, 2011 meeting were approved unanimously. She reported that Tanya Webber, Analyst for the Board gave an update regarding the status of dental assisting programs and courses. Currently there are 18 applications that are continuing to be reviewed by staff and consultants until the new regulations become effective. The complete list of approved and pending applications for dental assisting programs and courses is in the Board packet. Ms. Forsythe reported that the Committee reviewed the dates and sites for dental assisting examinations. She commented that this information was also presented to the Examination Committee and requested that in order to reduce redundancy that this item be agendaized in only one committee. The consensus of the Board was that it would be put on the agenda in the Dental Assisting Committee. Ms Forsythe reported that there is a new exam site in Santa Maria and staff is looking into additional examination sites in different parts of the state. She also reported that Dr. Tracy Montez with Applied Measurement Services presented an update on the Registered Dental Assistant written examination. She reported that the pass rate for candidates graduating from a Board approved program is 42%; ROP style program is 1%; OJT work experience is 15%. Dr. Montez reported that infection control is the largest category of missed questions. She will continue to bring forth information on this exam at future meetings. Ms. Forsythe reported that she and Dr. Whitcher were appointed by Dr. Bettinger to be a subcommittee to survey RDAEF licensees for the purpose of analysis of workforce and barrier to care issues. The committee is still gathering information.

Dr. Dominicus asked that staff bring to the next meeting, a break out of how many total programs have been Board approved, e.g. how many Infection Control Courses; how

many registered dental assisting programs, etc. Ms. Fran Burton asked about the questionnaire that was sent out for the RDAEF survey. She is concerned that the right questions were not asked and therefore we are not getting any results. Ms. Forsythe commented that this is the initial attempt at gathering the information. The process will be revised as it progresses.

Public Comment:

Dr. Earl Johnson, Orthodontic Association commented that 25% of the Registered Dental Assistant examination is on infection control. He believes that the examination should reflect questions relating to duties; and he believes that too much weight is given to infection control questions. He believes this puts the OJT candidates at a disadvantage. He believes the distribution of questions on this examination is skewed.

Sharon Go-Lightly, dental hygienist commented that it is the Board's obligation to protect the public by ensuring that all dental assisting personnel know the minimum standards for infection control. All candidates taking the exam, whether through formal training or OJT, should be able to answer all questions relating to infection control.

Dr. Casagrande asked staff if the dental assisting community receives public notice of the Board meetings? He observed that there were not many members of the dental assisting community attending the Board meeting this week. His interpretation is that they are happy with what the Board is doing.

Dr. Lori Gagliardi, CADAT (California Association of Dental Assisting Teachers) responded to Dr. Casagrande's comment by emphasizing that she and representatives of her organization not only attend all Dental Board meetings, but also actively participate in agenda discussions of the Board. In reference to questions about the RDA exam, it is obvious that candidates who go through formal training perform much better on the exam, than candidates who go through non-board approved programs (ROP) and OJT programs. She suggested that in order to continue to protect the public, perhaps it is time for the Board to review whether or not people who have not gone through a formal registered dental assisting program should be able to take the exam. She asked that the Board put on its agenda a review of the work experience pathway for the RDA exam. Dr. Huong Le, Board member commented that while the Board could look at the issue, she does not want the Board to put up barriers to RDA licensure.

Earl Johnson, Orthodontic Association, attends the Board meetings to follow issues relating to dental assistants. He feels the playing field is not level. He suggests that all OJT candidates pass the infection control exam before they take the RDA examination. He feels the candidates should be told what areas will be tested.

LaDonna Drury-Klein, California Association of Dental Assisting Teachers responded by saying that for the first time since the early 1980s, the Board has made available to every candidate an exam content outline and exam plan with over 400 knowledge statements that an exam candidate can access at any time. This is due to the efforts of Dr. Tracy Montez of Applied Measurement Services who was brought into the process by Richard DeCuir, Executive Officer. She went on to say that she would like to see similar exam content outlines and exam plans developed for the Dental Sedation Assistant, Orthodontic Assistant, and RDAEF examination candidates. M/S/C (Afriat/Burton) to

accept the Committee's report. There was no additional public comment. The motion passed unanimously.

### **AGENDA ITEM 21: Legislative and Regulatory Committee Report**

Ms. Fran Burton, Chair of the Legislative and Regulatory Committee reported that the Committee met, roll was called and a quorum established. The minutes of the May 19, 2011 meeting were approved unanimously. She reported that the Legislature will be back on Monday from summer recess and there are critical deadlines for fiscal committee to meet. Please refer to this calendar in your Board packet. The Committee was updated by Sarah Wallace, Legislative/Regulatory Analyst on the bills that the Committee had previously reviewed. No new positions were taken. The Committee did review a new gut and amend bill, AB 1424 (Perea) which gives authority to hold a license of those who have a tax liability. The Committee suggested a watch position on this legislation. There was no additional public comment. M/S/C (Afriat/Olinger) to accept the Committee's report. Kristy Shellans, Legal Counsel commented that the Committee took a watch position on AB 1424 and wanted to know whether the Board agreed with that position. Mr. Afriat took that comment as a friendly amendment to his motion. It was seconded by Dr. Olinger and passed unanimously.

### **AGENDA ITEM 22: Enforcement Committee Report**

In the absence of the Chair, Ms Rebecca Downing, Vice-Chair Dr. John Bettinger of the Enforcement Committee reported that the Committee met, roll was called and a quorum established. The minutes of the May 19, 2011 meeting were approved unanimously. He reported that the Committee reviewed the enforcement statistics for the Complaint and Compliance Unit. The average number of complaints received during the previous 12 months is 307 per month. The average number of cases closed within that same time period is 255 per month. The average number of days a complaint took to close within the last 12 months was 103 days. There was a goal to move the pending cases within 30-60 days and Lori's unit met that deadline. Dr. Bettinger reported that one complaint intake position remains vacant due to the hiring freeze.

Dr. Bettinger reported that the Committee reviewed the investigative statistics and closures are up significantly because more staff were hired to help with the workload. He also reported that the number of cases in the oldest category (3 years and older) has decreased from 38 (in November 2010) to nine. The Committee received a report on the Diversion Program. Alcohol is still the drug of choice. The Diversion Program Manager reported that there was only one self-referral. Dr. Olinger commented that one self-referral is not insignificant when viewed in the context of three total referrals.

Dr. Bettinger reported that the Committee received a report on enforcement personnel. The Investigative Analysis Unit is now fully staffed. He reported that the Board was granted a hiring freeze exemption and will be able to hire an additional four sworn investigators. There was no additional public comment. M/S/C (Afriat/Olinger) to accept the Committee's report. The motion passed unanimously.

### **AGENDA ITEM 23: Update on Portfolio Licensure Examination for Dentistry (AB 1524, Stats 2010 ch 446)**

Dr. Bettinger stated that COMIRA has been working with the dental schools to calibrate the schools and develop the regulatory tools to proceed with Portfolio. Roberta Chinn,

PhD, Assistant Director of Psychometric Services for COMIRA, reported that her agency has been working with focus groups from each of the dental schools. There were six focus groups conducted at USC: Oral Diagnosis and Treatment Planning, Endodontics, Removable Prosthodontics, Periodontics, Indirect Restoration and Direct Restoration. The workshops were well attended and additional meetings were requested by the participants. Dr. Chinn stated that the Portfolio examination is not just a grading sheet, it is the whole concept including a framework of thoughtfully looking at all the assumptions underlying the exam, understanding the case criteria for the examination as well as the scoring criteria. Dr. Chinn reported that each of the schools, USC, UOP, UCSF, UCLA, Loma Linda and Western Universities, sent a representative to each of the workshops. Dr. Chinn felt that all of the schools saw the value of this type of format even though it is not the only alternative for initial dental licensure. They saw it as a valuable comprehensive evaluation of a dental student's competency in practice. COMIRA asked these focus groups to help define what the purpose of each of these competency exams was. It was noted and agreed that these evaluations are not for specialty practice but to determine minimum competencies in each of these areas. Exact case numbers have yet to be determined but as of now there will be at least two cases per competency to be assessed. Case criteria was discussed, determined and agreed upon. Conduction of the competency exams was discussed including when, in the course of study, would be appropriate; possibly during the last two years of study instead of just the last semester. The scoring factors and grading criteria drew lively conversation and the criteria are currently being reviewed by the school representatives as well as their respective faculty. COMIRA felt that one of the keys to the acceptance of this Portfolio process was to not only have representatives look at what the work product was but have the representatives take it back to their respective schools and have the faculty give input and bring back the collaborated work product from each school. COMIRA anticipates after the review and the compilation of the second round, a draft of a work product with each of the representatives and their respective schools, they will start planning for additional meetings. Dr. Bettinger commented that there is a lot of misconception by examining boards from other states surrounding the Portfolio process mainly having to do with the pressure on a school to pass a student so that they can graduate. Portfolio is a voluntary alternative. A student can still graduate from dental school without going through the Portfolio process. The other criticism is bias. The question is; can you subjectively examine your own students? Dr. Chinn stated that there will be a standardized process to calibrate the faculty. The calibration process as well as a built in checks and balances system should eliminate any perceived bias. Mr. Afriat asked how the individuals coming to the focus group are selected. Dr. Chinn stated that they were selected by the Associate Dean of their respective school and field. Dr. Olinger asked if there will be any Dental Board representation to evaluate the paperwork after these faculty members have passed these individuals. He also asked for elaboration regarding the checks and balances system. Dr. Chinn deferred to Dr. Casagrande regarding Board representation stating that earlier discussions talked about developing procedures for the Board to examine all the paperwork and to do auditing procedures. Regarding checks and balances, there will be input from all the schools as to how people are calibrated and trained, which will then be standardized and approved by the Board, with formal training sessions to follow. The checks and balances would occur by doing statistical studies on the pilot version which COMIRA believes is necessary before carrying out the process in full. There would be criteria for selecting examiners. Being a faculty member would not guarantee that you would be an examiner there would be certain criteria, training, and calibration involved.

Dr. Dominicis commented that the way it is structured now, the exam itself is going to be approved by the schools and the Board. Dr. Dominicis stated that he finds it odd that a student could fail an exam created by his school but still graduate from that school. Dr. Dominicis asked legal counsel if failure of the Portfolio exam counts as 1 strike towards your 3 strikes before needing remedial study. Ms. Shellans stated that she has not looked into that issue and would have to do further research to answer that question. Mr. DeCuir reminded the audience that COMIRA has only been working on this project for four months so they are in the very early stages of development and implementation of the process to make Portfolio work. Dr. Le asked about additional competencies that were discussed early on by herself and Dr. Casagrande such as Oral Surgery and Pediatric Dentistry and about audits. Dr. Casagrande answered that there are two parts to Portfolio; there is the clinical experience and the exam. In the clinical experience there are 25 procedures in oral surgery that they must achieve before their Portfolio is complete in that area. Portfolio is a compilation of a student's work designed to be a complete comprehensive evaluation of that candidate's minimum competencies. Dr. Casagrande further stated that as far as audits go, it is similar to being a referee. You are there to enforce the rules. In this case the Board not only enforces the rules but makes them as well. Dr. Sharon Golightly asked if the Portfolio Pathway to licensure would be available to foreign trained dentists who enter a California school for the last two years of training. Dr. Morrow stated that all schools that have an International Dentistry Program graduate their students as U.S. trained and these students would be included and able to take the Portfolio Pathway to licensure. Dr. Alan Felsenfeld commended the Dental Board on its foresight and the landmark collaboration between CDA, the dental schools and the Board to create this new process. Dr. Felsenfeld feels that Portfolio will add to the education of the students and better safety of the public. There was no additional public comment.

#### **AGENDA ITEM 24: Discussion of Prospective Legislative Proposals**

Dr. Bettinger asked stakeholders and Board members whether there were any prospective legislative proposals to consider. There were none.

#### **AGENDA ITEM 25: Discussion and Possible Action Regarding Regulatory Priorities for the 2011/2012 Fiscal Year.**

Sarah Wallace, Legislative/Regulatory Analyst reported on the eight regulatory packages that the Board had focused its effort on during the 2010-2011 fiscal year. They are: (1) Disciplinary Guidelines (CCR, Title 16, § 1018) - Status: Complete, (2) Retroactive Fingerprinting requirements (CCR, Title 16, §§ 1007, 1008, and 1017.2) - Status: Complete, (3) Dental Assisting Educational Programs and Courses (CCR, Title 16, §§ 1070, 1070.1, 1070.2, 1070.6, 1070.7, 1070.8, and 1071) - Status: Pending Department of Finance review, (4) Minimum Standards for Infection Control (CCR, Title 16, § 1005) - Status: Complete, (5) Consumer Protection Enforcement Initiative (CCR, Title 16, §§ 1018.05 and 1020) - Status: Pending Department of Finance review, (6) Portfolio Examination Requirements - Status: Pending contractor's findings, (7) Uniform Standards Relating to Substance Abusing Licensees and Disciplinary Guidelines (CCR, Title 16, §§ 1018 and 1020.5) - Status: Pending Board review of comments received during the 45-day public comment period, and revision of current regulations for (8) Use of Conscious Sedation, Use of Oral Conscious Sedation for Pediatric Patients, and Use of Oral Conscious Sedation for Adult Patients - Status: Pending establishment of a task force to develop recommendations.

Both the Board and staff have been working diligently since November 2010 to ensure that the regulatory files move forward to maintain maximum public protection. A status report regarding the eight regulatory packages listed above can be found in Attachment 1 of Agenda Item 25 of the Board meeting materials located on the website.

Ms. Wallace reported that since the November 2010 meeting, the Board and staff have identified approximately twenty regulations that need to be added or require updating; a complete list of which can be found in Attachment 2 of Agenda Item 25 of the Board meeting materials located on the Board's website.

Staff requested that the Board review the list of issues that require rulemakings, and establish a priority list to assist staff with determining workload for FY 2011/2012. Staff recommended that the Sponsored Health Care Events regulatory package and the Citation and Fine Records Purge Requirements regulatory package be considered on the list of priorities as the Board discussed this agenda item.

Richard DeCuir, Executive Officer interjected that the Board should be aware that most Boards and Bureaus process two to three regulatory packages per year. He said that staff cannot continue to grind out the number of regulatory packages that have been undertaken during the last two years. He asked that the Board be mindful of the workload when considering the regulatory priorities for the upcoming year; and asked the Board to consider narrowing the list of twenty regulatory priorities to six.

Kristy Shellans, Legal Counsel commented that Business & Professions Code Section 27 requires the Dental Board to post ALL its enforcement actions indefinitely on the internet. She recommended that this be changed statutorily rather than through regulations in order to avoid consistency problems. She went on to suggest that the Board pursue legislation that would change the Dental Practice Act to allow the Board to place a time limitation on how long to retain and post enforcement actions. The Board of Behavioral Sciences is an example of a Board which is also covered under Section 27, but has amended its practice act to put a five year limitation on posting enforcement actions. Ms. Shellans does not believe that this change can be made through regulation. Richard DeCuir, Executive officer, said that he raised this question with Senate B, P & E staff and the direction he received was to pursue the possibility of making this change through the regulatory process. He would like keep both options open, if possible.

Kristy Shellans, Legal Counsel recommended that the Board consider adding to its list of regulatory priorities, the several directives to adopt regulations that appear in SB 540; the most important one being the fees for the dental assistants. Ms. Shellans believes that since the current collection of fees is not in regulation that there may be difficulty justifying the collection of fees should someone challenge it. Mr. DeCuir reported that he was advised by the Senate B, P & E Committee staff that the intent language in SB 540 will be sufficient for the Board to continue to collect the RDA current fees and that the regulations will need to be in place before the fees are raised.

Ms. Forsythe mentioned that the list of regulations is overwhelming. She wanted to know where the dental assisting regulations fall within the Board's priorities.

Ms. Burton commended Sarah Wallace and the executive staff for all the work that has been accomplished during the last year. LaDonna Drury-Klein, CADAT, thanked Sarah Wallace for her immediate responsiveness and hard work on all the dental assisting regulations. Ms. Klein offered her assistance in prioritizing the dental assisting regulations listed.

With regard to *Dental Assisting Program Application and Examination Requirements (CCR, Title 16, Sections 1076-1081.1, and 1083)* regulations, Ms. Klein suggested that the current implementation of AB 2637 is working and therefore there is no immediate need, from an examination perspective, to make any changes at this time.

Ms. Klein recommended that ALL course requirement regulations be updated at the same time: *Pit & Fissure Sealant Course Requirements (CCR, Title 16, § 1070.3)*, *Radiation Safety Course Requirements (CCR, Title 16, §§ 1014-1014.1)*, *Coronal Polishing Course Requirements (CCR, Title 16, § 1070.4)*, and *Ultrasonic Scaling Course Requirements (CCR, Title 16, § 1070.5)*. The *Teaching Methodology* requirements would require new regulations and could probably be addressed within the above mentioned course requirement regulations. CADAT would like more time to work with Board staff to clean up the current educational course requirements before the regulatory process begins, therefore she recommends that review of these regulations be pushed out. She further recommended that any changes to regulations regarding duties and settings for dental assistants, registered dental assistants, and registered dental assistants in extended functions could wait for 12 months.

Dr. Le thanked Ms. Klein for her public comments regarding the regulatory priorities for dental assisting issues. Dr. Le wanted to ensure the dental assisting community that the Board listens and responds to its concerns.

Dr. Whitcher commented that the Dental Assisting Forum (DAF) had been tasked with reviewing the course requirement regulations for these four courses. He expressed concern that, since the DAF members had recently resigned and the Dental Assisting Counsel outlined in SB 540 would not be up and running for some time, the work would not continue. Ms. Klein responded that CADAT has always felt that it was more effective to work directly with the Board and its Dental Assisting Committee. CADAT is happy to continue to work with Board staff on all dental assisting issues.

Before concluding, Ms. Klein asked that the Board consider adding to its priority list, regulations to address an issue that was missed in the educational development process of AB 2637. Specifically, Business & Professions Code, Section 1752.1(c)(a) relating to credit toward work experience for candidates who graduated from a non-Board approved program. Dr. Whitcher indicated that the subcommittee would take the recommendation under advisement and asked staff to prepare this issue as an item for future discussion. There was no additional public comment.

M/S/C (Afriat/Olinger) to accept the staff recommendations to prioritize Sponsored Health Care Events, Citation and Fine Records Purge Requirements, and directives in SB 540 as the regulatory packages to pursue in 2012. Staff will work with the subcommittee (Burton/Whitcher) to develop additional regulatory and legislative priorities. The motion passed unanimously.

## **AGENDA ITEM 26: Discussion and Possible Action Regarding the Update of the Board's Strategic Plan**

Dr. Bruce Whitcher, Vice-President gave a brief overview of the development of the Board's two year strategic plan (Plan) which was adopted in July, 2010. In it's "*Background Paper for the Dental Board of California Oversight Hearing March 14, 2011*", the Senate Business, Professions, and Economic Development Committee (Committee) identified that the Board's Strategic Plan lacked depth and specificity as to how the Board will achieve its specific objectives. The Committee recommended that the Board revise its Plan to include action items and realistic target dates for how its goals and objectives will be met.

In response to the Committee recommendation, Dr. Whitcher reviewed the Plan and offered suggestions for how to add some depth and metrics to each Goal and Objective outlined. He commented that it may be too early to discuss changing the Plan and that the intent always was to review the Plan in 2012. Ms. Fran Burton and Dr. Huong Le suggested that this item be tabled until a future meeting to allow Board members and staff to review Dr. Whitcher's suggestions. M/S/C (Burton/Forsythe) to table this item for a future meeting. The motion passed unanimously.

## **PUBLIC COMMENT**

There was no additional public comment.

## **ADJOURNMENT**

Dr. Bettinger adjourned the meeting at 1:08 p.m.