



Dental Board of California
Meeting Minutes
Thursday, May 17, 2012
Embassy Suites SFO Airport Waterfront
150 Anza Blvd., Burlingame, CA 94010

Members Present:

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

Members Absent:

Steve Afriat, Public Member

Staff Present:

Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
Kim Trefry, Enforcement Chief
Jocelyn Campos, Enforcement Coordinator
Sarah Wallace, Legislative and Regulatory Analyst
Karen Fischer, Associate Analyst
Linda Byers, Executive Assistant
Kristy Shellans, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Dr. Bruce Witcher, President called the meeting to order at 8:30 a.m. Fran Burton, Secretary called the roll and a quorum was established.

The Board immediately went into closed session to discuss disciplinary matters.

The Board returned to open session at 10:31 a.m.

Dr. Witcher welcomed Lori Hubble, Executive Officer of the Dental Hygiene Committee, Dr. Mary Jean McGrath Bernal, Dean of the dental school at the Universidad De La Salle, Dr. Charles Broadbent from the Western Regional Examination Board (WREB), Shelly Sorenson, President of the California Dental Assisting Association (CDAA), Lori Gagliardi, California Association of Dental Assisting Teachers (CADAT), Dr. Tom Stewart, past president of the California Dental Association (CDA), Dr. Alan Felsenfeld, Speaker of the House for CDA, and Dr. Nelson Artiga, accreditation team for Universidad De La Salle and Dean at UCSF.

AGENDA ITEM 1: Discussion, Review and Possible Acceptance of the Universidad De La Salle Site Team Report

Dr. Dominicus immediately recused himself and left the room. Dr. Morrow reported that a year ago Dr. Bettinger appointed him and Dr. Le as the subcommittee to review the application for renewal from the Universidad De La Salle. He thanked a number of people who contributed to the success of the site team evaluation and subsequent trip to Mexico including Dr. Le, Richard DeCuir, Dental Board staff, and especially Erica Cano who, as part of the site team that traveled to Mexico, took copious notes for the team. Dr. Artiga was instrumental as an ambassador in helping the team understand the cultural differences. Dr. Morrow outlined the purpose of the site visit which was to ascertain continued compliance with the requirements for approval of dental schools as set forth in chapter 2, article 1; § 1024.1 of Title 16 of the California Code of Regulations (CCR). The site visit was conducted under authority of § 1024.11 of Title 16 of the CCR, which states in pertinent part: "The Board may, in its discretion, conduct a site inspection to ascertain continued compliance with the requirements of these regulations." Section 1024.1 of the CCR identifies 12 Institutional Standards and 42 Sub-Standards that must be met to show continued compliance and to obtain renewal of the Board's approval. After the evaluation, the site team made four (4) recommendations. These recommendations are minor (in the Site Teams opinion) and do not reflect negatively the quality of the educational product that the school produces. These are suggestions on how the school might improve the overall quality of its education.

1. Institutional Standard (a): Institutional Mission, Purposes and Goals

The school is in compliance with this standard. While the University DeLaSalle Bajio School of Dentistry has an ongoing outcomes assessment program in place, it has been so recently implemented they did not have a representative sample of data, at the time of the site visit, for review. The site team recommends that, within a 2 year period from the re-approval date, the University DeLaSalle submit, to the Dental Board for review, a representative sample of data resulting from their outcomes assessment measures.

2. Educational Standard (b): Educational Program (Admissions Policy)

The school is in compliance with this standard. The site team recommends that the University DeLaSalle Bajio School of Dentistry consider a revision of its admissions policy to state that, following a review and evaluation of the applicant's pre-admission education, additional courses of instruction may be required to meet the minimum requirements for admission to the University DeLaSalle Bajio School of Dentistry's California Dental Program.

The recommendation came about after a meeting between the Site Team and only students in the California program. The students related that they were not aware that they might need additional pre-requisite courses before admission to the program. The California students can apply to De La Salle Dental Program upon graduation from high school having had only twelve (12) years of education. They may not be adequately prepared for the program. Students from Mexico are required to have completed 15 years of education. Five students per year are accepted into the California program.

3. Educational Standard (c): Educational Program (Curriculum)

The school is in compliance with this standard. The site team recommends that the school develop and maintain an ongoing process for collection and evaluation of data to support that their graduates are, in fact, competent in the clinical competencies identified in Educational Standard (c); (6); (A-N). The site visit team also recommends that the Board request submission of such data within a 2 year period following the re-approval date.

4. Institutional Standard (j): Catalog

The school is in compliance with this standard. The site team recommends that the catalog be revised to reflect the recommendation under § 1024.1, sub-section (b) Educational Program (Admissions Policy). The site team recommends that the University DeLaSalle Bajio School of Dentistry consider a revision of their admissions policy, as stated in the catalog, that following review and evaluation of the applicant's pre-admission education record, additional courses may be required to meet minimum requirements for admission to the University DeLaSalle Bajio California Dental Program.

There was additional discussion about the difference between the National, California, and International dental programs at Universidad De La Salle. Dr. Morrow indicated that the National program (available to Mexican students only) and the California program (available to legal citizens of the United States) are equivalent in education. The International program is a graduate program composed of dentists from dental schools, other than Mexico, who hold legal citizenship or resident status in the United States and who plan to return to the U.S. to practice. In the site team's opinion, the De La Salle International program is equivalent to United States International dental programs.

There was some discussion about requirements for admission to the University DeLaSalle Bajio School of Dentistry's California Dental Program. Dr. Morrow stated that all graduates of the DeLaSalle California Dental Program are educationally eligible to take the WREB (Western Regional Examination Board). Dr. Nelson Artiga commented that any of the DeLaSalle National Program students who wish to take the WREB must complete 1 additional year of school (11 more subjects) to be educationally eligible.

Dr. Alan Felsenfeld, UCLA faculty member, speaking on behalf of himself commented that he has been a member of several site teams and as such pointed out the difference between a "recommendation" and a "suggestion". He stated that on his site visits if he gave a suggestion, the school could choose whether they would implement the suggestion or ignore it. However, if a recommendation was given, it must be implemented; the approval or accreditation is conditional upon implementation of the recommendation. In other words, a recommendation is mandatory, a suggestion is not. Dr. Felsenfeld asked if the four (4) recommendations for DeLaSalle are actually suggestions or are they mandatory. Dr. Morrow stated that he is also familiar with CODA's terminology but this was not a CODA assessment. The site team chose to use the term "recommendation" in the same way CODA uses the term "suggestion". He reiterated that he believes the recommendations are minor and do not have any negative effect on the educational product of the school. There was no further public comment. M/S/C (Bettinger/Burton) to accept the report. The motion passed with 1 recusal.

AGENDA ITEM 2(A): Discussion and Possible Action Regarding Acceptance of the Subcommittee Recommendations Regarding the Universidad De La Salle's Renewal Application;

Dr. Le thanked Dr. Morrow for his excellent report and stated that the Board is lucky to have such an expert on school standards as one of their own. Dr. Le stated that on behalf of the subcommittee she would like to report that after review of the completed renewal application submitted by the University De La Salle Bajio School of Dentistry requesting Board re-approval of the its dental education program, and following the review of the Onsite Inspection and Evaluation Team's report, the Subcommittee finds that the University De La Salle School of Dentistry has adequately demonstrated that the institution remains in compliance with the Institutional Standards identified in Chapter 2, Article 1, Section 1024.1, Title 16 of the California Code of Regulations that are required for Board approval, and re-approval, of dental schools.

The Subcommittee recommends that the Dental Board consider granting re-approval of the University De La Salle Bajio School of Dentistry.

Additionally, the Subcommittee suggests implementation of the four (4) recommendations of the Onsite Inspection and Evaluation Team Report as stated in the DBC Agenda Item 1. M/S/C (Burton/Downing) to accept the Subcommittee Report. The motion passed with 1 recusal.

AGENDA ITEM 2(B): Discussion and Possible Action Regarding A Decision on the Renewal Application for Universidad De La Salle

Dr. Le stated that the Subcommittee recommends that the Dental Board of California grant re-approval of the University De La Salle Bajio School of Dentistry in accordance with Business & Professions Code, Section 1636.4(g) for an additional seven years. In addition, the Subcommittee suggests implementation of the four (4) recommendations in the Onsite Inspection & Evaluation Team Report as outlined in Agenda Item 1.

Ms. Rebecca Downing, Board member, asked for clarification of what the Board will do with the sample data of the De La Salle's outcome assessment measures, requested in the Site Team's recommendation #2. Is this is a typical process that the Board conducts with other schools – periodic updates? Dr. Morrow responded with the suggestion that when the data is available, that he and Dr. Le review the data and report back to the full Board. He commented that statute allows for the Board to periodically assess schools. Kristy Shellans, legal counsel, commented that statute envisions that periodic assessments would be conducted by the Board on an ongoing basis. She commented that it is appropriate for the Board to periodically check in with schools. Dr. Suzanne McCormick, Board member, commented that it should be clarified whether or not the Board intends the Site Teams recommendations are a “must” statement or a “suggestion”; and as a secondary issue (separate from the re-approval of its renewal) continued evaluation/periodic assessment of the school.

Dr. Tom Olinger, Board member, commented that he finds the process of approval of this foreign dental school to be unfair relative to the other dental schools in the U.S. and Canada who utilize the CODA process and standards. He said his comments to not reflect poorly on the Board, the Site Team, or the University De La Salle, but he feels the Board is not qualified to evaluate foreign dental schools. He would like to see the Board make CODA the Board's agent. He asked legal counsel if a legislative change would need to be developed in order to utilize CODA. Richard DeCuir, Executive Officer, indicated that CODA did not have an international dental school evaluation process available for the Board to utilize for the University De La Salle evaluation. Kristy Shellans, legal counsel, commented that the Board's regulations allow the Board to accept the findings of an organization in lieu of its own, but that she understood that CODA was not yet up and running to evaluate the University De La Salle.

Dr. McGrath, Dean of the University De La Salle Dental School, commented that whether “recommendations” or “suggestions”, the school will work to comply. She indicated that one of the main purposes of the school is to be better and to work with international standards to train dentists to be qualified to work any place, including in the United States. Mr. DeCuir asked her if the University De La Salle Dental School would work to implement the four recommendations outlined in the Site Team report. She responded, yes – no problem.

M/S/C (Morrow/Bettinger) to accept the Subcommittee recommendation to grant re-approval of the University De La Salle Bajio School of Dentistry for an additional seven years. The motion passed with one abstention and one recusal. Enthusiastic congratulatory applause.

M/S/C (Burton/Bettinger) to accept the Subcommittee suggestion to notify the school (University De La Salle Bajio School of Dentistry) of the recommendations in the Onsite Inspection & Evaluation Team Report as outlined in Agenda Item 1 which include the following:

1. Institutional Standard (a): Institutional Mission, Purposes and Goals

2. Educational Standard (b): Educational Program (Admissions Policy)
3. Educational Standard (c): Educational Program (Curriculum)
4. Institutional Standard (j): Catalog

Dr. Suzanne McCormick expressed concern that the language of this motion is critically important. There needs to be a clean paper trail for future boards to reference that separates the decision to approve the schools renewal from the continued compliance issues. She emphasized that the two should not be married. She wanted to make clear for the record that the recommendations/suggestions are not deficiencies, rather are expectations that will be considered in ongoing compliance review. Kristy Shellans offered the suggestion that the Board could consider notifying the school of the additional minor issues that were raised during the site visit and bring attention to these issues as part of an ongoing approval of the program. The motion passed with one abstention and one recusal. There was no further public comment.

Mr. DeCuir mentioned that in his opinion too many years had lapsed between the initial approval and the recent site visit with regard to an ongoing compliance assessment. He asked the Board to consider as a future agenda item, discussion of whether or not to schedule another site visit in less than seven years. Dr. Olinger indicated that he preferred the Board get out of the business of evaluating any dental school. He asked that for a future agenda item, staff look into transferring the responsibility to another organization. Dr. Casagrande mentioned that when this legislation was developed, the intent was to bring Spanish speaking dentists into the Los Angeles area to treat Spanish speaking patients. He would like staff to track how many students from the University De La Salle three dental programs come into California to practice and are they serving the Spanish speaking community. He asked that this be brought back to a future meeting.

Dr. Mary Jean McGrath gave her closing comments about the process and thanked the Board, Site Team, and staff for their cooperation. Many thanks.

Agenda Items were taken out of order to accommodate speakers.

AGENDA ITEM 4: Presentation by the California Dental Association Regarding Possible Future Legislation to Require Dental Labs to Register with the Dental Board and Disclose Material Types and Place of Origin

Mr. Bill Lewis, California Dental Association (CDA) appeared before the Board to discuss issues relating to dental laboratories. He introduced Dr. Tom Stewart, former CDA President who has practiced general dentistry for 36 years; and who served as Chair of the CDA Dental Laboratory Task Force. Dr. Stewart explained that in response to incidents of lead-content appearing in crowns produced in China, the CDA House of Delegates, in 2008, approved a resolution that launched what became three years of evaluation and discussion focusing on the many issues affecting the dental laboratory industry in California. By its own account, and due in part to the fact that dental laboratories currently are not regulated in California, CDA focused on the implications of the state's inability to assure that dental patients have at least minimal information about the materials that are being placed in their mouths. At the conclusion of the evaluation, the House of Delegates called for CDA to pursue legislation requiring dental lab disclosure of materials and place of origin, and to consider pursuing legislation requiring dental labs to register with the Dental Board. CDA comes before the Board to discuss these concepts with key stakeholders with the goal of developing consensus legislation to introduce in 2013.

The basic proposal is to require dental labs doing business in California to register their name and address, similar to the current requirement for dental referral services. The proposal would further require dental labs disclosure of materials and place of origin.

Bennett Napier, representing the National Association of Dental Labs appeared along with Steven Simon, representing the California Dental Laboratory Association. Both organizations support this

endeavor. Mr. Napier explained that the American Dental Association is looking into the issue of dental laboratory registration. He mentioned that there are currently 10,000 domestic dental labs in the U.S. Three years ago there were 14,000. The business model for dental laboratories is changing and it is common to have a dental lab be a broker, rather than a trained technician. More dental laboratories are producing products off shore. He went on to say that nine states already have statutes relating to registration of dental labs and that there are six more states in the process of developing legislation. He feels the legislation is important because the off shore element of the production of crowns, dentures, bridges, etc. is increasing. In 2004-5 the US Food and Drug Administration indicated that 15% of the dental product market was off shore. This number has increased to 38%. He expressed concern that there exists no accountability mechanism to ensure the products are safe.

There was discussion about fees that would need to be charged in order to cover the costs of board staff processing registration applications. It was noted that registration goes hand-in-hand with enforcement and that registration of dental laboratories might increase the enforcement issues in a time of severe fiscal constraint in the State. Kristy Shellans, legal counsel, commented that some Boards have a requirement that licensees use "accredited" facilities. She cautioned that if the Board moved forward with considering dental laboratory registration, that the dental laboratories would be considered licensees of the Dental Board.

Dr. John Bettinger, Board member, asked if CDA had documented any public harm relating to dental labs in its three year evaluation. Dr. Stewart answered that the dentists surveyed did not have issues with their own labs, but they were aware of what was being reported.

Mr. Lewis, CDA, commented that CDA is very sensitive to the "resources" issues. He feels that creation of a dental lab registry by the Dental Board would not create a high enforcement burden. Dr. Luis Dominicus, Board member, indicated that he had worked as a dental technician for twelve years. He feels this proposal has merit; however the Board would need the resources to implement it. This discussion was concluded when Board President, Dr. Bruce Witcher appointed a subcommittee of Drs. Dominicus and Olinger to work with CDA, key stakeholders, and staff to determine the feasibility of this proposal.

AGENDA ITEM 5: Presentation by Dr. Paul Glassman Regarding Office of Statewide Health Planning and Development (OSHPD) Pilot Project (HWPP #172) Relating to Training Current Allied Dental Personnel for New Duties in Community Settings

Dr. Paul Glassman, Project Director for the Office of Statewide Health Planning and Development (OSHPD) Pilot Project (HWPP #172), gave a presentation outlining the training of current allied dental personnel for new duties in community settings. He stated that this Project is part of the Virtual Dental Home Project whose purpose is to develop new delivery models to bring care to the underserved. One of the methods being studied is the use of RDHAP's in community settings to collect digital records such as health history, x-rays (through a portable x-ray unit), charting and risk assessment transmitted to a dentist who is able to review those records and make a decision about what the best course of treatment is. Dr. Glassman stated that HWPP #172 is a study to determine the merits of adding 2 new specific duties; deciding which radiographs to take and placing interim fillings, thus enabling RDH's and RDHAP's to extend their ability, using the Virtual Dental Home, to provide care onsite to kids in schools and elders, possibly in nursing homes. At the present time there are nine different sites where this study is being conducted. Dr. Morrow stated that he has been involved in the 2 site visits that have been conducted so far and he is impressed with the enthusiasm and engagement of the auxiliaries and the school/clinic administrations. He went on to say that he was surprised by the small number of interim restorations being placed and impressed by the number of patients being referred to the collaborative dentist for treatment to be done. Trainees are staying well within the limits of what they could do in this program and still protect the patient.

AGENDA ITEM 3: Discussion and Possible Action Regarding the California Dental Association's Request to Amend Regulations Pertaining to Mobile Dental Clinics (Cal. Code of Regs., Title 16, §1049)

Bill Lewis, representing the California Dental Association (CDA), explained that his organization submitted a letter to the Board's Executive Officer seeking consideration to promulgate additional regulatory requirements relative to mobile dental clinics. He and his organization contend that there has been a shift in mobile dental clinic care from a not-for-profit model to a private sector for-profit model. He said that CDA has been looking at the issues surrounding mobile dental clinics for a number of years, particularly related to schools; and has worked with a coalition of public health groups to establish guidelines for schools to use to evaluate private mobile dental clinics and their services. As an extension of the work conducted with schools, CDA reviewed the Board's regulations governing mobile and portable dental providers and found the regulations lacking (in its opinion) appropriate measures to ensure accountability and public safety. Mr. Lewis indicated that some concerns include insufficient follow-up, clear documentation of a dentist of record, record keeping, clear information provided to the patient, emergency contact information, and referrals for additional care.

CDA is opening a dialog for the Board to put into place the same standard of care requirements for mobile dental clinics as are required of the traditional brick and mortar dental office. Mr. Lewis suggested that this be accomplished by revising the current regulatory language.

Kristy Shellans, Legal Counsel, commented that this proposal and language needs more work. She expressed concern regarding authority, clarity, and consistency with current law and pointed out that the proposed exemptions look overly broad. She cautioned the Board to take extra care in evaluating the proposal and to be mindful of Business & Professions Code, Section 1657 which states that the Board should not implement regulations that would limit competition.

Dr. Tom Olinger, Board member, agreed with CDA's concept and asked that staff evaluate CDA's proposal and present recommendations at the August meeting. Dr. John Bettinger, Board member, commented that Mobile Dental Clinic permits currently register a place of practice and practitioners are held to the same standard of care as office practitioners. He asked if there had been any complaints filed on this issue. Ms. Kim Trefry, Dental Board Enforcement Chief, answered that there have been no complaints. At this point in the discussion, Dr. Bruce Witcher, Board President, appointed a subcommittee of Drs. Bettinger and Le to work with staff to evaluate CDAs proposal and to bring recommendations back at the next opportunity.

Public Comment: Dr. Cal Kurtzman provided comments on his mobile dental practice. Dr. Kurtzman practiced dentistry in Santa Monica for 40 years. He was the first coordinator of the UCLA Mobile Dental Program in the 1970s. Currently he and his partner treat the elderly who can't leave home. He expressed concern about a shortage of care for adults who can't get to a dental office. Most of his patients are treated in bed. He asked the Board to be mindful of the small mobile dental practices when making changes to the regulations. Dr. Bettinger explained that he had asked Dr. Kurtzman to comment on this issue to give public Board members an opportunity to see another side of mobile dental practices. He believes there is a difference between mobile dentistry units and portable dentistry and does not want to restrict portable dentistry that is provided by practitioners like Dr. Kurtzman.

Katie Dawson, California Dental Hygiene Association and an RDHAP mentioned that she takes her equipment into all locations. She feels that RDHAPs provide an important service that improves the quality of life for many non-ambulatory people.

**AGENDA ITEM 6: Presentation by Western Regional Examination Board (WREB)
Representative Regarding WREB Activities and the Recently Completed Governance
Restructuring Process**

Dr. Charles Broadbent, Director of Examination Development for WREB, reported that WREB is a non-profit organization whose members consist of individuals from each of the 18 member states. Each member state has one vote on each of the Dental Exam Review Board (DERB) and Hygiene Exam Review Board (HERB), where exam content and administration is determined. Dr. Broadbent reported that the WREB Board of Directors role has changed under the new governance structure. The Board of Directors will now be responsible for Strategic Planning Oversight, Financial Oversight and the Legality of what WREB does. The leadership of WREB is elected by the 2 Boards, DERB and HERB. The WREB examination is developed in accordance with established guidelines: "The Standards" with cooperation from the American Psychological Association, the National Council on Measurement in Education, the American Educational Research Association and the American Association of Dental Boards. Dr. Broadbent stated that WREB holds 32 examinations per year testing approximately 2,500 Dentists and 1,400 hygienists of which about 30% are from California. Dr. Casagrande commented that for the number of candidates from California taking the WREB exam, California should be represented on the WREB Board. Dr. Sharon Golightly, Dental Hygiene Educator, commented that the nice thing about WREB is that it is accepted in 18 different states so a candidate has mobility between states.

Committee/Council Meetings Commenced at 3:16 p.m.

Dr. Richard Robert, representing the California Association of Oral and Maxillofacial Surgeons, commented that he would like to suggest constructive refinements to the current Dental Sedation Assistant program. He stated that he has been involved in training at his office for over 30 years. It took his assistants a year to go through the program that was intended to take 4-6 months. He reported that some of the courses that had recently been completed, such as Infection Control and Law and Ethics, were required to be taken again at a cost of about \$1,000.00 per person. CALOAMS requests that those courses that were taken within the last 2 years be accepted and not have to be re-taken. He stated that he reviewed the curriculum and was part of the team that put it together a few years ago yet his assistants told him that the examination was not based on that curriculum but just those duties included in the statutes. His assistants asked him why he made them study hundreds of pages of information when they probably could have read about 10 pages and passed the exam. He requested a study guide be provided for those preparing to take the examination. CALOAMS respectfully requests that the Board examine these issues.

The meeting recessed at 7:29 p.m. and was scheduled to resume at 8:30 a.m. on Friday May 18, 2012.