



Dental Board of California Meeting Minutes
Thursday, July 23, 2009
San Francisco, CA
DRAFT Meeting Minutes

Members Present:

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

Members Absent:

William Baker, Public Member
Thomas Olinger, DDS

Staff Present:

Cathleen Poncabare, Executive Officer
Richard DeCuir, Assistant Executive Officer
Dawn Dill, Licensing & Exam Unit Manager
Sarah Wallace, Administrative Analyst
Donna Kantner, Legislative & Regulatory Analyst
Jocelyn Campos, Enforcement Coordinator
Jessica Olney, Examination & Licensing Analyst
LaVonne Powell, DCA Senior Staff Counsel
Kristy Schieldge, DCA Senior Staff Counsel
Gregory Salute, Deputy Attorney General

President McCormick called the meeting to order at 8:15 a.m. and established a quorum.

Agenda Item 1: Presentation on Issues Concerning the Dental Sedation Assistant Permit and the Implementation of AB 2637 by Dr. Rick Stafford and Dr. Larry Trapp, California Society of Anesthesiologists

Dr. Rick Stafford and Dr. Larry Trapp from the California Society of Anesthesiologists spoke to the Board regarding their concerns for the Dental Sedation Assistant Permit and the implementation of AB 2637. They stated that the California Society of Anesthesiologists were notified about AB 2637 in November 2008, two months after the bill had been signed into law. Dr. Rick Stafford appeared before the Board at the November 2008 Board meeting and requested that his concerns be placed on the agenda for the next meeting. The California Society of Anesthesiologists felt that the new law put patients at risk for harm. Dr. Trapp pointed out that the bill was developed under the name of sedation but addresses general anesthesia. The bill was listed under dental assisting and not under anesthesia, therefore many organization were not aware of the bill being signed into law. Dr. Trapp was concerned that the individuals with the most expertise in the area of anesthesia were not consulted when the bill was being written. Dr. Rick Stafford gave a presentation to the Board regarding the potential for public harm if dental assistants are allowed to draw medications. Dr. Trapp and Dr. Stafford requested that the Board not implement that law until it is rewritten with the

anesthesia portions removed and make the changes through the general anesthesia portion of the Business and Professions Code of the Dental Practice Act. They concluded that the provisions establish a low quality of care in general anesthesia and that the law was not consistent with public safety. LaVonne Powell, Legal Counsel, stated that the Board has to enforce the law as required by the California Constitution. Dr. Trapp and Dr. Stafford requested that the Board seek legislation to remedy the situation.

Agenda Item 2: Examination Committee Report

Dr. Casagrande reported that the committee reviewed examination statistics for the dental licensure examination and the law and ethics examinations. He noted that the committee would like to have more statistical information provided at the next meeting. Dr. Casagrande also reported that the Registered Dental Assistant Written Examination was still experiencing a 50% pass rate. He stated that the examination is in the process of being revised. M/C (Dominicis) to accept the Examination Committee Report. The motion passed unanimously.

Agenda Item 3: Status Report on Western Regional Examination Board Examination from Dr. Charles Broadbent, Director of Dental Exam Development

Dr. Charles Broadbent, Director of Dental Exam Development from WREB, thanked the Board for the invitation to attend the meeting and give a presentation. Dr. Broadbent reviewed the pass rates for California graduates and graduates nationwide. He stated that WREB had examined approximately 13,000 dental candidates over the last twelve years. There has been an average passing rate of 85% for first-time examinees, with the highest passing rate reported in 2000 at a rate of 90%, and the lowest passing rate in 2004 at a rate of 80%.

He reported that in 2008, WREB visited nineteen sites and gave 32 examinations. In 2009, 531 California candidates took the exam with an 87.4% pass rate. He reported that the total population of candidates taking the examination in 2009 have had a pass rate of 83.4%.

Agenda Item 4: Licensing, Certification & Permits Committee Report

Dr. Casagrande reported that the Board denied Dr. Ken Horowitz's request for a California Dental License because there was no statutory authority for the Board to grant a license. The Committee also reviewed licensure statistics. Dawn Dill, Licensing and Exam Unit Manager, reported that 2,600 letters were mailed to licensees who had delinquent licenses. The responses to these letters have aided staff in identifying new addresses, deaths of dentists, and retired dentists not practicing. M/S/C (Whitcher/Bettinger) to accept the Licensing, Certification, & Permits Committee report. The motion passed unanimously.

Agenda Item 5: Hybrid Portfolio Examination Pathway to Qualify for a California Dental License

(a) Status Report on AB 1524

Donna Kantner, Legislative and Regulatory Analyst, reported that existing law provides for the licensure and regulation of persons engaged in the dental profession by the Dental Board of California. Existing law requires an applicant for a license to practice dentistry to complete various examinations, including the National Board Dental Examination, an examination in California law and ethics developed by the board, and a clinical and written examination administered either by the board or by the Western Regional Examining Board. This bill would abolish the clinical and written examination currently administered by the board and replace it with a comprehensive assessment process that would take place while a student is enrolled at a California dental school. This bill requires that the assessment would utilize uniform standards of minimal clinical experiences and competencies and include a final assessment that the applicant must pass at the end of his or her dental school program.

AB 1524 replaces the currently underutilized and costly clinical and written examination administered by the Dental Board with an assessment of student competency that includes a mandatory final assessment that a student must pass to obtain a license to practice dentistry in California. The bill also requires a fee for the mandatory California law and ethics exam, as there is currently no statutory authority to collect a fee for this exam, placing the burden of the exam costs on the Board rather than on the applicant. The Board took a support position on this bill at its April 22 meeting.

(b) Status Report on Phase Two: Developing Methodology to Implement the Hybrid Portfolio Examination Pathway – by Norman Hertz, Ph.D. and Roberta Chin, Ph. D, COMIRA

Roberta Chin, Ph. D., reported that COMIRA was at the point of organizing meetings with the dental schools to learn more about their calibration and rating criteria. COMIRA needs to obtain agreement with faculty from all the schools and build upon the school processes that are already established to develop a successful pathway to licensure. COMIRA plans to use focus groups from various disciplines in order to develop the rating criteria. Dr. Chin anticipates having more than one focus group, and it can take time to organize various focus groups, but she felt that COMIRA could move expeditiously with the Board's assistance. She expected to have the focus groups completed by the end of October or early November.

Dean Chalios, California Dental Association, reported that AB 1524 is a two-year legislative bill that needs to be acted upon by the end of January. The Legislature will need to have statutory language in order to move forward. Currently, the bill possesses intent language, and if the study is not received until the end of October then the timeframe to write the actual statutory language is compressed. Mr. Chalios urged the importance of the bill and it would be unfortunate to rush the language and not give stakeholders the opportunity to weigh in on the language. He stated that it was more important to give Dr. Chin the time to complete the study and make sure it's done correctly rather than make a deadline with incomplete information. The Legislature would want to have the studies completed and not rushed in order to build a good product. Mr. Chalios explained that it is extraordinarily important that COMIRA has the time to meet with the focus groups and complete the studies in order for the stakeholders to draft the language. He commented that the Board needs to be careful and deliberative of how the study is completed. He stated timeframes are important, but not as important as completing the study correctly.

Agenda Item 6: Pocket License Proposal

Cathleen Poncabare, Executive Officer, reported that the Board had viewed a presentation at the Professionals Achieving Consumer Trust (PACT) Summit in November 2008 regarding pocket licenses and fingerprinting. Since that meeting, Ms. Poncabare has been in communication with L1 Identity Solutions, the current vendor for the California driver's license. She worked with them to develop a new pocket license for the Dental Board licensees. L1 Identity Solutions created a mock-up of the proposed pocket license and presented it to the Board. Cathy Novak, L1 Identity Solutions, stated that she expected the cost of the pocket license to be anywhere from \$2 to \$10 each depending on the quantity. Ms. Poncabare stated that if a contract could be completed in time, then they would be available at the September California Dental Association Presents to launch the new pocket license. Ms. Poncabare reported that the Board could charge \$50 each for the duplicate license fee or the Board could absorb the cost into the renewal fee. Fran Burton, Public Member, suggested that the Board offer to laminate the currently distributed paper pocket license rather than create a new pocket license. Paul Reggiardo, California Society of Pediatric Dentistry, raised concern with the availability of the centers for license renewal. Dr. Casagrande suggested printing the license on better quality paper rather than an ID card. Greg Salute, Deputy Attorney General, stated that if a license is revoked it would be difficult to get the ID card back from

a revoked licensee. Dr. Dominicis suggested that more research be conducted and bring the issue back to the next meeting. M/S/C (Dominicis/Casagrande) to bring the pocket license issue back at the next board meeting with information about the renewal locations and understanding of requirement of carrying the license. The motion passed unanimously.

Agenda Item 7: American Association of Dental Examiners

Dr. McCormick reported that the Board had received information from the American Association of Dental Examiners (AADE). The AADE is expanding their focus and mission statements and requested some information from the boards across the country. They would like to know the Board's position on a single national clinical exam for dentistry and dental hygiene. And they also requested the Board's comments regarding their draft "Guidelines on Recordkeeping". M/S/C (Bettinger/Dominicis) to not respond at this time because the Board needs more information in order to take a position or provide comment. The motion passed unanimously.

Agenda Item 8: General Anesthesia/Conscious Sedation Committee Report

Dr. Whitcher reported that the committee reviewed the general anesthesia/conscious sedation calibration course schedule for 2010. He also reported that a subcommittee was formed to review the potential use of Sim-Man to be included in the general anesthesia evaluation program. M/C (Whitcher) to accept the General Anesthesia/Conscious Sedation Committee report. The motion passed unanimously.

Agenda Item 9: Cultural Diversity in Dentistry Committee Report

Dr. Dominicis reported that the committee was expecting to see data collected by staff as required by Business and Professions Code Section 1715.5. This data will allow the committee to review areas in California with workforce shortages and allow them to review licensee diversity in California. The committee requested the information be reported at the next Board meeting. M/C (Downing) to accept the Cultural Diversity in Dentistry Committee report. The motion passed unanimously.

Agenda Item 10: Preventative Enforcement Committee Report

Dr. McCormick reported that the Preventative Enforcement Committee met and discussed outreach opportunities to consumers. The Committee is also investigating outreach opportunities to the dental schools to promote the laws and regulations in an effort to prevent enforcement issues. They will also be utilizing the Board's web site for outreach purposes. M/C (Bettinger) to accept the Preventative Enforcement Committee report. The motion passed unanimously.

Agenda Item 11: Access to Care Committee Report

Rebecca Downing, Public Member, reported that the committee discussed the Dental Board Loan Repayment Program. Senate Bill 599 has been introduced to the Legislature to extend the Loan Repayment Program by two years in order to exhaust the remainder of the funds that were allocated to the program. The committee received public comment from Dr. John Geis from the San Diego County Dental Society. He expressed concern about the quality of care received in rural community clinics. The committee would like to have the issue placed on the agenda for the next meeting. M/C (Downing) to accept the Access to Care Committee report. The motion passed unanimously.

Agenda Item 12: Resource Management in Dentistry Committee Report

Dr. McCormick reported that the Resource Management in Dentistry Committee met and discussed the carbon footprint of practice of dentistry. She stated that the Committee hoped to have a guest speaker attend the next meeting to provide more information regarding the carbon

footprint. M/C (Dominicis) to accept the Resource Management in Dentistry Committee report. The motion passed unanimously.

Agenda Item 13: Continuing Education Committee Report

Dr. Bettinger reported that the Committee discussed the possibility of modifying the current regulatory language pertaining to the Dental Practice Act continuing education course to include language regarding a mandatory continuing education course in substance abuse. A sub-committee will be appointed to the project and will report back to the Board at the next meeting. The Committee also reviewed the continuing education random audit report and found that there are approximately 100 audits done per month and licensees have been compliant.

The Committee made the motion to reject the comments made by the American Safety and Health Institute, to move forward with the final rulemaking file and to delegate authority to the Executive Officer to move forward with the regulation if there are no additional negative comments. The motion passed unanimously.

M/C (Forsythe) to accept the Continuing Education Committee report. The motion passed unanimously.

Agenda Item 14: Infection Control Committee Report

Dr. Le reported that the Infection Control Committee had formed a sub-committee to review the Center for Disease Control Guidelines regarding infection control and had made some initial revisions. She stated that the Committee received excellent public comments and another sub-committee will be formed and interested parties will be invited to provide more input on the Board's Infection Control Regulations. Then the sub-committee will work with staff to draft the regulation package. The Committee took no action during their meeting. M/C (Casagrande) to accept the Infection Control Committee report. The motion passed unanimously.

Agenda Item 15: Examination Appeals Committee Report

Dr. Casagrande reported that there were no examination appeals for the committee to review. There was no public comment. M/C (Casagrande) to accept the Examination Appeals Committee report. The motion passed unanimously.

Agenda Item 16: Diversion Committee Report

Dr. Bettinger reported that the Diversion Committee reviewed the Diversion Program statistics and found that the most common drug being used was alcohol. He reported that the Committee received a status report on Assembly Bill 456. The bill had gone through Assembly unopposed but amendments were requested and the author decided to pull the bill to make it a 2-year legislative bill in order to see that guidelines are established by SB 1441. There was also a public safety issue incorporated into the bill regarding sharing information with enforcement if people admitted into the Diversion program were not in compliance. Dr. Bettinger reported that the guidelines established in SB 1441 should be finished by the end of 2009. The Diversion Committee appointed a new member, Stephen Stupanci, to the Diversion Evaluation Committee (DEC). M/C (Whitcher) to accept the Diversion Committee report. The motion passed unanimously.

Agenda Item 17: Enforcement Committee Report

Dr. Bettinger reported that the Enforcement Committee reviewed the enforcement and complaint statistics and heard a presentation from Board staff members Lori Reis, Nancy Butler, and Nick Scinocca regarding the complaint and enforcement process. Dr. Dominicis reported that the Disciplinary Guidelines Review Sub-Committee recommended that the Disciplinary Guidelines Regulation package should be brought back to the full Board at the next meeting for review and

recommendation. Dr. Bettinger reminded the Board that it was the last time to review the guidelines before the regulation package expired and that everyone should come prepared to discuss the Disciplinary Guidelines. M/C (Casagrande/Dominicis) to accept the Enforcement Committee report. The motion passed unanimously

Agenda Item 18: Dental Assisting Committee Report

Judith Forsythe, RDA, reported that the Dental Assisting Committee reviewed the RDA written and practical examination pass and fail rates. The Board is currently in the process of revising the RDA written examination and expect it to be complete by the end of October. The Committee approved three Pit and Fissure Sealant Courses and one Infection Control Course. The Committee also discussed the possibility of having a RDA Licensure by Credential program and would be receiving more information from staff regarding how other states currently license RDA's. Staff will also be collecting information from past proposed regulations. M/C (Casagrande) to accept the Dental Assisting Committee report. The motion passed unanimously.

Agenda Item 19: RDA Program Transition

(a) Report on AB 2637 Proposed Regulations

AB 2637 was passed in October 2008, adding new duties and requirements for unlicensed dental assistants, Registered Dental Assistants, and Registered Dental Assistants in Extended Functions, and creating two new specialty permit categories of assistants – Orthodontic Assistant and Dental Sedation Assistant.

This legislation superseded SB 1546, passed in 2004, which added two new categories of licensure, the registered orthodontic assistant and registered surgery assistant, and added new duties and requirements for dental assistants, registered dental assistants, and registered dental assistants in extended functions, and SB 1546, passed in 2006, which specified that the work experience pathway to licensure be retained. SB 1048, passed in 2007, delayed the implementation of the two prior bills and required the Dental Board to proceed with regulations to govern the procedures that dental assistants are allowed to perform. The Committee on Dental Auxiliaries and the Dental Board worked to develop regulations to implement SB 1546 since its passage in 2004.

In January 2008, the Board acknowledged that an overly burdensome structure had inadvertently been created by the passage of these bills, and suspended the adoption of regulations, suggesting that stakeholders work toward a legislative consensus. AB 2637 was the resulting consensus. In order for educational programs and courses to be available to teach the new duties to prospective licensees and permit holders by the effective date of January 1, 2010, the statute necessarily included specific requirements for these courses and programs. The Legislative intent was that regulations replace these sections, which will expire on January 1, 2011.

Since the regulatory process takes 12 to 18 months to complete, staff must draft regulations to replace the statute, which will expire on January 1, 2011. The Board must review and accept the proposed regulations and direct staff to notice them for a public hearing to begin the regulatory action. If the regulations are not in place by January 1, 2011, there will be no authority and no criteria for the Board to approve educational programs and courses after that date.

M/S/C (Forsythe/Bettinger) Staff recommends that the Board direct staff to proceed with drafting proposed regulatory language to replace the expiring statutory language relative to dental assisting educational programs and courses for the Board's discussion and ideally, a decision at the Board's October meeting to accept the proposed text and direct staff to initiate the rulemaking process, including setting the proposed regulations for a hearing. The motion passed unanimously.

Dean Chalios, California Dental Association, stated that he was committed to working with the Board to draft language and would gladly offer any expertise.

Karen Wyant, Dental Assisting Association, offered assistance with working on proposed language to submit to staff for consideration.

(b) Report on Sacramento Suite Reconfiguration to Accommodate RDA Program Staff

Dawn Dill, Complaint and Compliance Unit Manager, reported that the Dental Board suite reconfiguration added approximately 5000 square feet to the office to accommodate the additional dental assisting program staff and new manager. The suite was completed close of business on June, 30th in compliance with the July 1st deadline. The Board hosted an open house on July 8th.

Agenda Item 20: Legislative and Regulatory Committee Report

Fran Burton, Public Member, reported that the Committee directed staff to research the possibility of using a bill tracking system. She reported that the Committee reviewed sixteen bills and took positions on 10 of the bills. The Committee reviewed AB 456 (Emmerson). The bill was sponsored by the Department of Consumer Affairs regarding the Dental Board's Diversion program. The author pulled the bill and made it a two-year bill due to conflicts raised by SB 1441. Staff was directed to arrange a meeting with the Business and Professions Committee to clarify the Board's position and respond to the concerns. Ms. Burton stated that the Committee will have a presentation on the legislative process at the next meeting and they will discuss how proactive the Committee would like to be in the legislative process. The discussion regarding the proposed regulatory revisions on inactive patient record keeping and the cite and fine records were tabled for discussion until the next meeting. M/C (Bettinger) to accept the Legislative and Regulatory Committee report. The motion passed unanimously.

Agenda Item 21: Report on the July 8, 2009 meeting of the Elective Facial Cosmetic Surgery Permit Credentialing Committee, recommendations for issuance of permits, and appointment of Credentialing Committee member(s)

Dr. McCormick reported that the Elective Facial Cosmetic Surgery Permit Credentialing Committee met in Sacramento on July 8, 2009. The Oath of Office was administered to two of the three new members appointed by the Board: Robert T. Gramins, DDS, and Anil P. Punjabi, MD, DDS. Dr. Peter Scheer, DDS was unable to attend this meeting. There was unanimous approval by Committee members for Nestor Karas, DDS, MD to serve as the Interim Chair.

In closed session, the Credentialing Committee reviewed seven (7) permit applications. One application was tabled for reconsideration at the next Credentialing Committee meeting. One application was sent back to staff to request additional documentation from the applicant for the privileges requested.

M/S/C (Casagrande/McCormick) to grant Dr. Mark A. Grecco Category II privileges limited to Botox Injections and Dermal Filler Placement. The motion passed unanimously.

M/S/C (Whitcher/Bettinger) to grant Dr. Charles D. Hasse unlimited privileges in Category I and II. The motion passed unanimously.

M/S/C (Dominicis/Bettinger) to grant Dr. Charles R. Landis unlimited privileges in Category I and II. The motion passed unanimously.

M/S/C (Dominicis/Bettinger) to grant Dr. Albert W. Lin unlimited privileges in Category I and II. The motion passed unanimously.

M/S/C (Dominicis/Bettinger) to grant Dr. Arshiya Sharafi unlimited privileges in Category I and II.
The motion passed unanimously.

Public Comment

There was no public comment.

Adjournment

The meeting adjourned at 11:58 a.m.