



Legislative and Regulatory Committee Meeting Minutes
Thursday, February 25, 2010
San Diego, CA

Members Present:

Fran Burton, Public Member, Chair
Stephen Casagrande, DDS, Vice Chair
Luis Dominicis, DDS
Huong Le, DDS
Suzanne McCormick, DDS

Members Absent:

Staff Present:

Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
Nancy Butler, Acting Enforcement Chief
Teri Lane, Supervising Investigator 1, Southern California
Dawn Dill, Dental Assisting Unit Manager
Donna Kantner, Licensing & Examination Unit Manager
Jocelyn Campos, Enforcement Coordinator
Karen Fischer, Licensing Analyst
Kristy Schieldge, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Ms. Fran Burton, Chair, called the committee meeting to order at 3:32 p.m. Roll was called and a quorum was established.

LEG 1 – Acceptance of the November 9, 2009 Legislative and Regulatory Committee Meeting Minutes

M/S/C (McCormick/Le) to accept the Legislative and Regulatory Committee meeting minutes of November 9, 2009. The motion passed unanimously.

LEG 2 - Contract Update – Legislative Bill Tracking Service

Donna Kantner, former Legislative/Regulatory Analyst and currently the Manager of Licensing, Certification, and Permits Unit reported that the Dental Board's Legislation and Regulations Analyst manually tracks bills during the legislative cycle by visiting the Legislature's website, www.leginfo.ca.gov, and performing a keyword search to find bills relative to dentistry, including any related subsequent legislative action.

The Legislative and Regulatory Committee Chair Mrs. Burton requested that bill tracking service be sought to assist with this function. Staff researched and located two bidders with the ability to perform the requirements, each of whom provided demonstrations and a trial period of usage. State of California purchasing guidelines require a minimum of three bidders. Staff submitted a request for exemption to the Department of Consumer Affairs' Business Services Office with a justification that two bidders be allowed, rather than three. It is anticipated that this request will be accepted and the request for service can move forward, hopefully to be completed by the end of March. Dr. McCormick, board member asked whether or not the cost for such a service is cost prohibitive. Ms. Kantner reported that the cost is somewhere between \$800 -\$1,000 per year. Chairwoman Burton

commented that it is common practice to utilize a bill tracking service. There was no public comment on this item.

LEG 3 – A. 2009 Legislative Update

Information only. At the Board's November 2009 meeting, an update of legislative activity was provided that incorrectly listed the status of two bills. Per the request of Committee Chair Burton, staff submitted a corrected legislative update as of November 10, 2009 for the following bills:

AB 171 (Jones) - Dental Services: credit
AB 403 (Fuller) – Dental hygienists: examination and licensure
AB 456 (Emmerson) - Dentistry: diversion program
AB 583 (Hayashi) - Health Care Practitioners: disclosure of education and office hours
AB 667 (Block) - Topical fluoride application
AB 684 (Ma) - Claim reimbursement: late payments
AB 745 (Coto) - Self-funded dental benefit plans
AB 1116 (Carter) - Cosmetic surgery
AB 1310 (Hernandez) - Healing arts: database
AB 1524 (Hayashi) - Dentistry: examination process
SB 389 (Negrete McCloud) - Professions and vocations
SB 599 (Negrete McCloud) - Workforce development
SB 630 (Steinberg) - Health care coverage: dental and orthodontic services
SB 638 (Negrete McCloud) - Regulatory boards: operations
SB 674 (Negrete McCloud) - Healing arts: outpatient settings
SB 700 (Negrete McCloud) - Healing arts: peer review

B. 2010 Legislative Update and Calendar

Staff provided a February 2010 legislative summary sheet for the following legislation that staff is currently tracking:

AB 456 (Emmerson) - Dentistry: diversion program
AB 583 (Hayashi) - Health Care Practitioners: disclosure of education and office hours
AB 684 (Ma) - Claim reimbursement: late payments
AB 1310 (Hernandez) - Healing arts: database
AB 1524 (Hayashi) - Dentistry: examination process
SB 294 (Negrete McCloud) - Nurse practitioners
SB 389 (Negrete McCloud) - Professions and vocations
SB 442 (Ducheny) - Clinic corporation licensing
SB 630 (Steinberg) - Health care coverage: dental and orthodontic services
SB 674 (Negrete McCloud) - Healing arts: outpatient settings
SB 700 (Negrete McCloud) - Healing arts: peer review

Committee Chair Burton asked whether or not position letters had been submitted to the authors of legislation that the Board is tracking. Ms. Kantner indicated that the initial letter had been sent, but any legislation that has been amended recently has not been analyzed and a new position developed. Kristy Schieldge, Legal Counsel asked if the Committee would be reviewing the above mentioned bills in order to recommend to the Board any positions to take.

Ms. Burton mentioned that the Board has not taken a position on SB 442 (Ducheny) relating to clinic corporation licensing. The amendment does impact dentistry. Ms. Kantner has not had a chance to do an in depth analysis of the newly amended bill.

Dean Chalios, California Dental Association (CDA) mentioned that his association has reviewed all the recently introduced and amended legislation and will be happy to share the information with Board staff. He went on to say that due to the budget constraints, the legislature will be focusing on solving the budget issues and will not be moving any other legislation of substance forward at this time. Kristy Schieldge, Legal Counsel brought to the Board's attention that SB 294, sponsored by the Senate Business & Professions Committee, contains provisions that would sunset the Board's Diversion program in 2012. Richard DeCuir, Executive Officer commented that many of the provisions in SB 294 are now contained in SB 1111.

M/S/C (Casagrande/McCormick) to have staff prepare a preliminary analysis of SB 294 (Nurse practitioners), SB 442 (Clinic Corporation: licensing), SB 638 (Regulatory boards: operations), and SB 700 (Healing arts: peer review) as soon as possible in order to discuss at the next Board meeting. Additionally, Ms. Burton requested that the legislative calendar be sent to Board members.

C. Discussion About Prospective Legislative Proposals From Board Members

Committee Chair Burton will seek information regarding prospective legislative proposals from Board members. She will make this item a regular part of the agenda.

LEG 4 – List of Proposed Regulatory Packages – Information Only

Ms. Burton thanked Donna Kantner for her excellence in providing Legislative and Regulatory analysis. Following is a list of regulatory packages that are currently in process:

Continuing Education requirements, CCR Sections 1016-1017

This completed rulemaking file was submitted to the Office of Administrative Law (OAL) for review on January 25th, 2010. OAL's approval or disapproval of the file is anticipated by mid-March, 30 working days after filing.

Disciplinary Guidelines, CCR Section 1018

This completed rulemaking file was submitted to the Office of Administrative Law (OAL) for review on February 4, 2010. OAL's approval or disapproval of the file is anticipated by the end of March, 30 working days after filing.

Retroactive Fingerprinting, CCR Sections 1007, 1008 and 1017.2

The public hearing for these amendments was held on February 4, 2010. The proposed amendments and comments received at the hearing are in the Board packet under Agenda Item 9 for the full Board's review and adoption of the language.

Minimum Standards for Infection Control, CCR Section 1005

Modifications to this text have been under discussion at several meetings. The most recent language for the Infection Control Committee's review appears in the Board's packet under Agenda Item INF 2. Board action is requested so that the rulemaking process can begin.

Regulation Sections to be added as a result of AB 2637

At its November meeting, the Board requested staff to initiate a rulemaking by noticing for hearing the regulatory language presented by staff with the exception of retaining the 2-year requirement for instructors of the dental sedation assistant program only. In order to initiate

a rulemaking, Board staff must complete an Initial Statement of Reasons, Std. 399 Economic and Fiscal Impact statement and Notice of Public Hearing.

LEG 5 – AB 1524 – Portfolio Examination Pathway

Dr. Casagrande stated that he has been working with Dr. Le to move the Portfolio Examination Pathway to Licensure project forward. AB 1524 (Hayashi) was heard in the Assembly Committee. Board member Fran Burton, Executive Officer Richard DeCuir and Dr. Casagrande participated in the hearing along with representatives from the dental schools (Dr. Morrow and Dr. Abelson), and Dean Chaliros representing the California Dental Association (CDA). Eleven members of the Committee were present and voted unanimously to advance the legislation. It is currently in the Senate awaiting detailed draft regulations. The author's office was concerned that there was not 100% buy-in on the legislation by all the concerned parties. Stakeholders wanted to see details before the bill moved forward (the intent and how it will be implemented) so the author asked that rough draft regulations (regulatory template, working document) be developed by April 1, 2010. Georgetta Coleman Griffith, former Executive Officer of the Dental Board will be working with Dr. Casagrande to put together these draft regulations. Additionally, Drs. Norm Hertz and Roberta Chinn from COMIRA will be working on the project.

Dr. Suzanne McCormick, board member asked about the process. Chairwoman Burton explained why the regulations are being developed prior to the legislation being passed. Dr. Casagrande said that the draft regulations will eventually come before the Board. The regulations cannot go forward until the legislation is passed.

Kristy Schieldge, Legal Counsel asked if Dr. Casagrande considered putting the "details" into the legislation. Fran Burton said that the author has requested the additional detail. Ms. Schieldge commented that it is easier to implement self-executing language instead of doing a lengthy regulatory package. Legislators don't typically like to do it, but it makes it easier and smoother for the Board to implement if it is in statute. She recognized that this would require a substantial agreement.

M/S/C (McCormick/Casagrande) to delegate authority for Fran Burton, Committee Chair and Dr. Steve Casagrande to review the draft regulations and give a full presentation to the Legislative and Regulations Committee in May. Motion passed unanimously.

PUBLIC COMMENT

The President-elect of the California Academy of General Dentistry said that the Academy's main focus is continuing education. Mid-level providers is a subject of legislation that may be coming up. He asked that the Board be vigilant regarding bills that come up that would compromise the safety of the public. He asked that the Board notify dentists and the dental workforce of its legislative positions.

ADJOURNMENT

The meeting was adjourned at 4:19 p.m.