



**Dental Board of California Meeting  
Thursday, May 6, 2010  
South San Francisco, CA**

**Members Present:**

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

**Members Absent:**

Huong Le, DDS  
Suzanne McCormick, DDS

**Staff Present:**

Richard DeCuir, Executive Officer  
Teri Lane, Acting Enforcement Chief  
Nancy Butler, Supervising Investigator 1, Northern California  
Dawn Dill, Dental Assisting Unit Manager  
Donna Kantner, Licensing & Examination Unit Manager  
Lori Reis, Complaint & Compliance Manager  
Jocelyn Campos, Enforcement Coordinator  
Karen Fischer, Administrative Analyst  
Sarah Wallace, Legislative/Regulatory Analyst  
Kristy Schieldge, DCA Senior Staff Counsel  
Greg Salute, Deputy Attorney General

President Bettinger called the meeting to order at 8:01 a.m. Secretary Dominicis called the roll and established a quorum.

**Agenda Item 1: Approval of the Full Board Meeting Minutes from February 25-26, 2010.**

Dr. Lori Gagliardi, CADAT, offered a correction to her comments outlined in the full Board meeting minutes of February 26, 2010, page 13: (1) include the stand-alone 8-hr infection control offered by RDA programs requires submission of an application and (2) amend the minutes to include that RDA programs agree to issue certificates of Infection Control and California Dental Practice Act education for employment upon graduation to work as a dental assistant. The correction was accepted. M/S/C (Forsythe/Dominicis) to accept the minutes as corrected. The motion passed unanimously.

**Agenda Item 2: Acceptance of Infection Control Committee Meeting Minutes of February 25, 2010.**

M/S/C (Forsythe/Dominicis) to accept the Infection Control Committee Meeting Minutes of February 25, 2010. The motion passed unanimously.

### **Agenda Item 3: President's Report**

Dr. Bettinger, President, reported that he had attended the American Association of Dental Boards' (AADB) meeting in Chicago last month. Topics that were discussed were the emergence of mid-level providers, alternate work force models, and the changing scope of practice among the states. He mentioned that there are approximately six hygiene and five to six dental assisting models that are under review throughout the states. Some programs are as long as dental school; while others are so short that there is some question about public protection. The president-elect of the American Dental Association (ADA) gave a presentation that depicted the pyramid of dentistry, with the dentist at the top of the pyramid and responsible for the competencies. Dr. Bettinger emphasized that it is important that the Board remember its responsibility to ensure public safety when reviewing these models. He used Florida as an example. Florida has changed the Dental Practice Act through legislation to define a dental therapist, who will be used in underserved areas. He asked the Board's thoughtful consideration if such a scope of practice change comes before the Board in the future.

### **Agenda Item 4: Executive Officer's Report**

Richard DeCuir, Executive Officer asked Teri Lane, Acting Enforcement Chief to update the Board on the Enforcement Office move from Tustin to Orange. Ms. Lane indicated that the move went very well. The new location is 333 South Anita Drive, Suite 930, Orange. It is located at the apex of the 57, 5, and 22 highways called the "orange crush". The space is much nicer and larger than the previous space and it costs less. Conference room space is available in the enforcement office as well as on the first floor of the building.

Mr. DeCuir was happy to report that Denise Johnson, Assistant Executive Officer was back to work after time off. He also welcomed back Sarah Wallace, who will be the Board's Legislative and Regulatory Analyst, taking over for Donna Kantner. He introduced Lori Reis, Manager of the Complaints Unit, who distributed the schedule for outreach for 2010. To date, through five events, DBC staff has had contact with approximately 27,400 people.

Mr. DeCuir went on to say that the Registered Dental Assistant (RDA) renewal process should be back online sometime after July 1<sup>st</sup>; there were many budget drills that had to be completed since the last Board meeting in February; he is hearing approximately 2-3 cite and fine appeals per month; he is in budget hearings at the capitol; and that staff has been working on the draft language for the portfolio project. He thanked staff.

### **Agenda Item 5: Department of Consumer Affairs (DCA) Director's Report**

Gil DeLuna from the Department of Consumer Affairs (DCA) Director's Office gave his report. He reported that 40 staff members from all the healing arts boards were currently going through an enforcement academy where they were being trained in enforcement procedures and best practices related to the Consumer Protection Enforcement Initiative (CPEI). He went on to report that improvement plans and statistics from each Board has been received by the Executive Office and will be reviewed to see where improvements can be made. Budget change proposals (BCPs) are making their way through the legislature. The Dental Board has requested 12.5 positions. The BCP for IT resources is also making its way through the legislature. This money would be used to replace an antiquated system.

Mr. DeLuna reported that the Director asks the DBC to agendize for the next Board meeting, the authority for staff to initiate a rulemaking to adopt many of the provisions of SB 1111 through regulations. Additionally, with regard to SB 1441 – Substance Abuse Coordination Committee, Mr. DeLuna asked the Board to review the 16 standards developed by the Committee and to agendize the discussion about which standards require implementation through regulation and which can be

implemented through policy. Mr. DeLuna went on to say that the Department is requesting all Boards and Bureaus to post meeting materials on line when possible and to look at other ways to distribute information that does not require paper. He also suggested the Board look into voting by email on disciplinary matters, which would save time and money. The Medical Board is the only Board able to vote by email at this time because it has a secure server in place to do so.

Mr. DeLuna reminded Board members that Form 700 – Statement of Economic Interests was due April 1<sup>st</sup>. There is a fine for non-compliance. He reported that the Department is having a Board member training on licensing and enforcement issues on July 27, 2010 in Sacramento. He encouraged all to attend. He concluded by saying that the Department has tapered down it's outreach effort due to the cost. In the future, DCA will be looking at new venues and cost effective partnerships such as non-profits and libraries to provide outreach to consumers.

#### **Agenda Item 6: Update on Dental Hygiene Committee of California (DHCC) Activities**

Rhona Lee, President of the DHCC reported that on March 22, 2010, DHCC conducted its first standing subcommittee meetings: The Education/Outreach Subcommittee chaired by public member Rita Fujisawa reviewed scheduled outreach events. The Licensing/Exam Subcommittee chaired by RDA educator, Michelle Hurlbutt reported on standing development of law/ethics exam and a visit on April 15-16 to observe 54 candidates taking the WREB exam. Enforcement Subcommittee chaired by public member and attorney Alex Calero noted that Disciplinary Guidelines SB 1441 will be noticed for hearing. Legislative Subcommittee chaired by public member and attorney Andrew Wong noted scheduling the proposed retroactive fingerprinting regulations hearing.

Ms. Lee went on to report the highlights of the full Committee meeting which included (1) infection control regulations 1005(d). The DHCC unanimously agreed to appoint an ad hoc committee to review infection control regulations. Lori Hubble, Executive Officer of DHCC reported the DHCC has agreed to a special meeting in June to accept the ad hoc committee's recommendations that will be forwarded to the Dental Board for its July meeting.

Ms. Lee continued to report that since DHCC came into existence only one year ago, it will not be scheduled for the Sunset Review process until 2013. She reported that the Licensing and Examination Subcommittee reports plans to have draft regulations regarding criteria for WREB applicants wishing California licensure. The Enforcement Subcommittee directed staff to develop regulatory language to implement the citation and fine statute and it will move forward with the regulatory process regarding the disciplinary guidelines. The Legislation and Regulation Subcommittee voted to support AB 1310, Healing Arts the database provided there is no fiscal impact on the Committee.

She concluded by reporting that the DHCC was notified on April 26, 2010 that the RDH written law and ethics exam was compromised. Exam administration at all test sites has been temporarily suspended until the Committee can investigate the breach and develop a new written examination. An investigation is being conducted by the Division of Investigations. DHCC's website will be used as an outreach modality to keep all stakeholders informed. The DHCC meeting schedule for 2010 is as follows: June 8 (teleconference), July 26 & 28 (Sacramento), and December 6<sup>th</sup> in San Diego.

Dr. Dominicis asked whether or not people who had taken the WREB after January 1, 2010 have received a RDH license. Lori Hubble, Executive Office of DHCC reported that they had achieved licensure.

Dr. Olinger asked the DHCC to provide meeting minutes for the Board to review. Lori Hubble indicated that once the minutes are approved, they are available on the website.

Richard DeCuir, Executive Officer reported that Department is looking into the registered dental assisting exams to see if those exams are compromised – written, practical, and law and ethics.

**Agenda Item 7: Budget Reports: Dental Fund & Dental Assisting Fund**

Executive Officer Richard DeCuir reported that the Board's overall budget was substantially augmented with the addition of the Registered Dental Assistant Program on July 1, 2009. For the current fiscal year, the combined total expenditure authorization is \$11.587 million - \$9.906 million is out of the Dentistry Fund and \$1.681 is from the Dental Assisting Fund. Current law does not provide for the comingling of funds.

Mr. DeCuir explained that last fiscal year (FY 2008-2009), the Board budget was \$9.906 million for the Dental Fund. For the current fiscal year the Board's authorization was reduced to \$9.541 million. The primary reduction in the budget is attributed to the initial 15% furlough salary savings followed by an additional 5% reduction in salary and wages.

He went on to say that the Governor's budget allocates 12.5 new positions over the next 18 months with an expenditure increase of approximately \$1.2 million as part of the Department's Consumer Protection Enforcement Initiative (CPEI). While it was initially thought that this increase in positions could result in a fee increase, the Department of Consumer Affairs informed me that there was legislative trailer language attached to loans taken in prior years. As a result, the repayment of a \$4.4 million loan balance will occur before any fee increase could be considered. In looking at the fund condition, if we factor in the prior year reversions, which have ranged between \$1.5 and \$2.0 million each year, the need to look at fee increases will not likely occur until FY 2012-2013.

In reviewing the Dental Assisting Fund, Mr. DeCuir pointed out that since the dental assisting and dental hygiene budgets were not separated prior to July 1, 2009, there is no history on which to reflect. When the fiscal year began, there was an initial reserve of \$1.495 million. Yearly revenues are projected to be approximately \$1.1 million. Expenditures are projected to be \$1.7 million, less any reversions. For the current year, the reversion is projected to be \$300,000. License renewal fees can be set by Board resolution up to \$80. Fees are currently set at \$70. The Board will likely need to look at fee increases prior to the end of FY 2011-2012. This could be extended out depending on the reversion levels over the next 15 months.

**Agenda Item 8: Consideration of and Possible Action Regarding Comments Received During the 15-Day Comment Period Relative to Proposed Amendments to Title 16, CCR Section 1007, 1008, and 1017.2 for Fingerprinting.**

Dr. Bettinger reported that staff received no public comments.

**Agenda Item 9: Discussion and Possible Action to Adopt Amendments to Title 16, CCR Section 1007, 1008, and 1017.2 Regarding Fingerprinting.**

Dr. Bettinger reported that since there was no further public comment, Richard DeCuir, Executive Officer was authorized by the Board at the February 26, 2010 meeting (Agenda Item 9), to move forward to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law, and adopt 16 CCR Section 1007, 1008, and 1017.2 as filed.

Dean Chalios, CDA offered the Dental Board a booth at upcoming meetings to do fingerprinting. There was discussion. Staff will research some of the questions that arose from this discussion.

**Agenda Item 10- A: Proposed Action Regarding Infection Control Regulations as Required by Title 16, CCR Section 1005(d): discussion and Possible Action to Approve Corrected Text for Notice of the Proposed Infection Control Regulations.**

Donna Kantner, Manager of the Licensing Unit and former Legislative and Regulatory Analyst explained that at its February 2010 meeting, the Board voted to accept amended language presented with specific modifications and directed staff to move forward to initiate the rulemaking process. Subsequently, staff discovered that the text provided to the Board did not reflect all of the new text, as some proposed amendments were not underscored as new text. The Board reviewed the corrected text. There was a correction to the sentence in section 1005 (a)(2) beginning.... *These include all* – strike out the word “and”. There were no other changes. M/S/C (Forsythe/Dominicis) to accept the corrected text. The motion passed unanimously.

**Agenda Item 10- B: Proposed Action Regarding Infection Control Regulations as Required by Title 16, CCR Section 1005(d): Reconsideration of Board Action to Initiate the Formal Rulemaking Process to Amend Infection Control Regulations as Require by Title 16, CCR Section 2005(d).**

Donna Kantner, Manager of the Licensing Unit and former Legislative and Regulatory Analyst explained that pursuant to Section 1680(ad) of the Business and Professions Code, staff contacted the Medical Board, Board of Registered Nursing, Board of Podiatry, and the Board of Vocational Nursing and Psychiatric Technicians for input on proposed amendments to CCR Section 1005. The Dental Hygiene Committee of California (DHCC) had not been appointed at the time, so the text was sent to the California Dental Hygiene Association and other members of the hygiene community, in addition to all other interested parties on the Board's mailing list. The DHCC has since been appointed and has requested that the Board reconsider its motion to initiate the formal rulemaking process to amend CCR Section 1005 relative to minimum standards for infection control so that the DHCC has the opportunity to provide input prior to the noticing of the proposed amendments. The DHCC has agreed to a special meeting in June to review the proposed amendments, and to provide its input to the Dental Board at the July 26, 2010 meeting. M/S/C (Whitcher/Forsythe) for the Board to reconsider its action to initiate the rulemaking process and delay filing so that the Board may receive input from the DHCC prior to noticing the proposed amendments to CCR Section 1005. The motion passed unanimously.

**Agenda Item 11: Status, Discussion, and Possible Action Regarding the Method of Pending Course Approvals for Registered Dental Assistant (RDA), Registered Dental Assistant Extended Function (RDAEF), Radiation Safety, Coronal Polish, Pit & Fissure Sealants, Infection Control, Ultrasonic Scaler, Dental Sedation Assistant, and Orthodontic Assistant.**

Richard DeCuir, Executive Officer explained that this item was being presented to the Board as a result of concerns that had been raised by course providers regarding the length of time it is currently taking for programs to be approved. He identified the current resources, pending courses, and the process for evaluation. There are eighty (80) courses pending approval; of the 80, 23 are infection control courses awaiting approval. Some of the courses have been waiting for over a year for approval. There are six consultants reviewing applications. Mr. DeCuir believes that the pool of consultants needs to be expanded by two to three times the current level. Judy Forsythe, RDA, Board member, mentioned that the backlog could be due to the fact that already approved RDA programs are required to submit a separate application for standalone courses. She feels that this is redundant. There also was discussion about the complexity of the infection control application and how it could be adapted to allow dentists to teach the course in their offices. Kristy Schieldge, Legal Counsel explained that the application is based directly on statute and that the Board might consider developing regulations to clarify issues.

Dr. Lori Gagliardi, CADAT, agreed with staff recommendations to greatly expand the use of consultants in both numbers and license types. She also suggested that the selection process for consultants and evaluators should be reviewed and revised; that there be training and calibration of evaluators; consider term limits; and that the application be revised and simplified to reflect only regulatory requirements.

The application process was discussed. When an application is received, Board staff does a preliminary evaluation to see if it is complete before forwarding it to a consultant for review. The consultant reviews the application and notifies staff if there are deficiencies. The bottleneck and breakdown in communication appears to occur at this time between the consultant and board staff because there is a level of interpretation between what the consultants says and what staff understands. Dr. Dominicis, Board member, suggested that the Board review the process of consultant selection; review the current list of consultants who were previously appointed by COMDA; and to recruit more consultants, if necessary. There was also discussion about whether or not a consultant needs to review the entire application, or if most of the application could be reviewed by staff. There was discussion about using a checklist.

Dr. Bettinger appointed a subcommittee of two board members, Dr. Dominicis and Judy Forsythe, to work with staff to review the RDA course/program application process and to implement the necessary changes to expedite the process.

Tamara McNeely, CADAT, requested that the Board accept certification by affidavit for approved RDA programs (and CODA approved programs) wanting to provide standalone courses. All non-approved RDA programs should continue to be reviewed.

Kristy Schieldge, Legal Counsel, recommended that this issue and any other issue relating to the RDA program/course approval process be submitted in writing to the Executive Officer. The subcommittee would take a wholesale look at all the issues and how they relate to the current statutory structure, and determine whether or not the specific requests could be implemented. She recommended against making piece by piece decisions at this meeting.

Dr. Earl Johnson, Orthodontic Association, commented that the process needs to be fixed.

Ms. Schieldge strongly recommended that the Board consider a formal rulemaking to address and clarify statute relating to these issues and that the Board consider developing a checklist form to include in the regulatory package. The form will clarify and make this a much easier process – rather than a 40 page application.

Dr. Witcher asked if this change could be made in the upcoming rulemaking package currently going forward. Ms. Schieldge agreed that this would be appropriate.

M/S/C (Olinger/Forsythe) to delegate authority to staff to grant approval for radiation safety, coronal polish, pit and fissure sealants, ultrasonic scaling, infection control, orthodontic assistant and dental sedation assistant courses and Commission on Dental Accreditation (CODA) accredited RDA programs. All California only RDA programs must be submitted to the Board for approval. The motion passed unanimously.

### **Agenda Item 12: Examination Committee Report**

Dr. Casagrande, Committee Chair, reported that a quorum was established and the meeting minutes of February 25, 2010 were accepted. He reported that the Committee had a lively discussion about the RDA written and practical examination. He would like to agendaize discussion

about eliminating an examination of licensure for students who graduate from an approved California or CODA RDA program. He further reported that the pass rate for the new RDA examination was 58% and he feels that this is still too low. Dr. Olinger and Dr. Le will be reviewing the issue of licensure by residency requirements for individuals wanting to take the California State dental examination. M/S/C (Burton/Bettinger) to accept the Examination Committee report. The motion passed unanimously.

### **Agenda Item 13: Dental Assisting Committee Report**

Judith Forsythe, Committee Chair, reported that a quorum was established and the meeting minutes of February 25, 2010 were accepted. The discussion regarding consideration of and possible action regarding the Board accepting the Dental Commission on Dental Accreditations (CODA) findings for approval of registered dental assisting programs pursuant to Business & Professions Code, Section 1757(1)(1)(B)(4) was tabled until staff does further research. Ms. Forsythe expressed concern about Riverside Community College (RCC), a CODA approved program which has submitted a RDA program application to the Dental Board for approval. The application is currently pending. If the discussion about accepting CODA approved program is put off for another meeting, this means the students graduating from RCC will be delayed in applying to take the exam until the program is approved.

Kristy Schieldge, Legal Counsel, said that there is more than one pathway to take for program/course approval for RCC. A decision can be made outside the "CODA approved" decision. Staff has been delegated authority to review and approve applications. Ms. Schieldge indicated that the Board might want to re-evaluate all existing RDA programs to see if they meet the requirements for the new duties. M/S/C (Olinger/Dominicis) to delegate authority to staff to review/and or approve the RCC application for its RDA program in a timely manner, pending the outcome of the Board's review of the CODA issue. The motion passed unanimously.

Anna Nelson, who serves on CODA as a dental assistant and has been a program director for 34 years, understands the problems with confidentiality and grandfathering. She asks, if the Board accepts CODA for hygiene and dentistry, why would it single out dental assisting?

M/S/C (Casagrande/Whitcher) to accept the Committee recommendations to approve the Registered Dental Assisting Program and Courses as referenced in the Committee minutes. The motion passed unanimously.

Dr. Lori Gagliardi, CADAT, requested that Section 1757 of the Business & Professions Code be put on the agenda for the next meeting to discuss RDA program board approvals in light of the new regulations. Are RDA programs instituting the new regulations?

M/S/C (Casagrande/Downing) to accept the Dental Assisting Committee report. The motion passed unanimously.

### **Agenda Item 14: Licensing, Certification & Permits Committee Report**

Dr. Whitcher, Committee Chair, reported that a quorum was established and the meeting minutes of February 25, 2010 were accepted. He reported on the dental and dental assistant licensure and permit statistics. With regard to the general anesthesia and conscious sedation evaluation statistics, Dr. Whitcher explained that the Board is meeting its goal for completing 250 evaluations per year in order to keep current. Two General Anesthesia Evaluator Calibration courses were held: March 24th in Oakland where there were 51 participants, and March 31<sup>st</sup> in Garden Grove where there were 87 participants. Dr. Whitcher recognized Dr. Guy Acheson in the audience who was a presenter at the Oakland course who did an excellent job. Course evaluations were

favorable. Dr. Whitcher requested that staff revise the reporting format for the statistics so that trends could be identified.

Dr. Bettinger asked if progress had been made to allow for a category that states a licensee has voluntarily not renewed a permit, rather than have it show up as "cancelled". Kristy Schieldge, Legal Counsel, clarified that the licensing status categories are outlined in statute and regulations. If a licensee does not renew, the license is cancelled. Staff is looking at the issue administratively and will report back its findings. There was no additional public comment. M/S/C (Bettinger/Burton) to accept the Licensing, Certification & Permits Committee report. The motion passed unanimously.

#### **Agenda Item 15: Enforcement Committee Report**

Rebecca Downing, Committee Chair, reported that a quorum was established and the meeting minutes of February 25, 2010 were accepted. She reported that Richard DeCuir, Executive Officer had given the Committee an update on the Enforcement Activity Reporting (EAR) system which is a monitoring system for investigators to track cases. The system will show time management on the investigations and is scheduled to begin migration to the Dental Board on May 15, 2010. There will be a tremendous amount of work to input the data into the system.

Ms. Downing reported that seven citations had been issued by the Complaints Unit relating to failure to produce records; seventeen were issued by the Enforcement Unit relating to quality of care complaints, office inspection issues, and failure to provide records.

Ms. Downing reported that there was an update by Richard DeCuir, Board Executive Officer and Gil DeLuna from DCA on the Substance Abuse Coordination Committee relating to SB 1441 and SB 1172. She reported that the Committee recommended staff work with legal counsel to review the sixteen standards and recommendations received from the Substance Abuse Coordination Committee and to report back to the Board, which standards require regulatory changes for implementation and which could be implemented through policy. M/S/C (Bettinger/Casagrande) to accept Committee's recommendation as stated above. The motion passed unanimously.

Mr. DeLuna reported on the Consumer Protection Enforcement Initiative (CPEI). Regarding SB 1111, even though the bill died, the Department is asking that Boards adopt the same standards that were outlined in the legislation into regulation. There are nine items that the Department would like the Board to adopt by regulation. The Committee recommended staff work with legal counsel to review the nine standards outlined by DCA to determine which standards require regulatory changes for implementation and which could be implemented through policy. Staff will report back to the Board about what can and cannot be done. M/S/C (Dominicis/Whitcher) to accept the Committee's recommendation as stated above. The motion passed unanimously.

Ms. Downing reported on the enforcement statistics. The Complaint Unit reported that the number of days to process a complaint is down by 50% from last year. The number of pending cases has been reduced by 30%. Complaints are being processed more quickly in part due to adding a number of consultants in specialty areas combined with increased staffing levels. Teri Lane concluded by reporting that investigative unit is completing an average number of 58 investigations per month. The investigative unit has approximately 841 open cases. There are approximately 409 unassigned investigations. M/S/C (Forsythe/Burton) to accept the Enforcement Committee report. The motion passed unanimously.

**Agenda Item 16: Legislative and Regulatory Committee Report**

Fran Burton, Committee Chair, reported that a quorum was established and the meeting minutes of February 25, 2010 were accepted.

Chairperson Burton reported that Sarah Wallace was welcomed by the Committee as the new Legislative/Regulatory Analyst. She went on to report that the Board had contracted with CapitolTrack, a legislative bill tracking system which will assist staff in keeping abreast of the most current information relating to legislation that the Board will be tracking. She also reported that the Legislative Calendar will be included in each Board member packet for each meeting.

M/S/C (Forsythe/Olinger) to accept the positions recommended by the Committee:

AB 1659 (Huber) – watch

AB 1938 (Fletcher) – watch

AB 2334 (Salas) – watch

AB 2699 (Bass) – contact author to express concerns with the legislation. If necessary, oppose if changes are not made

SB 294 (Negrete McLeod) – oppose

SB 389 (Negrete McLeod) – support

SB 442 (Ducheny) – watch

SB 638 (Negrete McLeod) – dead, no action

SB 700 (Negrete McLeod) – watch

SB 1094 (Aanestad) – watch

SB 1111 (Negrete McLeod) – dead, no action

SB 1132 (Negrete McLeod) – watch

SB 1171 (Negrete McLeod) – watch

SB 1172 (Negrete McLeod) – watch

The motion passed unanimously.

Ms. Burton reported on the status of regulatory packages:

**Disciplinary Guidelines, CCR Section 1018**

The rulemaking file was disapproved by OAL on March 19, 2010. Board staff has 120 days to make corrections, notice the changes for 15-day public comment, and resubmit to OAL. Any negative comments received during the 15-day comment period will need to be addressed by the Board.

**Continuing Education Requirements, CCR Section 1016-1017**

This rulemaking is complete and became operative on May 9, 2010. This information is available on the DBC website under the Laws and Regulations link.

**Retroactive Fingerprinting, CCR Sections 1007, 1008 and 1017.2**

The modified text was publicly noticed for 15 days. The comment period ended on 4/30/10. There were no negative comments received. If the Board adopts the final text as noticed, and no changes are made, then the Board must direct staff to take all steps necessary to complete the final rulemaking process.

**Dental Assisting Duties**

Board requested staff to initiate the rulemaking process. Staff is in the process of completing the Initial Statement Reasons, Std 399 Economic & Fiscal Impact Statement, and Notice of Public Hearing.

**Infection Control, CCR section 1005**

The Board accepted language at the February 2010 meeting and directed staff to move forward with the initial rulemaking file. A request was received from the Dental Hygiene Committee of California to give input prior to noticing the amendments.

Board member Rebecca Downing asked how licensees and parties of interest were notified about the changes to the continuing education requirements. Donna Kantner, former Legislative and Regulatory Analyst responded that the information is available on the Board's website. Dean Chalios, CDA commented that his association is notifying it's members via the CDA website, publications, and at large meetings. Dr. Johnson, Orthodontic Association of California commented that this information should be put in the DBC newsletter.

Chair Burton reported because there were two members absent from the Committee, she had asked Dr. Bettinger to appoint himself to the Committee for this meeting. He did. Ms. Burton continued to report on the prospective legislation item and asked Dr. Bettinger to continue the report.

Dr. Bettinger explained that in reviewing the AB 2637 requirements, he determined that two committees needed to be established; and so he established the Registered Dental Assisting Examination Committee and the Registered Dental Assistant in Extended Functions Examination Committee. These two committees were charged with assigning procedures for testing. The RDA Exam Committee felt they were limited in what they could choose because the choices are in statute. The Committee also felt that one duty was beyond the scope appropriate for the training, such as adjustments to removable dentures. The Committee also wanted clarification of supervising dentist determining allowable duties under direct or general supervision.

The RDAEF Examination Committee also looked at statute and felt that some duties that were expanded, such as placing permanent restorations on teeth, were procedures that require clinical training and clinical testing, but the Board doesn't have the ability to place on the exam.

Dr. Bettinger appointed a two person subcommittee, Drs. Dominicis and Olinger, to work with staff to review the issues outlined above and to come back to the Board in July with possible statutory changes or other alternatives to correct these issues.

Dean Chalios, CDA is committed to work with the Board to find other ways to address it's concerns without going back to the legislature.

M/S/C (Dominicis/Whitcher) to accept the Committee's recommendation as stated by Dr. Bettinger, to appoint a two person subcommittee to work with staff to pursue legislative changes, if necessary, and also to explore other alternatives, to address the concerns relating to the requirements of AB 2637. The motion passed unanimously.

M/S/C (Casagrande/Downing) to accept the Legislative and Regulatory Committee report. The motion passed unanimously.

#### **Agenda Item 17: Registered Dental Assistant Examination Committee Report**

Dr. Dominicis, Committee Vice Chair, reported that a quorum was established. This was the first meeting of the Registered Dental Assistant Examination AD HOC Committee. He reported that the Committee received clarification from staff of the roles and responsibilities of the Committee pursuant to Business & Professions Code, Section 1752.3. The Committee then reviewed the four procedures outlined in statute in order to pick three for the practical examination. The Committee moved to accept the following procedures to be tested: (1) place, adjust, and finish a direct provisional restoration (2) fabricate and adjust an indirect provision restoration, and (3) cement an indirect provisional restoration. M/S/C (Olinger/Burton) to accept the Committee recommendation. The motion passed unanimously.

Dr. Dominicis continued to report that the Committee reviewed and discussed the list of examiners who had been appointed to grade the RDA practical examination by COMDA prior to July 1, 2009. The Committee approved a motion to reappoint the examiners who were previously appointed by COMDA prior to July 1, 2009. M/S/C (Bettinger/Forsythe) to accept the Committee recommendation to reappoint the examiners. The motion passed unanimously.

M/S/C (Burton/Bettinger) to accept the Registered Dental Assistant Examination Committee report. The motion passed unanimously.

#### **Agenda Item 18: Registered Dental Assistant in Extended Functions Examination Committee Report**

Dr. Dominicis, Committee Chair, reported that a quorum was established. This was the first meeting of the Registered Dental Assistant in Extended Functions Examination AD HOC Committee. He reported that the Committee received clarification from legal counsel of the roles and responsibilities of the Committee pursuant to Business & Professions Code, Section 1753.4. He reported that Kristy Schiedge, legal counsel, clarified that there are two components to this assignment. It is mandatory that for the clinical component of the examination that Committee choose the two procedures outlined in statute (1) cord retraction of gingival for impression procedures and (2) take a final impression for a permanent indirect restoration. There is no discretion for additional procedures to be tested in the clinical portion of the examination. She continued to say that there is limited discretion by the Committee for the practical component of the examination. The Committee shall choose two of the three procedures outlined in statute. The Committee unanimously approved the following procedures: (1) place, condense, and carve an amalgam restoration and (2) place and contour a nonmetallic direct restoration. M/S/C (Bettinger/Forsythe) to accept the Committee's recommended procedures. The motion passed unanimously.

Dr. Dominicis continued to report that the Committee reviewed and discussed the list of examiners who had been appointed to grade the RDAEF practical examination by COMDA prior to July 1, 2009. The Committee approved a motion to reappoint the examiners who were previously appointed by COMDA prior to July 1, 2009. M/S/C (Casagrande/Burton) to accept the Committee recommendation to reappoint the examiners. The motion passed unanimously.

Dr. Dominicis reported that the Committee discussed the RDAEF duties and testing procedures before and after AB 2637. The Committee agreed that in order to protect the public, the Board must examine competencies that licensee's perform. There is concern that RDAEFs will be performing irreversible procedures without being properly trained or tested on live patients. The Committee discussed two items: (1) elimination of duties in statute and/or (2) require clinical training and a clinical examination.

M/S/C (Casagrande/Downing) to accept the Registered Dental Assistant in Extended Functions Examination Committee report. The motion passed unanimously.

#### **Agenda Item 19: Discussion and Possible Action Regarding the Roles and Responsibilities of the Dental Assisting Forum**

Judy Forsythe, Board member and liaison to the Dental Assisting Forum (DAF) reported that DAF has five members and they have had two meetings. She reported that the DAF is looking to the Board for further direction. Ms. Forsythe would like to see the DAF doing committee work. Dr. Casagrande suggested that the DAF be assigned specific tasks to work on and then to report back to the Board. Dr. Bettinger suggested that the item be tabled until there is more public participation. The DAF is scheduled to meet July 6 and November 3<sup>rd</sup>. Richard DeCuir clarified that the DAF is

under the Dental Assisting Committee. M/S/C (Burton/Whitcher) to table the item for a future Board meeting and to notice the DAF members when the item is placed on the agenda. The motion passed unanimously.

Pam Baldwin, DAF member reported that the Forum is working on specific tasks - looking at regulations for stand-alone courses; and outreach to dental assisting providers to find their input.

**Agenda Item 20: Western Regional Examination Board (WREB) Statistics and Update**

Dr. Dominicus, Board member, reported that as of April 30, the WREB has tested 450 candidates in California. They have grown in terms of the number of candidates who take the exam. WREB continues to have a low percentage of appeals - less than 1%. WREB is going through governance restructuring. Any Board state that accepts the WREB has a right to be at the Board of Directors meetings. Thirty-one states accept WREB. The organization is looking into a two-tiered membership. There will be twelve exams in California in 2010. WREB is trying to recruit more examiners from California. Dr. Bettinger will attend the Board of Directors meeting in Seattle in July.

Dr. Whitcher, Board member, reported that he attended the WREB dental exam at USC as an observer. There are only two examiners from California, so WREB is looking for more examiners in California. It was well run, organized. The calibration is very well done. It is the major pathway to licensure in California. It will always play a role in California. There is a time commitment.

**Agenda Item 21: Portfolio Pathway to Licensure Update**

Dr. Casagrande, Board member, reported that the bill is sitting in the Senate Business and Professions Committee. Thanks to CDA representatives, Bill Lewis and Dean Chalios, for their participation in the development of draft regulations that the author of the legislation required prior to moving the bill along. There was a full collaborative effort between CDA and the six dental schools to develop the draft regulations. The legislation should be heard in May. Dr. Bettinger and Fran Burton commended and thanked Dr. Casagrande for spearheading this monumental project.

**Agenda Item 22: Dental Board Newsletter**

Karen Fischer, Administrative Analyst reported that the newsletter had already been discussed in the strategic planning process yesterday. It is noted that the Board would like to have one more printed newsletter by the end of the calendar year. The end-of-year newsletter would be comprehensive, covering key topics discussed during 2010 and would let licensees and interested parties know that the Board would be moving to a web-based newsletter in 2011. Ms. Fischer reported that the newsletter goes out to approximately 85,000 people. The estimated cost for a 14 page newsletter is approximately \$70,000. Ms. Fischer will put together a production plan for the end-of-year newsletter.

**Agenda Item 23: Discussion and Possible Action to Adopt Amendments to Title 16, CCR, Section 1018 Relating to Disciplinary Guidelines.**

Donna Kantner, former Legislative/Regulatory Analyst reported that since OAL disapproved the rulemaking of the Disciplinary Guidelines, the Board must take action to adopt the amendments that were recommended by OAL so that staff may notice the language for a 15-day comment period and complete the rulemaking.

Kristy Schieldge, legal counsel, clarified that quarterly reporting is still a requirement of probation, but that the Board will not require reporting be done on any specific form.

M/S/C (Downing/Burton) to accept the changes made by staff to the proposed text as recommended by OAL, and direct staff to take all steps necessary to complete the rulemaking process, including noticing the modified text for an additional 15-day comment period. If during the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt 16 CCR Section 1018 and the Disciplinary Guidelines incorporated by reference of the proposed regulations with the modified text. The motion passed unanimously.

**Public Comment**

Dr. Lori Gagliardi asked about the Dental Practice Act and subsequent updates. Kristy Schieldge, legal counsel, recommended Dr. Gagliardi talk to staff privately as this item was not on the agenda for discussion.

Gil DeLuna, reported that the Department of Consumer Affairs is recommending that all Boards use State facilities for meetings; and that the Boards webcast the meetings in order to reach a broader audience.

The meeting adjourned at 12:30 p.m.