DENTAL BOARD OF CALIFORNIA
QUARTERLY BOARD MEETING MINUTES

AUGUST 23-24, 2018
Hyatt Regency San Francisco Airport
1333 Bayshore Highway, Sequoia B
Burlingame, CA 94010

Members Present:
Thomas Stewart, DDS, President
Fran Burton, MSW, Public Member, Vice President
Yvette Chappell-Ingram, Public Member, Secretary
Steven Chan, DDS
Ross Lai, DDS
Lilia Larin, DDS
Huong Le, DDS, MA
Meredith McKenzie, Public Member
Abigail Medina, Public Member
Steven Morrow, DDS, MS
Rosalinda Olague, RDA, BA
Joanne Pacheco, RDH
Bruce L. Whitcher, DDS
James Yu, DDS, MS

Members Absent:
Huong Le, DDS, MA (Friday, August 24)

Staff Present:
Karen M. Fischer, MPA, Executive Officer
Sarah Wallace, Assistant Executive Officer
Carlos Alvarez, Enforcement Chief
Tina Vallery, Dental Assisting Manager I
Jocelyn Campos, Associate Governmental Program Analyst
Jeri Westerfeld, Executive Assistant
Michael Santiago, Legal Counsel

(Joined the meeting at 11:30 a.m. on Thursday, August 23)

Agenda Item 1: Call to Order/Roll Call/Establishment of Quorum
A regular meeting of the Dental Board of California (Board) was called to order by Dr. Stewart, at 9:02 a.m. on Thursday, August 23, 2018. Ms. Chappell-Ingram, Secretary, called roll and a quorum was established.
Agenda Item 2: Board President Welcome and Report
Dr. Stewart shared that he has requested Dr. Whitcher to chair the Dental Assisting Council (DAC) meeting today until elections can be held.

Dr. Stewart stated staff has been working hard on the Sunset Review report and is hopeful of a good discussion to assist with areas that need clarification for the legislative staff. The report is a good description of how the Board conducts its business. With our help, we will continue to refine the document.

He also stated that there have been some revisions to SB 501 and feels there will be robust discussion on these important amendments regarding Pediatric Anesthesia.

The DAC will be holding its meeting to educate their new members of the responsibilities and objectives for the Council. Dr. Stewart respectfully requests that all Board members be present during that meeting to hear that discussion.

Several weeks ago, the Department of Consumer Affairs (DCA) called and lead an important conference call for leadership. It provided updates on the Executive Salary Study, Legislation and Regulations, and Pro-Rata including the activities of the Pro-Rata Workgroup.

We will be looking for ways for the Board Members (particularly future Presidents) to participate with the American Association of Dental Boards (AADB).

Agenda Item 3: Approval of the May 16-17, 2018 Board Meeting Minutes
Motion/Second/Call to Question (M/S/C): (Burton/Chan) to approve the May 16-17, 2018, meeting minutes with the following corrections:
Ms. Burton requested that note be added on Page 1 showing when Dr. Yu joined the meeting and a correction on Page 2 showing Ms. Rosalinda Olague as a Registered Dental Assistant. Dr. Whitcher requested that additional information be added on Page 13-14 Agenda Item 9C to include Ms. Wallace’s response to Dr. Reggiardo’s question along with correcting motion for Item 9C to remove rulemaking note.

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Agenda Item 4: Report from the Department of Consumer Affairs (DCA) Office of Professional Examination Services (OPES) Regarding Occupational Analysis for Dentists

Dr. Heidi Lincer, Chief of OPES reported Business and Professions Code Section 139 requires boards to submit an annual report stating the status of its occupational analysis schedule. An Occupational Analysis provides a description of current practice; and establishes examination validity through linking of the examination content to critical job competencies. The focus of an Occupational Analysis should identify tasks that entry-level licensees must perform safely and competently and should reflect situations commonly encountered by entry-level licensees.

The tasks listed in the Occupational Analysis (OA) can be utilized in all the decisions made by the Board including discipline. This information can also be utilized to see if there are some trends/changes in Dentistry like the increase in implants and implants restoration or the changes in primary work settings (i.e.: private practice has decreased where corporation or group practice has increased.)

The next steps for the Board are to review the American Board of Dental Examiners (ADEX) and Western Regional Examining Board (WREB) examinations to ensure compliance with professional standards and guidelines by completing comparison studies to confirm content areas of these two examinations.

It takes about 6 months to complete an analysis of each examination assuming all the data is provided. The expected report regarding the ADEX examination should come to the Board in early to mid-2019.

Dr. Chan asked if the California Dental Law and Ethics is required for all four pathways to licensure. Ms. Sarah Wallace, Assistant Executive Officer responded that only the Licensure by Credential pathway doesn’t have requirement for the California Dental Law and Ethics examination.

Public Comment:

Dr. Guy Shampaine, ADEX, updated the Board that their Occupational Analysis (OA) has been completed. In their OA results, entry-level dentists do not complete Pediatric Dentistry. All exams are curriculum integrated formats except for exam for dentists who are in practice but moving to another State. The OA itself doesn’t influence the format, it dictates what has to be tested.

Dr. Richard Sobel, California Society of Pediatric Dentistry, stated it noticed deficiencies related to children and their oral health needs. Since 61% of respondents (50% of dentists with 0-5 years of licensure) stated they provide services to children, there is no
mention of knowledge or tasks to be demonstrated for the care of children such as
growth and development, restorative care for children, surgical treatment, occlusal, and
space management. There are no best practices in behavior guidance in treating
children. There is no mention of safety and care of children which needs to be included
and the need for referrals when appropriate.

Anthony Lum, Executive Officer for the Dental Hygiene Committee of California
(DHCC), pointed out that in the OA under Table 15 – Top Three Duties Performed by
RDAs, it states Prophylaxis, but RDAs are not allowed to complete that function, so he
requested that it be removed.

Maureen Titus, California Dental Hygienist Association (CDHA), expressed that in Table
12 it asks if the Dentists are familiar with the scope of practice of the different auxiliaries
(unlicensed dentist assistants, registered dental assistants, and registered dental
assistants extended functions). The response was yes but if prophylaxis was included
in Table 15 she is not sure that is correct. Maybe there needs to be more education of
dentists in that area. She also was confused why the OA included information
regarding dental auxiliaries if this was an Occupational Analysis of Dentistry. She feels
that the OA should use the legal definitions of terminology.

Dr. Lincer responded this was open ended question and although this was the dentist’s
response, the dentist meant the duties that RDAs can perform.

Claudia Pohl, California Dental Assistants Association (CDAA), stated it has concerns
over the verbiage of prophylaxis and scope of practice for RDAs also. She expressed
concern regarding T123: Comply with legal standards regarding scope of practice in the
provision of service with the associated knowledge statement K323: Knowledge of laws
and regulations that define dentist scope of practice. Ms. Pohl stated K323 that it
should also include knowledge of scope of practice for dental auxiliaries.

Dr. Lincer stated that knowledge of scope of practice for dental auxiliaries is included in
T132: Supervise auxiliaries to facilitate patient safety in accordance with Board
regulations. Ms. Pohl felt this did not include knowing the scope of practice for dental
auxiliaries.

Ms. Lisa Okamoto, CDHA, addressed that amalgam restorations are to be phased out
due to an international agreement by 2020. Given that it is optional to use a non-
amalgam, will there be an option in the WREB examination do utilize non-amalgam.

No comment was made due to no prior knowledge on international agreement.

Recess
Agenda Item 5: Discussion and Possible Action Regarding Renewal of Board’s Approval of the University of DeLaSalle Bajio School of Dentistry
M/S/C: (Le/Chan) to approve the renewal of the Board’s approval of the University of DeLaSalle Bajio School of Dentistry. The effective date of renewal is May 20, 2019, (the current expiration date) and will be good for seven (7) years.

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The motion passed to accept the Subcommittee’s report and grant renewal of the Board’s approval for another seven (7) years.

Agenda Item 6: Introduction of the new Dental Assisting Council Members
Ms. Cindy Ovard and Ms. Pamela Peacock gave a brief summary of their personal/career experience.

Agenda Item 7: Dental Assisting Council (DAC) Meeting Report
Dr. Whitcher, acting as Chair for the Council meeting gave the DAC report. A quorum was established. The Council accepted the May 14, 2015, Dental Assisting Council Meeting Minutes. A presentation was given of the overview of the Dental Assisting Council. Updates on the Dental Assisting Program and Course Applications and RDA Program Re-evaluations was given. Reviews of the Dental Assisting Examination and Licensing Statistics were provided, and questions were answered. Then an update regarding the combining of the RDA Law and Ethics and General Written examinations was provided. Finally, the Council received a presentation from Joan Greenfield regarding the scope of practice for RDAEF2 by adding the administration of local anesthesia and nitrous oxide. The Council received the information and agreed to table this item and revisit at later meeting (the November meeting, if possible) after more information is provided. The Council received public comment and testimony for and against this proposal. See August 23, 2018, Dental Assisting Council meeting minutes for more information.
Agenda Item 8: Discussion and Possible Action Regarding Recommendations for Registered Dental Assistant Extended Functions (RDAEF) Examiners

Currently, there are eight (8) examiners participating in the RDAEF examinations that require reappointment and seven (7) that require new appointments. Ideally, the appointment or reappointment should take place annually, however, this has not been done since 2010. Staff included Curriculum Vitae (CV) for each of these examiners in the meeting materials and are requesting approval of appointments and reappointments.


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The motion to appoint/reappoint was approved.

Agenda Item 9: Report on the June 19-20, 2018 Oral Health Summit hosted by the California Department of Public Health – Office of Oral Health

Ms. Burton and Dr. Le attended this meeting. It was an opportunity for persons from counties and programs who received funding, to collaborate in ways they haven’t before. It was advantageous for representatives of the Dental Board to be in attendance because they were able to share the functions of the Board, especially licensing information. This was the roll-out meeting for the State Health Plan.

Agenda Item 10: Discussion and Possible Action Regarding the Draft of the Board’s Sunset Review Report

The draft Sunset Review Report was reviewed by the Board. Comments and changes were noted by staff and Report was updated.

RECESS TO CLOSED SESSION

CLOSED SESSION – FULL BOARD
Deliberate and Take Action on Disciplinary Matters
The Board will meet in closed session as authorized by Government Code §11126(c)(3). If the Board is unable to deliberate and take action on all disciplinary matters due to time constraints, it will also meet in closed session on August 24, 2017.

CLOSED SESSION – LICENSING, CERTIFICATION, AND PERMITS COMMITTEE

A. Issuance of New License(s) to Replace Cancelled License(s)
   The Committee will meet in closed session as authorized by Government Code §11126(c)(2) to deliberate on applications for issuance of new license(s) to replace cancelled license(s).

RETURN TO FULL BOARD OPEN SESSION

RECESS

Friday, August 24, 2018

9:00 A.M. FULL BOARD MEETING – OPEN SESSION

Agenda Item 11: Call to Order/Roll Call/Establishment of Quorum
A regular meeting of the Dental Board of California (Board) was called to order by Dr. Stewart, at 9:00 a.m. on Friday, August 24, 2018. Ms. Chappell-Ingram, Secretary, called roll and a quorum was established.

Agenda Item 12: Executive Officer’s Report
Ms. Fischer attended the following meetings since the May meeting: a meeting with OPES regarding exam contracts which are now in place; a training on Sunset Review for Executive Officers and staff; a meeting with the building owners (Sacramento office) and negotiations are underway. We will be taking over more space due to increase of staff, once lease is signed. The lease will be for 4-years with additional 4-year soft terms which will end approximately when DCA is planning to have all Boards and staff under one roof in 2024. Ms. Fischer also attended a meeting of the Substance Abuse Coordination Committee which includes Executive Officers. It is reviewing the number of tests required to participate in the Diversion Program; a SB 501 stakeholder meeting to see if a consensus could be found to move forward; and the Director’s Quarterly meeting. She also participated in four settlement conferences and four informal conferences.

The Board received a Gold Star for their use of small business partners in the procurement process: 25% of our supplies were purchased from either a small business or disabled veteran’s business. Thanks to Zachary Raske, our past budget analyst for meeting these requirements.

We hired two new legislative analysts who you will be meeting at the November meeting.

Lou Galiano, DCA webcaster is retiring next week.
Agenda Item 13: Report of Department of Consumers Affairs (DCA) Staffing and Activities
Patrick Le, Assistant Deputy Director of Board and Bureau Services within the Department of Consumer Affairs, gave a verbal report regarding the Director’s Quarterly meeting and the conference call Dr. Stewart mentioned at the beginning of the meeting stating they were very successful. The conference call had 30 participants of board presidents and vice-presidents. He stated the office has reviewed and initiated a new regulatory review process.

The Licensing and Enforcement workgroups are an opportunity for multiple board staff to discuss best practices to improve enforcement and licensing processes and concerns.

The Substance Abuse Coordination Committee’s last meeting was in June and it heard from experts in toxicology and rehabilitation. The next Substance Abuse Coordination Committee meeting is October 30, 2018.

Agenda Item 14A: 2018 Tentative Legislative Calendar
Today, August 24th is the last day to amend a bill on the floor. Next Friday, August 31st is the last day for each house to pass a bill and recess starts upon adjournment. September 30th is the last day for the Governor to sign or veto a bill.

Agenda Item 14B: Discussion and Possible Action Regarding the Following Legislation

AB 18 (Garcia) Healing arts: Licensed Physicians and Dentists from the Mexico Pilot Program
This bill is held in Senate Appropriations Committee. The bill failed to pass out of Appropriations Committee and make it to the floor by deadline.
Staff is recommending to Watch.

AB 224 (Thurmond) Dentistry: anesthesia and sedation
This bill has been amended and no longer relates to the Dental Board.

Assembly Bill 2078 (Daly) - Sex Offenses: Professional Services
This bill is held in Senate Appropriations Committee. The bill failed to pass out of Appropriations Committee and make it to the floor by deadline.
Staff is recommending to Watch.

AB 2086 (Gallagher) Controlled substances: CURES database
M/S/C (Morrow/Burton) continue to support AB 2086, as amended.

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Motion passed to support AB 2086, as amended. Staff will send an updated letter stating support as amended.

AB 2138 (Chiu) Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction

M/S/C (Morrow/Chan) to accept staff’s recommendation to oppose AB 2138.

Ms. Wallace expressed this bill will change the way we receive applications and fiscally impact the Board. Candidates would not be required to disclose convictions on applications; provide letter of explanation; or submit copies of their arrest court documents. Essentially staff would need to follow up with police departments or courts to get arrest information when they receive conviction hits from wrap sheets. Applications are reviewed case by case.

Motion passed to oppose AB 2138.

Public Comment:
Tony Lum, Executive Officer of DHCC, it opposes AB 2138.

AB 2483 (Voepel) Indemnification of public officers and employees: antitrust awards. This bill was cancelled by Author’s office yesterday.
AB 2643 (Irwin) Dentistry: general anesthesia: health care coverage
This bill is held in Assembly Appropriations.

AB 2789 (Wood) Health care practitioners: prescriptions: electronic data transmission
This bill is pending on the Assembly Floor. Continue to watch AB 2789.

AB 2958 (Quirk) Health care practitioners: state bodies: Meeting: Teleconference
This bill is pending on the Assembly Floor. This bill would require eight members to be located in one location. Continue to watch AB 2958.

SB 501 (Glazer) Dentistry: anesthesia and sedation: report
M/S/C (Burton/Morrow) to support the bill with our concerns about meeting the timelines and implementation including some fiscal concerns and clean up items.

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The motion passed in support.

This bill is to implement some of the Board’s recommendations in the Pediatric Anesthesia Study. There was a version amended August 20, 2018, and then amended August 24, 2018. A presentation was given regarding the current changes of this bill. In the amended August 20, 2018 version, we can implement it but not in the time frame included in this version and it is going to be very costly. The presentation is showing what the changes are going to be to the General Anesthesia, the Medical General Anesthesia, the Moderate Sedation, the Pediatric Minimal Sedation, and the Oral Conscious Sedation for Adults permits. The presentation covered permit structure, educational requirements, patient monitoring changes. The effective date will be January 1, 2019. There will be an increase in staffing and facility needs. The earliest staff is anticipating being able to implement is Spring 2024. Staff will need to develop regulations, which will require a policy analyst. A Budget Change Proposal will need to be submitted so staff can be hired. Staff would not have the hiring authority until July 2019. The development of the proposed regulations and initiation of rulemaking would be from July 2019 – January 2021. Pre-approval of rulemaking would take a year and then it can be filed with the Office of Administrative Law. The public rulemaking takes
place between January 2022 – January 2023. Rulemaking approval takes place quarterly, so approval of the Rulemaking will take place Spring of 2023, most likely April 1, 2023. BreEZe cannot implement any of the changes until the rulemaking has been approved so it will probably be operative in Spring of 2024. Additionally, the Board’s current fund condition cannot sustain these costs; so a fee audit and increase of funds would need to be completed.

Additional amendments to SB 501 went across the desk yesterday and should be in print on Monday.

SB 501 does include all of the Board’s recommendations outlined in its letter to Senator Hill dated December 2016, but it is a start.

Dr. Morrow believes that the Board’s first responsibility is to address safety above the concern of access to care.

Dr Chan stated another potential barrier could be the “not to exceed the manufacturer’s recommended dose.” A lot of the time these drugs are not administered under manufacturer’s dose but are used off label supported by literature/studies.

Dr. Whitcher stated this was a daunting challenge because the Board was asked to come up with recommendations to improve a process that was already relatively safe. The Board’s Pediatric Anesthesia Report was based on outcomes of literature and data from all reported deaths. It was found that deaths/injuries occurred in equal proportion in equal numbers, in all practice models, at all sedation levels and in all settings. It is generally recognized that most complications from sedation are due to airway problems, followed by medication errors, and equipment failures. Human errors are generally a significant component.

Ms. Burton, Chair of the Legislative & Regulatory Committee recommended to “support with a note of our concerns”: 1) fiscal as of last year was not sustainable with the Board; 2) study does not contain the safety concerns; 3) timeline concern that the Board would require to put in place before we could implement. The Board wants to work collaboratively to be part of clean-up legislation that needs to be addressed.

Public Comment:
Gary Cooper, CalAMOS, sponsor of SB 501, noted that the Board’s report showed there is not a huge problem, but there is a concern that needed to be addressed. He also shared that capnography has been introduced in this bill. Mr. Cooper committed that CalAMOS is prepared to work on clean-up to try to work on some of the glitches and asked the Board to support this legislation.

Mary McCune, CDA, regarding the amendment last night which is in line with the AAPD recommendations regarding minimal sedation. CDA is in support of the bill.
Dr. Richard Sobel, California Society Pediatric Dentistry (CSPD), is in strong support of this bill and is prepared to be part of the clean up to this bill.

**SB 1109 (Bates) Controlled substances: Schedule II drugs: opioids**
This bill is currently pending on the Assembly Floor. Staff recommends support.

**SB 1137 (Vidak) Veterans: Professional licensing benefits**
This bill is on the Governor’s desk. This bill would require the Department of Consumer Affairs and Department of Veterans Affairs, in consultation with each other, to take appropriate steps to increase awareness regarding professional licensing benefits available to veterans, and their spouses. Staff recommends continuing to watch this bill.

**SB 1148 (Pan) Medi-Cal: restorative dental services**
This bill is pending on the Assembly Floor and would allow silver diamine fluoride (SDF) to be authorized as a Denti-Cal option for taking care of decay as part of a comprehensive treatment plan.

Ms. Medina would like to have a discussion regarding access to care issue.

Dr. Stewart and Dr. Morrow would like to consider the Board support this legislation because SDF use is not only preventive but protective for a small child. 28% of preschool children in the US have extensive childhood caries. SDF slows down the decay.

Public Comment:
Dr. Richard Sobel, CSPD, stated that SDF is usually used with younger patients to delay young children from going under general to moderate anesthesia until they are of an older age. So, this could be an issue regarding safety. He asked that it be supported.

Mary McCune, CDA, the use of SDF could prevent the need for children under 7 from going under anesthesia. It urges the Board to support this bill.

M/S/C (Medina/Stewart) to support this bill.

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Motion passed to support SB 1148.

SB 1238 (Roth) Patient records: maintenance and storage
Held in Appropriations and no longer needs position.

SB 1298 (Skinner) Increasing Access to Employment Act
Held in Appropriations and no longer needs position.

SB 1480 (Hill) Professions and Vocations
Amendment made this week and no longer pertains to the Board.

SB 1482 (Hill) Dental hygienists
Sunset Review bill for dental hygienists and will make them their own board. Continuing to watch.

SB 1491 (Committee on Business Professions and Economic Development/Hill) Healing Arts
The Omnibus Bill contains non-controversial language for various healing arts boards. Many of the provisions of this bill are minor, technical, and updating changes. Support the provisions that effect the Dental Board.

Agenda Item 14C: Discussion of Prospective Legislative Proposals
Dr. Morrow would like to have placed on a future agenda to have a discussion regarding a requirement for Faculty teaching permit/licensees. CODA requires that faculty teaching in a Dental School maintain an active license (not necessarily California but could be in another State or another Country.) The Board would then have knowledge of who and where these individuals are and could include requirement for continuing education as required for California licensed dentist. Referred to LCP Committee for initial discussion.

Agenda Item 15: Licensing, Certifications, and Permits Committee Report on Closed Session
Dr. Lai request that the Board accept the recommendations of the LCP Committee.

Four candidates to issue new license to replace cancelled license:
JK and SJY: reinstatement with DDS Law and Ethics.
DS: denied on recommendation from Enforcement
MAR: reinstatement with DDS Law and Ethics, and WREB clinical unless the Board receives proof of clinical experience within the last 8 years.
LCP Committee’s recommendations were accepted.

**Agenda Item 16: Public Comment on Items Not on the Agenda**
None

**Agenda Item 17: Board Member Comments on Items Not on the Agenda**
Ms. Medina is asking at a future meeting if Access to Care Committee could meet to discuss access to care issues and state loan repayment program.

**Agenda Item 18: Adjournment**
The meeting adjourned at 2:49 p.m.