

**Dental Hygiene Committee of California**

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***DENTAL HYGIENE COMMITTEE OF CALIFORNIA***

**Evergreen Hearing Room**

**2005 Evergreen Street, 1<sup>st</sup> Floor**

**June 8, 2010**

**TELECONFERENCE SITES:**

**Department of Consumer Affairs  
2005 Evergreen Street, Hearing Room  
Sacramento, CA 95815**

**1350 Front Street, Room 4012  
San Diego, CA 92101**

**Orrick, Harrington & Sutcliffe  
777 S. Figueroa Street #3200  
Los Angeles, CA 90017**

**190 N. Mountain Avenue  
Upland, CA 91786**

**MINUTES**

**AGENDA ITEM 1 – CALL TO ORDER**

The meeting of the Dental Hygiene Committee of California was called to order at 2:10 p.m. Rhona Lee, president asked that during the roll call each committee member declare the location he or she was at and the number of people in attendance. Roll was called and a quorum established

**Members Present / Sites**

Alex Calero, Public Member – San Diego  
Rita Chen Fujisawa, Public Member- Sacramento  
Miriam DeLaRoi, RDHAP - Sacramento  
Cathy DiFrancesco, RDH - Sacramento  
Michelle Hurlbutt, RDH – Upland  
Rhona Lee, RDHEF (President)- Sacramento  
Andrew Wong, Public Member – Los Angeles

**Staff Present - Sacramento Site**

Lori Hubble, Executive Officer  
Traci Napper, AGPA  
Dennis Patzer, AGPA  
Shirley Moody, Retired Annuitant  
LaVonne Powell, Legal Counsel

There were no members of the public at the San Diego location.

There were three members of the public at the Upland location.

There were no members of the public at the Los Angeles location.

There were three members of the public at the Sacramento location.

Rhona Lee introduced Richard DeCuir, Executive Officer, California Dental Board (DB), Donna Kantner, Licensing and Examinations Manager, (DB), and Sara Wallace, Legislative and Regulatory Analyst, (DB).

## **AGENDA ITEM 2 – PRESIDENT’S REPORT**

Rhona Lee, president, referenced her memorandum to the committee dated June 8, 2010 regarding her report of the “President’s Report” of the May 5 and 6, 2010, Dental Board Meeting. The first section (of three) contained packet excerpts from the previous board meeting as well as personal perceptions. The second section contained the Dental Hygiene Committee’s activities update that was presented at the Dental Board meeting. The third section is a request for consensus regarding policy.

Ms. Lee reminded committee members that their S.W.O.T. worksheets are due in preparation for the July workshop for the strategic plan, and they should be turned in.

She pointed out that concerns had been raised about future site availability for both RDA and DDS practical examinations. However, RDH exams were not experiencing that same situation.

The California DDS restorative exam versus the WREB exam: data showed the California exam with 4.5% activity in terms of candidates compared with the WREB exam with 95.5% participation. The DHCC RDH exam is currently showing opposite ratios to this data.

Regarding fingerprint regulations, the Dental Board did not pursue additional staff to cross-reference licensees affected. In anticipation of an increased work load, DHCC has hired additional staff that will start on June 14<sup>th</sup> for fingerprint processing.

Ms. Lee also reported that Dr. Bettinger (Dental Board, President) asked to review scopes of practice and it was moved by the Dental Board to do so. In previous meetings, probe readings were brought up as an issue and it would be an appropriate time to bring up probing-when the board addresses review of scopes.

Assembly Bill 1524 analysis stated that the bill replaces the currently underutilized and costly clinical and written examination administered by the Board with an assessment of student competency etc. Ms. Lee stated that the purpose of speaking to this topic is due to the impact, ramifications and consequences of past Board decisions by their stakeholders. She stated that DHCC members will be faced with making similar decisions. For instance: WREB, CRDTS and other licensing issues they could learn about from the board’s past activities.

The Dental Board had posted information on its website regarding the possible compromise of the DHCC’s law and ethics examination.

Ms. Lee referred to the second section of her report containing the actual DHCC activities update presented at the May Dental Board meeting as informational only.

Ms. Lee moved on to the third section of her report regarding the continuance of the DHCC updates at the Dental Board’s meetings. She has presented the committee with written

arguments in her memorandum for and against continuance of updates at Dental Board meetings. Ms. Lee asked if there were any remarks.

Ms. Lee directed the committee to agenda item number two (Addendum to President's Report). She said that there were two items before the committee and she was now addressing the first (Continuance of DHCC Activities Updates at Dental Board Meetings). She asked the committee if it wished the continuance of the updates at Dental Board meetings. Ms. DeLaRoi stated that she likes being informed and hearing about what the Dental Board has been deliberating and what their concerns are. Legal counsel advised the committee to consider whether it wished to continue the policy of sending an individual to the Dental Board meetings and reporting back to the committee. Ms. Hurlbutt stated that she objected to participating in the Dental Board meetings and reporting DHCC activities unless specifically asked by the Dental Board to do so. Ms. Hurlbutt stated that she had no objections to attending Dental Board meetings.

Ms. Lee tabled the discussion until the next committee meeting.

### **AGENDA ITEM 3 – EXECUTIVE OFFICER'S REPORT**

Ms. Hubble reported that the committee recently hired two new employees; Dennis Patzer is an enforcement analyst and Tom Jurach is an administrative assistant. Currently, the committee has no backlog in any of its work. The committee website has been updated to include a feature called "Join Our Email List." Joining the list will allow dissemination of agendas and other electronically-generated documentation. The committee website has been updated with the posting of a "Customer Satisfaction Survey." The survey will be used as a tool for the committee to provide customer satisfaction for its clients.

### **AGENDA ITEM 4 – APPROVAL OF MARCH 22, 2010 MEETING MINUTES**

Ms. Lee pointed out that on page 5 in the first full paragraph and page 7 in the third paragraph there were a few grammatical errors that staff needed to address.

Ms. Hurlbutt asked if the minutes reflected an adjournment time and legal counsel stated that the DHCC had emailed an additional page for the minutes (page 8) that reflected an adjournment time of 5:40 P.M. Ms. Hurlbutt stated she had not received the email of page 8.

Ms. Lee stated that the emailed page 8 included items 18 (Closed Session), 19 (Future Agenda Items), 20 (Public Comments) and 21 (Adjournment). Mr. Wong stated he had received the minutes and concurred. Mr. Calero stated he had received the minutes and concurred.

Ms. Hubble stated that meeting materials, including the minutes, are now posted on the committee website. It was m/s/c (Ms.DiFrancesco/Ms.DeLaRoi) to accept March 22, 2010 minutes with the necessary grammatical changes.

### **AGENDA ITEM 5 – PROPOSED AMENDMENTS AND RESPONSE TO COMMENTS RECEIVED AT APRIL 26, 2010, HEARING REGARDING PROPOSED REGULATIONS REGARDING RETROACTIVE FINGERPRINTING**

Ms. Hubble stated that on April 26, 2006, the hearing regarding fingerprinting was held and one of the comments received was that the threshold should be increased from \$300.00 to \$1,000.00 for traffic infractions as most traffic infractions are well over \$300.00. Ms. Lee stated that a motion was needed to adopt the final text as noticed or make changes to the text in regards to the comment received. It was m/s/c (Ms. Hurlbutt/Ms. Chen Fujisawa) that the text be changed to raise the threshold from \$300.00 to \$1,000 for traffic infractions. There were no public comments.

Ms. Hurlbutt added that in the proposed language in paragraph (d) reference was made to the "Board" when it should read "Committee."

#### **AGENDA ITEM 6 – PROPOSED DENTAL BOARD OF CALIFORNIA REGULATIONS – CALIFORNIA CODE OF REGULATIONS §1005 – INFECTION CONTROL**

Ms. Hubble stated at the March 22, 2010 meeting two committee members were selected to review the infection control guidelines and provide the document to the committee to accept and forward to the Dental Board so the committee could reach a consensus with the board. The two committee members assigned to the review were Ms. DeLaRoi and Ms. DiFrancesco who did a tremendous amount of work. Ms. Hubble stated that the revisions were now before the committee.

Ms. DeLaRoi gave a brief overview regarding the thought processes behind changes to infection control regulations and proposed revisions to Title 16, California Code of Regulations §1005 (Infection Control). She spoke of the combined effort between the DHCC Infection Control Ad Hoc Subcommittee and professional advisement from the California Dental Hygienist Association (CDHA) and California Association of Dental Assistant Teachers (CADAT). She extended thanks to the parties offered input regarding proposed changes.

She stated that the proposed revisions are based on Center for Disease Control (CDC) guidelines and currently enforced California-Division of Occupational Safety and Health (Cal-DOSH) regulations. She said the goal was to incorporate updated terminology which supports infection control related standards and universal precautions.

Ms. DeLaRoi proposed three ways that the committee may proceed; (1) that the committee consider accepting the proposed changes in their entirety; (2) entertain proposed changes; or (3) cover the proposed changes page by page.

Ms. Hurlbutt asked if the committee was going to consider all changes proposed by the inputting parties on the document. Ms. DeLaRoi said yes. Ms. Lee said she had three changes to recommend. Mr. Calero said he had changes to recommend.

Ms. DeLaRoi stated that Mr. DeCuir had asked for clarification regarding editing proposed changes. Ms. DeLaRoi used subparagraph (b) as an example and explained that where it indicated that "Licensees" was replaced with DHCP it would show a strikeout of "Licensees" and show a double underline for "DHCP."

Mr. DeCuir stated that during a review of the proposed language the Dental Board was unable to clearly understand the proposed changes because revision protocols were not followed for editing text language.

Ms. DeLaRoi explained that the document used color highlights to show proposed revisions. She said the different colors delineated the proposed changes by contributing parties. She further stated that the document had gone through many revisions from the participants during meetings and it was found that color coding was the easiest method to determine what party proposed the changes. Legal counsel rebutted that while color coding might be important from a policy standpoint, from a legal perspective underlining and strikeouts for editing purposes is required. Counsel said when the committee members vote it would be on the ~~strikeout~~ and underlined text.

Ms. Lee suggested that because there was rationale overlap in the document they should make concise combined rationales of the different entities for further clarity.

Legal counsel stated that if the language was adopted, the Dental Board would do an initial statement of reasons and it would be up to the Dental Board to provide that rationale. Counsel said all of the rationale should be included and it could be in a separate document to assist the Dental Board when it drafts the regulation.

Ms. Lee directed the committee to page (11), sub paragraph (14) of the document regarding ~~strikeout~~ of “used intraorally.” She recommended including the rationale that chair-side adjustments for removable prosthesis often include extra oral use and therefore the word or term intraorally should be removed.

She then directed the committee to page (13), regarding the DHCC Rationale for sub paragraph (23) section (d) she recommended adding “at minimum all regulatory changes require 1.5 years to promulgate.” Legal counsel stated that 1.5 years is not required and followed stating that regulatory changes take 1.5 years on average could be acknowledged in the rationale.

Ms. DeLaRoi stated that at no time were any of the ~~strikeouts~~ changed and most of the input was added to the documentation the Dental Board gave them.

Legal counsel commented regarding the section that required consensus between the Dental Board and Dental Hygiene Committee stating that in her opinion consensus meant that both the Dental Board and the Dental Hygiene Committee can live with those changes. Counsel stated that it does not mean complete agreement; it’s a matter of what both parties can live with.

Mr. Calero directed the committee to page (2), paragraph (3) of the document regarding the verbiage “or other potentially infectious materials (OPIM).” He asked if it was the intention that other infectious materials be referred to as “OPIM.” Ms. DeLaRoi stated that the assumption was correct.

Mr. Calero said that his first recommended change was on page (2), paragraph (4), to delete the verbiage “other infectious potentially materials” and leave “OPIM.” Mr. Calero then directed the committee to page (3), paragraph (10) and recommended that the verbiage “and other potentially infectious materials (OPIM)” be changed to “OPIM.” “OPIM” should be used where “other potentially infectious materials” is used throughout the document. He said that “other potentially infectious materials” was used throughout the document instead of “OPIM.”

Legal counsel stated that the first time clarifying verbiage is used the acronym should also be included and then used consistently throughout the document.

Mr. Calero directed the committee to page (5), paragraph (13) after the verbiage in quotations “Dental Healthcare Professionals” the acronym “(DHCP)” should be inserted.

Legal counsel stated that the verbiage on page (5), paragraph (13) referring to the Centers for Disease Control (CDC) is not necessary as the definition of Dental Healthcare Professionals will be that of the Dental Hygiene Committee and could be different than that of the CDC. Counsel recommended the following changes to the paragraph:

(13) “Dental Healthcare professionals (DHCP) , as defined by the Centers for Disease Control(CDC) are as” are paid and non-paid personnel in the dental health care setting who might be occupationally exposed to infectious materials, including body substances and contaminated supplies, equipment, environmental surfaces, water, or air, DHCP includes dentists, dental hygienists, dental assistants, dental laboratory technicians (in-office and commercial), students and trainees, contractual personnel, and other persons not directly involved in patient care but potentially exposed to infectious agents (e.g., administrative, clerical, housekeeping, maintenance, or volunteer personnel).

Mr. Calero stated that acronyms should be placed in the proper places throughout the document.

Ms. Gagliardi of CADAT stated she wanted to thank the committee for allowing inclusion of some of the language that CADAT provided and to speak in support of the proposed changes. Ms. DeLaRoi thanked Ms. Gagliardi for her hard work.

Ms. Lee stated that a motion was needed to accept the document with the changes as discussed.

Ms. DeLaRoi stated that she wanted to inform the committee that their intention with the document was to make everything as clear as possible as to where our input was given. They were not familiar with the policy and the recordings but the intention is the protection of the consumer and they are hopeful that they did that with the document.

She then moved that the committee accept the document as presented in the board packet with the strikeout and underline, strikeout being language that would be deleted from the current regulation and underling language that would be added to the current regulation and that the proposed cleanup language that was discussed today be made and the document be forwarded

to the Dental Board of California as the committee's comment on their regulatory process. The motion was seconded by Ms. Fujisawa.

Ms. Lee asked if there was any discussion and Ms. Callaghan, Dental Hygiene Program Director of the Western Career College, Sacramento Campus directed the committee to page (6), paragraph (4) regarding Personal Protective Equipment (PPE) in the last sentence. She stated that perhaps the term and/or should be added to the sentence regarding face shields and protective eyewear.

Ms. Lee asked for comments and legal counsel stated that from a legal perspective the term "and/or" is problematic. There was discussion regarding the appropriate use of the term "and/or" in the paragraph in relation to the use of face shields and protective eyewear. Legal counsel recommended that the first sentence of the paragraph be modified to state:

"All Healthcare personnel workers DHCP shall wear surgical facemasks in combination with either chin length plastic face shields or protective eyewear whenever there is potential for aerosol spray, splashing or spattering of the following: droplet nuclei, blood, chemical or germicidal agents or OPIM."

Ms. Lee asked if there were any comments from the committee members and legal counsel stated what was now needed was an amendment to the motion at hand to include the changing of the language. Ms. DeLaRoi moved to amend the motion and Ms. Fujisawa seconded the motion.

Ms. Moody stated that there was an inconsistency regarding face shields and protective eyewear in the paragraph. The first sentence the term was "face shields or protective eyewear," and in the last sentence the term was "face shields and protective eyewear."

Legal counsel stated that the first sentence needed to be consistent with the second sentence and Ms. DeLaRoi stated that she would recommend that in the second sentence the term be changed to "face shields or protective eyewear." Discussion regarding all protective equipment in the paragraph followed.

Ms. DeLaRoi moved to amend the motion to change language in the text to read "After each patient all protective equipment shall be cleaned and disinfected." Ms. Fujisawa seconded the motion.

Ms. Hurlbutt stated protective equipment is still not clean if it is disposed of. She stated that she throws away some equipment after use and was not in favor to the term "shall be cleaned and disinfected. In her opinion, the verbiage should be left the way it was and she would be in favor of the verbiage "cleaned and disinfected or disposed of."

Ms. DeLaRoi stated that manufacturer requirements should be taken into consideration in regards to verbiage.

Legal counsel, advised that all hygienists need to know after each patient what to do with their face shields and protective eyewear.

DeLaRoi, inquired if the language could state that all PPE shall be cleaned and disinfected or disposed of if necessary?

Legal counsel, advised against the use of the word “necessary” as it would have to be defined.

Ms. Hurlbutt stated that there were people at her location that like to comment.

Ms. Gagliardi, stated she would like the verbiage be “be cleaned disinfected or disposed of.”

Legal counsel stated that there was a motion on the floor.

Ms. Fugisawa stated the Ms. Gagliardi’s verbiage would cover all concerns and agreed to amend the motion and Ms. DeLaRoi seconded the motion to amend as follows:

“(4) All DHCP shall wear surgical facemasks in combination with either chin length plastic face shields or protective eyewear whenever there is potential for aerosol spray, splashing or spattering of the following: droplet nuclei, blood, chemical or germicidal agents or OPIM. Puncture-resistant utility gloves and other PPE shall be worn when handling hazardous chemicals. After each patient treatment, masks shall be changed and disposed. After each patient treatment, face shields or protective eyewear shall be cleaned, disinfected or disposed.”

Ms. Lee, asked the committee if there were any comments. Hearing none she asked if there were any public comments. Hearing none, Ms. Lee conducted a roll call vote and the results were as follows:

Mr. Calero – abstained

Ms. Fugisawa – aye

Ms. DeLaRoi – aye

Ms. DiFrancesco – aye

Ms. Hurlbutt – aye

Mr. Wong – aye

Ms. Lee declared the motion carried.

Mr. DeCuir asked when the subcommittee of the Dental Board might be able to get a copy of the language so they could start prepping it for the Dental Board’s July 2010 meeting and legal counsel stated that a strikeout and underline version would be provided the next week.

## **AGENDA ITEM 7 – TEMPORARY SUSPENSION OF REGISTERED DENTAL HYGIENIST (RDH) LAW AND ETHICS WRITTEN EXAMINATION**



Ms. Hubble reported that in late April 2010, the DHCC was notified of a breach in the Dental Hygienist's Law and Ethics Examination. The examination was immediately taken down. Ms. Hubble reported that at the time of notification the DHCC was in the process of developing a new Law and Ethics examination.

Ms. Hubble reported that she had recently met with the Office of Professional Examination Services (OPES) and they had expedited the process and it is expected that the new examination will be launched between July 1, and 5, 2010. She said that as soon as the DHCC gets the official date it will be posted on the website.

Ms. Hubble publically commended all the subject matter experts worked additional hours when needed and helped put the examination together and that there is an ongoing investigation into the examination breach and she would be unable to address the committee or public's concerns regarding the matter.

#### **AGENDA ITEM 8 – PROPOSED CHANGES TO DHCC DISCIPLINARY GUIDELINES**

Ms. Hubble reported that on April 30, 2010, legal counsel and the enforcement subcommittee met to review the disciplinary guidelines. She stated that there is still some work that needs to be done and it is expected that at the next DHCC meeting a completed version of the guidelines will be presented for perusal, modification (if necessary) and acceptance.

#### **AGENDA ITEM 9 – CONSUMER PROTECTION ENFORCEMENT INITIATIVE (CPEI) – CONSIDERATION OF REGULATORY AMENDMENTS FOR DISCIPLINARY MATTERS AND TO DEFINE ADDITIONAL BASES OF UNPROFESSIONAL CONDUCT (PROVISIONS CONTAINED IN SB1111)**

Ms. Hubble reported that a summary was provided in the agenda package and introduced Kim Kirchmeyer from the Department of Consumer Affairs executive office to speak to the issue.

Ms. Kirchmeyer gave an update on the department's CPEI and reported that the CEPI was a three pronged approach; (1) Administrative Improvements; (2) Resource and Information Technology Improvements; and (3) Legislative changes.

Ms. Kirchmeyer stated that the administrative improvements are moving along and there have been an enforcement academies going on. She said that statistics are being gathered from all the boards for the Deputy Director of Enforcement Compliance and also that a budget change proposal for BreEze (formerly known as the iLicensing Project) was approved by the Senate and the Assembly Budget Committee. She said that the whole budget change proposal had been approved on June 8, 2010.

Ms. Kirchmeyer stated that regarding the legislative prong Senate Bill 1111 (SB 1111) did not go through. She said legal counsel was directed to look at the bill and determine how many of its proposals could be adopted through regulation without the need for a statute. Ms. Kirchmeyer said that legal counsel looked at the nine items contained in the meeting package and determined that they could be implemented through regulation rather than through statute.

Ms. Kirchmeyer stated that the department would like the DHCC to at the next committee meeting bring language forward for inclusion in regulation in a regulatory package regarding the nine items addressed by the department's legal counsel.

#### **AGENDA ITEM 10 – REPORT ON OBSERVATION OF WESTERN REGIONAL EXAMINATION FOR RDHs**

Ms. Lee stated that due to the significance of Western Regional Examination Board (WREB) and other pathways that will be looked at in the future, Ms. Hubble and Ms. Lee had prepared information in the agenda package regarding items that will be addressed by the DHCC at forthcoming meetings. Ms. Lee stated that the Dental Board statutes regarding WREB are different than those the DHCC currently has. She stated the DHCC currently does not have a process of reviewing WREB's examination process and that review should be looked at in the future.

Ms. Hurlbutt stated that the sub-committee on licensing should take a hard look at the process of review.

Ms. Lee added that WREB is scheduled to give a presentation at the next DHCC meeting.

Ms. Hurlbutt stated it would be important to the committee members to ask questions ensuring the WREB examination is similar to that of the California Clinical Board. One of problems that could occur if the committee finds the clinical examinations vastly different than the WREB examinations is that it could pose a problem having two different standards in clinical examinations.

Legal counsel stated that it was fine to have committee members or committee staff observe the WREB. Until a psychometrically sound comparison is completed, determination of the WREB examination being comparable to the DHCC examination cannot be determined. She recommended that the committee take the information from the survey and ask questions of the WREB representatives and then the committee can make a decision if it wants to ask the Office of Professional Examination Services whether or not they can conduct a comparison. Counsel stated that the committee should always be looking at its examinations.

Ms. Lee asked legal counsel questions cited in the WREB report on page 7 in the meeting package and legal counsel stated the questions except number 3 (regarding multiple DHCC exam failure and eligibility for the WREB exam) could be addressed through regulation or statute.

Ms. DeLaRoi questioned how many times an applicant can take the examination because WREB only allowed three times. Legal counsel stated that the current regulations do not limit the times an applicant can take the examination.

Ms. Hurlbutt stated that she would like to discuss with WREB is if their remedial education is similar to that of the Dental Board.

Ms. Moody stated that there is no place to obtain remedial education to which  
Ms. Hurlbutt stated that there are at least two programs that provide remedial education.

#### **AGENDA ITEM 11 – FUTURE AGENDA ITEMS**

There were no future agenda items.

#### **AGENDA ITEM 12 – PUBLIC COMMENT**

Ms. Deborah Horlak Program Director, University of the Pacific, asked about people who have taken the WREB years ago; Will they be able to be licensed in California now or will they have to take the WREB in 2010?

Legal counsel clarified, given the way the law is written, there is no limitation on when the WREB was taken. Counsel stated that limiting the time between examinations would require a statutory change.

Ms. DeLaRoi asked if the legislature first passed and then the Dental Board addressed conducting a review of the WREB.

Legal counsel stated that the legislature passed the bill that directed the Dental Board to conduct a comparison of its examination with WREB and that report came back that they were comparable. Counsel stated that the Dental Board accepted that the examinations were comparable and emergency regulations were adopted to accept WREB applicants.

Ms. Lee stated that at the July 28, 2010 committee meeting it was tentatively planned that DHCC would discuss WREB membership for the committee.

#### **AGENDA ITEM 13 – CLOSED SESSION**

The committee met in closed session to deliberate on disciplinary matters pursuant to Government Code section 11126(c)(3).

#### **AGENDA ITEM 14 – RECONVENE TO OPEN SESSION**

The committee reconvened.

#### **AGENDA ITEM 15 – ADJOURNMENT**

The DHCC meeting adjourned at 4:20 P.M.