



**Dental Hygiene Committee of California**  
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## **DENTAL HYGIENE FULL COMMITTEE MEETING MINUTES**

**Embassy Suites – San Diego Bay Downtown  
Topeka Room  
601 Pacific Highway  
San Diego, CA 92101  
Tuesday, April 17, 2012**

**Roll Call** – The Dental Hygiene Committee of California (Committee) President called the meeting to order with roll call at 9:10 a.m. With six committee members present, a quorum was established.

Committee members present:

Alex Calero, Public Member  
Cathy DiFrancesco, Registered Dental Hygienist (RDH)  
Michelle Hurlbutt, RDH Educator  
William Langstaff, Doctor of Dental Surgery (DDS)  
Evangeline Ward, RDH  
Andrew Wong, Public Member

Committee members absent:

Rita Chen Fujisawa, Public Member

Staff present:

Lori Hubble, Executive Officer (EO)  
Anthony Lum, Administration Analyst  
Traci Napper, Legislation and Regulatory Analyst

Claire Yazigi, Department of Consumer Affairs' (DCA) legal representative

Public present:

Katie Dawson, California Dental Hygienist Association (CDHA)  
JoAnne Galliano, CDHA  
Vickie Kimbrough-Walls, Southwestern College, California Dental Hygiene Educator's Association (CDHEA)  
Kim Laudenslager, Director of Dental Hygiene Examinations, Central Regional Dental Testing Service (CRDTS)  
Bill Lewis, California Dental Association (CDA).

President's Announcement –

Mr. Calero announced that there will be opportunities throughout the meeting for the public to comment on the agenda items and that the public participants only need to identify themselves on a voluntary basis.

**FULL 1 – Public Comment for Items Not on the Agenda**

Bill Lewis of CDA invited Committee members, staff, and the public to participate in the CDA's Cares events, which are free clinics for those who are in need of dental services. He indicated that the first event is May 18-19, 2012 in Modesto, and the second is in Sacramento on August 24-25, 2012. He stated that these events not only provide dental specific services to those in need, but also educate the individuals receiving care and to focus attention on the dental need that is present in the communities across the state.

**FULL 2 – Approval of December 13, 2011 Minutes**

Mr. Calero asked for a motion to approve the December 13, 2011 Committee Meeting minutes.

- **William Langstaff moved to approve the December 13, 2011 Committee Meeting Minutes.**

**Cathy DiFrancesco seconded the motion.**

Mr. Calero asked for any comments from the Committee members or the public. There was no comment.

**Vote: The motion passed 5 – 0 – 1 (Evangeline Ward abstained as she was not a member at the time of the December 2011 meeting).**

**FULL 3 – President's Report**

Mr. Calero welcomed Evangeline Ward, RDH as the newest Committee member and looked forward to working with her. He also welcomed the new Committee staff that were recently hired, and indicated that this issue would be reported upon by the Executive Officer.

Mr. Calero reported that on February 24, 2012, he attended the Dental Board of California's meeting and provided a brief update to the Board on behalf of the Committee. He stated that their members were very interested in the current issues the Committee is addressing. He indicated that he plans to attend future Board meetings so that he can respond to any questions or concerns the Board members may have.

Mr. Calero asked for any public comment in regard to his President's Report. Katie Dawson of CDHA thanked Mr. Calero for representing the Committee at the February 2012 Dental Board meeting, and suggested that Mr. Calero influence the Dental Board members to attend the Committee meetings. She stated that the Committee has an agenda item for each of their meetings and frequently presents the Dental Board with information about the dental hygiene profession. Mr. Calero concurred with Ms. Dawson's suggestion and said that in his update to the Dental Board, he invited their members to come and participate in the Committee's meetings and would continue to invite them when he attends their meetings.

Mr. Calero asked for any additional public comment on his report. There was no further public comment.

#### **FULL 4 – Executive Officer’s Report**

Ms. Hubble thanked all of the Committee members for their timely completion of the ethics, and sexual harassment courses, and the Form 700, which is required to report any official gifts or conflict of interests.

Ms. Hubble reported that for the first time in many months, the Committee has hired additional staff to fill its vacant positions. She reported that Anthony Lum was hired in November 2011 for the Administration Analyst position, a retired annuitant, Richard Wallinder, was hired at the end of December 2011 for many program functions in the office, Nancy Gaytan was hired at the beginning of April 2012 to oversee the Enforcement Program, and Eleonor Steiner was also hired in April 2012 to fill the Examination Coordinator position. She indicated that staff is still working to fill the Committee’s receptionist/cashier position.

Ms. Hubble reported that she attended the February 2012 CDHA meeting, the February 2012 Dental Board meeting, and the student regional conferences in both northern and southern California in March 2012. She stated that the student regional conferences were the most beneficial event to convey information since she began her involvement with the Committee. She reported that the conferences provided the students the opportunity to ask questions and obtain answers, acknowledged a better and improved understanding of the application process, and clarified the convictions issue on the application.

Ms. Hubble reported that she attended the Senate Business, Professions and Economic Development Committee (BP&ED) hearing at the State Capitol on April 9, 2012 where they voted on Senate Bill (SB) 1202 – Leno. She stated that Mr. Lum completed many fiscal analysis of the bill, responded to multiple BP&ED staff questions, and was prepared to answer any questions the BP&ED presented, however the BP&ED did not have any questions for the Committee prior to their vote. She reported that the bill passed unanimously with no opposition.

Ms. Hubble reported that the new DCA computer system, BreEZe, is continuing its progression toward implementation and that Committee staffperson Tom Jurach is assisting the DCA BreEZe team three days a week at DCA headquarters. She stated that Mr. Jurach’s involvement in the new computer system will help with the transition and training of Committee staff when the new system is implemented in 2013.

Ms. Hubble reported that the state’s travel restrictions are still in place, so in order to conduct meetings, examinations, or other function that requires travel, she must first obtain an exemption from DCA. She stated that exemptions were obtained from DCA for Committee members to travel to exam sites in June and July 2012 so they could observe the examination administration process.

Ms. Hubble indicated that some individuals may have questions regarding the closure of The Institute of Medical Education’s (IME) dental hygiene program and deferred to DCA Legal Counsel, Claire Yazigi, to address the issue.

Ms. Yazigi provided an update on the IME and stated that the matter has been referred to the Attorney General’s Office (AG) and will return to the Committee in

the form of a hearing with an Administrative Law Judge (ALJ). She indicated that there is a high probability that the issue will come before the Committee in a formal administrative procedures act hearing that is similar to a disciplinary hearing, but the issue is whether the Committee wants to continue its approval or withdraw its approval of IME. She continued that in general, she should not discuss the issue further and would defer public comment on it due to the current ongoing investigation.

Ms. Hubble asked for any questions from the Committee or public on her report. Ms. DiFrancesco asked to expand on the difficulties of hiring new staff and the length of time involved to hire new staff. Ms. Hubble stated that due to the timing of the hiring freeze and staff leaving due to various reasons, the Committee was down to three fulltime staff and one retired annuitant part-time staff for 8 months. She stated that the existing staff went above and beyond what is normally asked of staff in order to maintain the Committee's program functions and hoped that externally, there was no indication that the understaffing was a problem. She continued that it was difficult to fill vacant positions, but since Mr. Lum was hired, he has been able to focus more time to hire staff. Ms. DiFrancesco thanked Ms. Hubble and her staff for maintaining the Committee's program functions through adversity until new staff could be hired.

Mr. Calero asked for any further comments on the agenda item. There were no further comments.

**FULL 5 – Update on Office of Statewide Health Planning and Development Virtual Dental Home Project and Health Workforce Pilot Project #172 – presentation by Paul Glassman, DDS, MA, MBA**

Dr. Glassman thanked the Committee for the opportunity to present his information on this pilot project. He stated that he would discuss some background information about the project and why it is needed, review some of the evidence base for many of the procedures that are used, and then conclude with by discussing the actual workforce project.

Dr. Glassman talked about underserved populations and indicated that from the Surgeon General's report from 2000, there is good healthcare for much of the population, but there is still profound healthcare disparities among certain populations a decade later. He stated that these populations primarily consist of ethnic and racial minorities, individuals with disabilities, and people with complicated medical and social conditions and with these populations growing, the disparity is growing. His information indicated that this segment of the population is up to 30%, which many individuals believe it is a conservative number. He stated that information he received indicated that over 24% of children in California have never been seen by a dentist.

Dr. Glassman stated that two reports were released last year that indicated a significant portion of the population were inadequately served by the current medical delivery system to provide oral healthcare and the consequences of insufficient access to healthcare causes poor oral health. He indicated that there were several programs reviewing methods to provide healthcare to the underserved sector of the population. He stated that one of the methods focused on chronic disease management which would use different techniques such as lifestyle changes than the acute care surgical techniques and would fit to use

against precarious and periodontal disease. He continued that a couple of other delivery services is via telehealth to have individuals communicate across vast distances and payment incentives to incentivize people into using chronic disease management and focusing on intervention and utilizing intervention techniques early on, and expanding the workforce to enable it to function is this type of system.

Dr. Glassman said that the current system of acute healthcare where an individual is injured and goes to a medical professional for assistance works in many scenarios, but for chronic situations, it does not work. He stated that acute surgical techniques will not work in these situations, but chronic disease management techniques would help manage these situations.

Dr. Glassman indicated that he was involved with a report that discussed oral health quality improvement in the area of accountability and found dramatic changes occurring in the general healthcare system. He stated that the major drivers of change in the delivery of the healthcare system are: out of control costs, variations in the way that healthcare is delivered, and large disparities in the results from the healthcare due to all of these factors. He continued that the result of the report is that dental care and healthcare in general, will become more accountable in the future.

Dr. Glassman stated that his information shows that there is a much greater growth percentage for dental hygienists than dentists according to the Bureau of Labor Statistics. He indicated that 38 states now have direct dental care access similar to California with the Registered Dental Hygienist in Alternative Practice (RDHAP) license and a recent study showed that RDHAPs are performing the tasks that the license was intended to do. He stated that these individuals are working in residential facilities, residences with the home-bound, skilled nursing facilities, schools, and other areas where the RDHAP provides oral healthcare. He continued that a higher percentage of the types of patients that RDHAPs are seeing in their practice are medically compromised patients, people with disabilities, and behaviorally challenged and mentally disabled patients. He stated that according to the study, the intent of the RDHAP license has been achieved. He added that a problem that exists is that there is a disconnect between the RDHAP and a dentist or any dentist that they are supposed to collaborate with for instances where the RDHAP can perform the dental hygiene services, but has to refer to the dentist for further oral healthcare.

Dr. Glassman talked about the virtual dental home project where a RDHAP can see patients in the locations previously discussed and enter digital health records including x-rays, charting, health history, and other information into a cloud-based electronic healthcare system located in a server specifically designed to maintain the records. He explained that by having the electronic patient records, a dentist who is not onsite can access the patient's health/dental record and decide on a method of treatment. He stated that a study was conducted and the findings show that an offsite dentist utilizing the electronic record system could make the same decision as if he was onsite performing an evaluation and utilizing the electronic record. He clarified that this applied to the same dentist on or offsite, as two separate dentists with the same information may come to different decisions or conclusions.

He indicated that if a dentist needed to be called for further treatment, he would have access to the electronic records onsite to determine the best procedure for the patient. He said that currently, there are nine sites that utilize the digital dental record for the virtual dental home project throughout California and two additional sites were recently approved.

Dr. Glassman next discussed the Health Workforce Pilot Project. He stated that the two duties being tested in the Health Workforce Pilot Project are 1) allied health personnel making decisions as to which radiograph photos to take to facilitate an initial oral evaluation by a dentist (which RDH and RDHAPs already make these decisions); and 2) allied health personnel (RDHAPs) placing interim therapeutic restorations. He stated that number one is an accepted practice by RDH and RDHAPs, but the duty that the project focuses on is number two. He provided an overview of some restoration techniques that are used in duty number two and indicated that this project will allow the expansion of these services into the underserved areas of the population in the state.

#### **FULL 6 – Budget Report: A) Expenditures, B) Revenue, and C) Fund Condition**

Mr. Lum stated that his report would provide a fiscal status for the Committee's budget as the report would review both expenditures and revenue. He reviewed the expenditure projection sheet that is used to project the Committee's expenditures through the fiscal year (FY). He explained that for ease of use, all of the documents that would be presented in the budget report could be viewed column by column to correspond to an individual issue or FY rather than attempting to decipher what all of the numbers and titles represent in the document. He explained that the first two columns show what was spent in the previous year, while the remaining columns reflect the Committee's current year budget allotment, the amount of the current year budget that has been spent to date, the projected amount that may be spent through the end of the FY, and the remaining balance in the Committee's yearly budget after all of the current year expenditures. He stated that he presented an in-depth overview of the document at the December 2011 meeting, but wanted to offer a quick review for the new Committee member (Evangeline Ward).

Mr. Lum asked whether there were any questions about the expenditure projection document. There were no questions or comments.

Mr. Lum indicated that at the December 2011 meeting, he was asked numerous questions about the Committee's revenue status and at that time, he had to defer any revenue information until the next meeting, as did not have the information readily available. He stated that he created a new revenue tracking document to show the amount of revenue the Committee received through its various fee categories and that he would update the revenue tracking document on a monthly basis so that the revenue can be tracked to identify any trends of increase or decrease in revenue categories. He explained that the primary revenue generating fees come from the license renewal fee and the registered dental hygiene examination fee.

Mr. Lum asked whether there were any questions about the revenue tracking document. There were no questions or comments.

Mr. Lum proceeded onto the next budget document that reflected the Committee's total annual revenue since it became a stand-alone program in FY 2009/10. He explained that the graph reflected the numerical information contained in the document listed above it. He stated that since FY 2009/10, the Committee's revenue has been decreasing due to a couple of factors. He explained that 1) the Western Regional Examination Board's (WREB) examination may have taken some of the Committee's examination candidates away and thus reduced the amount of exam revenue received, but it is too early to project that this reason has had a profound impact because normally there needs to be a three to five year data history in order to show a trend in decreasing revenue; and 2) the current economic climate has had an effect on many licensees who may be out of work and simply cannot afford to renew their license. He continued that for the current year, he projects that the yearly revenue will once again be lower than the preceding year, but since the current revenue totals are only through February 2012, it is too early to project a revenue decrease.

Mr. Lum asked whether there were any questions on the annual revenue document. Ms. Hurlbutt asked whether there was a projection for the current year's revenue. Mr. Lum stated that he anticipates the revenue to be close to the amount of revenue generated in the prior FY, but currently, it appears that by year's end, the revenue total may be a little less than the prior year. He added that there are a number of months left in the FY and variables such as more licensees renewing their license and more candidates applying for the Committee's dental hygiene examination can increase the amount of revenue received.

Mr. Lum stated that the next budget document was created due to the questions asked at the December 2011 meeting. He said it reflected the number of examination candidates paying for the Committee's examination, whether WREB has had an impact on the number of candidates applying for the Committee's exam, and the amount of revenue received by the Committee. He explained that in order to show a trend in the number of applicants taking the Committee's examination versus WREB, there would need to be three to five years of candidate statistics to show the trend unless there was a massive departure for applicants to choose the WREB exam over the Committee's exam. He anticipated that over the next three to five years, more information will be available to show the revenue effect of WREB or other dental hygiene exam that the Committee chooses to accept for licensure.

Mr. Wong asked the reason for the peaks and valleys in the amount of revenue and number of examination candidates listed for the Committee's dental hygiene examination. He was under the assumption that the numbers would be somewhat level, but the chart does not show it. Mr. Lum explained that the budget report he receives, called the CALSTARS Report, which reflects a program's revenue and expenditures, only shows the total amount of revenue received that was paid to the Committee. He referred back to the budget chart showing the examination candidates and stated that the chart's data shows the number of candidates that paid for the examination, not the actual number of individuals who took the exam. He used FY 2010/11 as an example where there was \$481,000 collected in examination fees, then divide this total by the application fee of \$525 and the result is 917 applicants paid for the exam (not the number of candidates that

actually took the exam). He explained that this section was included to have an idea of the number of individuals that paid for the examination only.

Mr. Lum stated that he researched the reason for the higher spike on the chart for FY 2008/09, but had a difficult time in finding any historical information from the time that the Committee was a part of the Committee on Dental Auxiliaries. He reasoned that the spike was partly caused by the increase in the application fee halfway through FY 2008/09. Ms. DiFrancesco inquired as to whether the spike in revenue could be caused by an increase in the number of dental hygiene school graduates. Mr. Lum stated that this could be a part of the reason as to why the revenue spiked in that FY, but difficult to discern, as the Committee does not know the number of graduates that paid for the exam.

Mr. Wong inquired as to what the baseline of revenue is for the Committee's hygiene examination. Mr. Lum stated that there would need to be additional years of data in order to determine what the Committee's baseline of revenue is from the hygiene exam as the two years that was available is not enough data to determine a consistent baseline. Mr. Wong asked what the reasons were for the exam candidates that do not pay to take the exam. Mr. Lum indicated that there are no exam candidates who have not paid for the exam as that is one of the qualifiers (payment of the exam fee) necessary in order to qualify for the exam. He clarified that the chart showing the exam revenue includes all of the individuals who have paid the exam fee to take it, but does not show the number of candidates who have actually taken the exam.

Mr. Wong had a subsequent question in regard to the first chart (budget expenditure projections) in the budget packet. He indicated that in comparison to the prior year, the current year's expenditures would increase by roughly \$120,000 and what would increase in expenditures is attributed to. Mr. Lum explained that part of the increase in expenditures is due to the increase in the number of staff to pay salary, wages, and benefits. He continued that another area of increased expenditures is the general cost of doing business as it increases each year and is more expensive to pay for items such as AG fees, dental school clinical examination sites, travel, etc.

Mr. Lum continued his report by reviewing the last budget document which was the fund condition. He explained that the fund condition is a tool that shows the Committee's fund reserve total and is used to show the actual expenditures of the past, the current status of the fund, and to project out into the future to ensure the fund's solvency or predict when it may be insolvent. He stated that the fund condition is not only utilized by the Committee, but by the DCA, the Department of Finance (DOF), and sections will be utilized in the Governor's budget, too. He indicated that the fund condition's columns show each fiscal year and that the first column listed the revenue and expenditure categories that affect the Committee's fund reserve. He stated that the reason for using the fund condition is to not only view the fund in its current state, but to forward project any future revenue and/or expenditures that may have an impact on the fund's solvency such as new program mandates, projects, additional staff, or possible increases in fees to raise revenue.

Mr. Lum stated that the current fund condition projects that the Committee's fund will be insolvent by FY 2016-17, but will have a low reserve by FY 2015-16. He



explained that there are many situations that can change the fund's condition of when it may go insolvent such as additional revenue or increased revenue sources, which would extend the time the fund remained solvent while an increase in expenditures by new program functions would decrease it without additional revenue.

Ms. Hurlbutt inquired as to whether the fund condition presented included the cost of the new DCA computer system, BreEZe, and could help justify the reason to have an increase in fees for additional revenue. Mr. Lum stated that the fund condition does include the expenses for the BreEZe system; however, the numbers presented in the fund condition are tentative, as the cost for the project may increase by the time the system is implemented in 2013. He agreed that the additional cost of the new BreEZe system could be utilized as part of a justification for an increase in fees for additional revenue. He explained that on the bottom of the fund condition, it lists the fund reserve balance for each FY and that the months in reserve represent a calculation that determines the number of months the Committee could continue its program functions without additional revenue.

Ms. DiFrancesco inquired as to whether there is any funding that is provided to the Committee to offset the cost of the DCA BreEZe computer system. Mr. Lum stated that currently, he is not aware of any additional funding that will be provided to the Committee for the cost of the BreEZe computer system. He explained that when the new computer system was proposed, DCA reviewed all of the affected program's budgets to ensure that each could afford the cost of the program.

Ms. DiFrancesco asked if the Committee's fund does get to the point of insolvency, is there a mechanism the Committee could utilize to request additional funding for this purpose. Mr. Lum stated that there are methods that the Committee could utilize to pay for the BreEZe system without having to request additional funding since an upgrade to the antiquated computer system is a part of business functions. He cited that the Committee has been very frugal on its expenditures and only spends when it is warranted, and as a result of the amount of reversion that is returned to the fund, it will help to maintain its solvency for a longer period. He added the lack of spending will help to offset the cost of some additional expenditure like the cost of the BreEZe computer system.

Mr. Wong expressed his concern in regard to the revenue tracking for the dental hygiene examination because he believed that it is a large portion of the revenue that the Committee receives each year. He thought that for budgetary reasons, the Committee needed to have a better understanding as to why there are such drastic fluctuations in the amount of revenue that is received for the exam. He indicated that it was unusual to have such drastic spikes in the amount of exam revenue the Committee received which makes it difficult to project an accurate baseline amount of revenue that the Committee could reliably receive. He suggested completing additional research on the revenue issue so that the Committee could anticipate the amount of revenue it would receive each year. Mr. Lum agreed with Mr. Wong's point, but reemphasized that with the Committee only having a two year history, it may need additional years of revenue data in order to complete an accurate analysis of the reasons for the spikes in revenue and establish a baseline of anticipated revenue. Mr. Wong suggested that for his clarification, a chart could be created to show the number of school graduates that are eligible to take the exam, the number of individuals that actually took the

exam, and the total number of individuals that paid for the exam so that he could visually compare the numbers to see if they are consistent or if there is a reason why an anomaly occurs with the goal to assist in creating a more precise Committee budget.

Mr. Calero asked whether there were any further questions from the Committee members or the public.

Kim Laudenslager stated that the Committee charges an exam fee that offsets the expenditure to administer the exam. She indicated that only California and Delaware administer their own dental hygiene exam and due to the extraordinary expense to administer an exam, most states have moved away from exam administration.

Vickie Kimbrough-Walls stated that the trend for programs she has been affiliated with have been utilizing WREB as the exam administrator mainly for the mobility factor available to graduates.

## **FULL 7 – Regulations Update, Review and Action as Necessary**

### **a) DHCC Uniform Standards Related to Substance Abuse**

Mr. Calero deferred to Ms. Hubble for an overview of the agenda item. Ms. Hubble explained that the regulatory request package for the Uniform Standards expired and did not progress through the regulatory process within the allotted timeframe due to new information presented from the DCA Legal Affairs Office (LAO) stating that programs shall use all of the uniform standards to be placed into their disciplinary guidelines. She indicated that Ms. Yazigi compared the content of the Committee's regulations to the uniform standards and identified some differences between the two.

Ms. Yazigi stated that because the regulation request had not been filed with the Office of Administrative Law (OAL) and in light of the DCA LAO information/opinion that was released, she completed an audit of what is stated in the Committee's Uniform Standards and how they diverge from the uniform standards of the Substance Abuse Coordination Committee (SACC).

Ms. Yazigi indicated that the Legislative legal counsel provided a legal opinion that discussed which entity had the legal authority to promulgate regulations on the 16 Uniform Standards. She stated that it discussed whether the 16 Uniform Standards were standing regulations or does the responsibility to adopt regulations belong to the healing arts boards and committees under the DCA. She indicated that the DCA LAO's opinion differed from the Legislative legal counsel's opinion in that it is the regulatory body that regulates the profession who should promulgate regulations for the discipline. She continued that for further clarification, the DCA solicited an opinion from the AG's Office and they opined that it is the board or committee's responsibility to promulgate the uniform standards as regulations. She stated that all three parties (Legislative legal counsel, AG's Office, and DCA LAO) concur that the programs cannot veer from the 16 uniform standards when addressing or disciplining their licensees, as they are set in statute [Business and Professions Code (BPC) Section 315]. She explained that all of the changes that address this issue in the meeting materials

are in red lettering, italics, and underlined where items from the SACC Uniform Standards were not included in the Committee's version of the Uniform Standards.

Mr. Calero reviewed the draft uniform standards related to substance abuse and disciplinary guidelines with the Committee explaining that the addendum had two separate parts – the uniform standards and the disciplinary guidelines, but for the meeting, they were combined into a single addendum. He stated that the new language added to the draft was in red so the Committee could clearly review the additional language. He indicated that both he and Ms. Hurlbutt had met as a two-person ad hoc committee to work on the disciplinary guidelines and uniform standards and requested the Committee to start the rulemaking process anew for the disciplinary guidelines and uniform standards.

Mr. Calero asked for a motion to adopt the draft uniform standards relating to substance abuse and disciplinary guidelines as included in the addendum.

- **Andrew Wong moved to adopt the draft uniform standards relating to substance abuse and disciplinary guidelines as included in the meeting packet addendum.**

**William Langstaff seconded the motion.**

Mr. Calero asked for any discussion from the Committee members on the motion to approve and proceed with the rulemaking process on the draft uniform standards relating to substance abuse and disciplinary guidelines that are included in the meeting materials addendum.

Ms. DiFrancesco asked that on page 9 and 10 of the addendum if Ms. Yazigi could clarify the red strikeouts from numbers 7, 8, 9, and 12. Ms. Yazigi indicated that she cannot comment on the language in black as it was already established and voted upon by the Committee prior to her receiving the document. She explained that the language in red is a part of the uniform standards.

Ms. Yazigi stated that uniform standard number 11 was not included in the original printing, but that the Committee should review it (page 20 of the SACC Uniform Standards). She explained that uniform standard number 11 is an informal process whereby a respondent may request the to return to work fulltime after they meet certain criteria (i.e., demonstrated sustained compliance with the recovery program, ability to practice safely as demonstrated from worksite evaluations, reports, and other information, negative drug screenings for at least six months, and two positive worksite evaluators reports).

Mr. Calero asked Ms. Yazigi whether she was recommending that the Committee's motion and the addendum be modified. Ms. Yazigi indicated that she is recommending that the Committee's motion and addendum be modified. She indicated that the addendum should be modified by copying uniform standard number 11 from the SACC Uniform Standards and placing it in the Committee's Uniform Standards at the bottom of page six where it would be the second to the last paragraph of the clinical diagnostic evaluation report. She stated that the changes in uniform standard 11 would be to replace the word "licensee" with "respondent," and to omit the word "omission."

Mr. Calero inquired whether the motion needed to be revised. Mr. Wong stated that he would accept a friendly amendment to his motion. This was seconded by Mr. Langstaff.

Mr. Calero asked for any comments from the Committee. Ms. Ward inquired that if a licensee has a substance abuse problem, would they also have a criminal probation issue as well. Ms. Yazigi indicated that the licensee could be on criminal probation at the same time they are enduring a substance abuse issue. She cited a Driving Under the Influence (DUI), domestic abuse, or other criminal offense could be concurrent with the licensee's substance abuse issue.

Mr. Calero asked for any further comments from the Committee members or the public. There was no further comment.

**Vote: The motion passed unanimously (6-0).**

Mr. Calero indicated that there was an additional item to be presented to the Committee regarding the uniform standards and disciplinary guidelines. He deferred to Ms. Yazigi to address the issue.

Ms. Yazigi indicated earlier that there was a difference in legal opinions about the uniform standards, but both of the legal offices (Legislative and DCA LAO) are in agreement that every DCA board and committee shall utilize the uniform standards as they relate to a substance abusing licensee; however, there remains a question as to how a board or committee will define a substance abusing licensee, or at a minimum, how the 16 uniform standards will be used. She stated that upon review of the Committee's regulatory language [California Code of Regulations (CCR) section 1138] the paragraph containing the language will be in the actual regulation and will incorporate the uniform standards and disciplinary guidelines by reference as there is too much written content to place it in the regulation. She indicated that there are two parts to the disciplinary guidelines and the first is the uniform standards that shall apply in the case of a substance abusing licensee. She continued that the second part is the disciplinary guidelines that the Committee uses for its discipline cases for all categories whether they are substance abusers or not. She explained that because of the mandate that the Committee shall use the 16 uniform standards, the Committee or an Administrative Law Judge (ALJ) cannot deviate from the standards even though there may be a deviation from the regular disciplinary guidelines.

Ms. Yazigi indicated that the disciplinary guidelines apply to all disciplinary matters. She stated that the uniform standards describe the consequences that apply to a substance abusing licensee. She said that the question remains as to how the Committee determines whether there is a substance abusing licensee. She indicated that after a thorough review of the prior meeting minutes on this issue, discussions with the Committee's prior legal counsel and ad hoc committee, it is her understanding that the Committee wants to capture any licensee with an underlying violation that deals with drugs or alcohol to be addressed by the uniform standards. She stated that one of the uniform standards is a clinical diagnostic evaluation where the individual is evaluated for substance abuse and the clinical evaluator makes the determination of substance abuse.

Ms. Yazigi requested direction from the Committee so she could draft clearer language because she believed that there is a clarity issue in determining whether a licensee is a substance abuser. She inquired as to whether the Committee wanted the substance abuse uniform standards to be contingent upon a clinical evaluator's findings or should any individual that violates the substance abuse determination automatically face the consequences of the uniform standards. She stated that she drafted two different options for the regulation depending upon the direction and clarification she received from the Committee.

Mr. Calero clarified that the first option is where a licensee is found to have underlying violations involving drugs or alcohol, even on a first time offense, all 16 uniform standards would apply and the licensee would be subject to its consequences. He continued that option two would allow all 16 uniform standards to apply on a temporary basis contingent upon a clinical diagnostic evaluation. Ms. DiFrancesco asked if the clinical evaluator would be mandated to present the findings from the evaluation to the Committee because in the past, these types of reports were kept confidential. Mr. Langstaff also inquired as to who the clinical evaluator would be. Ms. Yazigi indicated that the clinical evaluator shall be a licensed practitioner who has clinical diagnostic evaluations as a part of their scope of practice meaning a nurse practitioner, psychiatrist, psychologist, or anyone with this definition in their scope of practice. Mr. Langstaff reiterated Ms. DiFrancesco's point regarding the confidentiality of the evaluation in that the evaluator uses confidentiality as a means to prohibit the Committee from reviewing the entire evaluation contents and not just the outcome. Ms. Yazigi indicated that in the section pertaining to the clinical evaluation report, the report will inform the Committee as to whether there is a substance abuse issue and a conclusion as to whether the licensee is a threat to him/herself and that the recommendation is based upon the evaluator's conclusion. She believed that the report contents will remain confidential, but may be made available to the Executive Officer which is a similar procedure for reports that are issued from a diversion program.

- **Michelle Hurlbutt moved to allow all 16 uniform standards to apply on a temporary basis contingent upon a clinical diagnostic evaluation and the clinical diagnostic evaluator's report shall be submitted in its entirety to the Committee.**

**William Langstaff seconded the motion.**

Ms. Hurlbutt believed that option two is a fair approach for any licensee subject to an underlying violation of substance abuse to be evaluated by an experienced licensed practitioner to determine a substance abuse diagnosis and relieves the Committee of the responsibility of defining substance abuse. She stated that the discussion should concentrate on the amendment of the regulation and whether the Committee's goal is to be widespread with option one or approve the motion for option two.

Mr. Calero asked for any further comments from the Committee members and the public.

Mr. Wong stated that he understood the procedure for a licensee found with a single DUI where the uniform standard would not apply, but inquired as to what

occurs for the licensee found to have two DUIs because he is unsure as to whether the licensee is a substance abuser simply by what the licensed evaluator determines. Mr. Calero stated that the Committee has the ability to subject the licensee with two DUIs to the uniform standards and is subject to a diagnostic clinical evaluation. He indicated that after the evaluation, the licensee may not be found to have a substance abuse issue but will still be subject to the uniform standards because the language reads:

*If a licensee has not been identified as a substance abusing licensee, for example through stipulation, in a case involving drugs or alcohol, a clinical diagnostic evaluation shall be ordered and the remaining provisions of the uniform standards may be made contingent upon the evaluator's report.*

Mr. Calero stated that if the Committee adopts option two and in the instance an ALJ determines that there are two DUIs and will subject the licensee to the remaining uniform standards (#s 2 – 16) despite the outcome of the diagnostic clinical evaluation, the case will then come before the Committee. He continued that the ALJ could indicate that the licensee with the two DUIs is not subject to the remaining uniform standards, but the Committee could reject the ALJ's decision and present its own decision making the licensee subject to the remaining uniform standards. Mr. Wong stated that he understands the intent of the language, but was not sure it will serve the purpose the Committee is targeting. Mr. Calero indicated that an additional sentence could be added to clarify the Committee's intent. Mr. Wong stated that possibly a sentence stating that "in the discretion of the Committee..." could be added for clarification. He added that it could be added to the sentence "may be contingent at the discretion of the Committee upon a clinical diagnostic evaluation report..." Ms. Yazigi indicated that disciplinary matters are always at the discretion of the Committee, but if that is the revision the Committee would like to add for clarification, it can be added to the language.

Mr. Calero asked Ms. Hurlbutt if the revision to her motion was acceptable. Both she and Mr. Langstaff who seconded the motion agreed to the revision. Mr. Langstaff requested to add the word "diagnostic" to clinical evaluation for clarity (on second line of option number two).

Ms. Hurlbutt read the revision as follows:

*If a licensee has not been identified as a substance abusing licensee, for example, through stipulation, in a case involving drugs or alcohol, a clinical diagnostic evaluation shall be ordered and the remaining provisions of the uniform standards may be made contingent at the discretion of the Committee (DHCC) upon a clinical diagnostic evaluator's report that the licensee has a substance abuse problem. The clinical diagnostic evaluation report shall be submitted in its entirety to the Committee.*

Mr. Calero asked for any comments from the Committee members and from the public. There was no comment from the members or the public.

**Vote: The motion passed unanimously (6 – 0).**

Mr. Calero stated that Committee staff and DCA legal counsel request to propose another motion to ensure that the Committee's intent is clear and to give staff

direction to proceed with the regulatory proposal. Ms. Hubble indicated that the proposal Committee staff and DCA legal counsel recommend is for the Committee to consider and possibly accept the proposed regulatory language relevant to the uniform standards related to substance abuse and disciplinary guidelines and direct staff to take all necessary steps to initiate the formal rulemaking process including noticing the proposed language for the 45-day public comment period, setting the language for public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package.

- **Cathy DiFrancesco moved to accept the proposed regulatory language relevant to the uniform standards related to substance abuse and disciplinary guidelines as amended and direct staff to take all necessary steps to initiate the formal rulemaking process including noticing the proposed language for the 45-day public comment period, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package.**

**William Langstaff seconded the motion.**

Mr. Calero asked for any comments from the Committee members and the public. There was no comment from the Committee members or the public.

**Vote: The motion passed unanimously (6 – 0).**

**b) Cite and Fine - §1139 – 1144, Title 16 CCR**

Mr. Calero deferred to Ms. Hubble to present the agenda item. Ms. Hubble indicated that the Citation and Fine regulatory proposal expired on February 4, 2012, but staff was able to obtain a 90 day extension to file the proposal with OAL. She stated that the package is currently at the Department of Finance (DOF) for their review and once they are done, the package will be returned to the Committee where staff will take it to OAL to initiate their review.

Mr. Calero asked whether there were any questions or comments from the Committee members about the Citation and Fine regulatory proposal.

Mr. Langstaff inquired as to how long the extension was valid. Ms. Hubble indicated that the extension to file with OAL is valid until May 1, 2012. She stated that staff is monitoring the status of DOF's review to ensure that there is adequate time to have it forwarded to OAL for their review prior to the extension's expiration date.

Mr. Calero asked for any further comment from the Committee members or the public. There was no further comment.

**FULL 8 – Proposed Regulatory Language for Sponsored Free Health Care Clinics - §1149 – 1153, Title 16 CCR**

Mr. Calero stated that the Committee had previously reviewed and approved the regulatory language contained in the proposal; however, in light of some recent developments, staff revised some language as a result of these developments and will be presenting the language changes to the Committee for approval. He deferred to Traci Napper to present the agenda item.

Ms. Napper stated that the Committee did review and approve the regulatory language at its December 2011 meeting and had a regulatory hearing on January 6, 2012 for public comment, but no public comment was received. She indicated that in the interim, the DCA LAO determined that a standardized form must be used to register a participating sponsoring entity under BPC section 901. She stated that the form was revised with edits that authorized the DCA to review the Committee's applications and entity bills and was attached in the packet for the Committee's review.

Mr. Calero clarified that the staff is asking the Committee to: 1) review and approve the new DCA Sponsoring entity form to replace the Committee's Sponsoring entity form due to the decision that was made by the DCA's LAO to use DCA's standardized form, and 2) approve a resolution authorizing the DCA to process the forms since the Committee will not be processing the forms. He stated that there is draft language for the Committee to adopt that is in the meeting packet addendum.

Mr. Calero asked for a motion to approve staff's recommendations and then the agenda item would be open for discussion. Ms. Hurlbutt inquired as to whether the Committee needed to act with regard to non-substantive changes in the regulatory language since the Committee usually accepts motions that have the Executive Officer responsible for any non-substantive changes to a regulatory proposal. Ms. Hubble stated that a motion and vote is needed because of the language that changes the use of the Committee's form to a DCA standardized form. She indicated that the issue arose because several regulatory proposals were denied by OAL due to their lack of clarity in using several versions of registration forms by different boards that were not uniform and could be confusing to the registering entity. She continued that this was the primary reason that the decision was made to use a single standardized form to register the participating entities for the events.

- **Cathy DiFrancesco moved to adopt the regulatory language with amendments and direct staff to take all necessary steps to complete the rulemaking process including preparing the modified text for a 15-day comment period which includes the amendments accepted by the Committee at the meeting. If after the 15-day 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 the proposed amendments to CCR Title 16, §1149 – 1153, as noticed in the proposed text.**

**Andrew Wong seconded the motion.**

Mr. Calero asked for any comments from the Committee members or the public. There was no comment.

**Vote: The motion passed unanimously (6 – 0).**

Mr. Calero indicated that there is a second proposed action item requested from staff for the Committee to consider and asked for a motion on the second action.



- **William Langstaff moved to adopt the enclosed resolution and formally delegate authority to the DCA to receive and process sponsored entity registration forms for events that utilize the services of dental hygienists and direct staff to add the adopted resolution to the rulemaking file.**

**Cathy DiFrancesco seconded the motion.**

Mr. Calero asked for any comment from the Committee members or the public. There was no comment from the members or the public.

**Vote: The motion passed unanimously (6 – 0).**

#### **FULL 9 – Enforcement Subcommittee Report**

Mr. Calero reported that the Enforcement Subcommittee Chair, Rita Chen Fujisawa, was not present for the subcommittee meeting and in her absence, Mr. Calero presided over the meeting. Mr. Calero reported that a quorum was established and received public comment on possible future agenda items, approved the December 12, 2011 subcommittee meeting minutes, and reviewed the Committee's Enforcement statistics and the DCA enforcement measures. He reported that the enforcement statistics reflect that the Committee's enforcement staff are working within the established guidelines and meeting all of the set goals and thanked them for their hard work. He then submitted the Enforcement Subcommittee's Report to the Full Committee for review.

Mr. Calero asked for a motion to approve the Enforcement Subcommittee's Report.

- **Andrew Wong moved to approve the Enforcement Subcommittee's Report.**

**Cathy DiFrancesco seconded the motion.**

Mr. Calero asked for any comments from the Committee members or the public. There were no comments.

**The motion passed unanimously (6 – 0).**

#### **FULL 10 – Legislation and Regulation Subcommittee Report**

Mr. Calero stated that Mr. Langstaff wanted to make a statement in regard to SB 694 (Padilla).

Mr. Langstaff stated that in regard to SB 694, he has been involved with the bill for a couple of years and has met with Senator Padilla's staff twice and was included in the stakeholders' meeting with the Senator and other stakeholders. He stated that in January 2012, he testified before the California Senate Health Committee in regard to the bill. He indicated that his involvement with the bill has been as a representative of the California Academy of General Dentistry only and not as a Committee member. He continued that he always has public safety in mind while participating in the activities which is consistent with the Committee's mandate. He announced that he would recuse himself from any of the Committee's

discussion on SB 694 or any discussion including the term “mid-level provider” because of his aforementioned involvement with the bill.

Ms. Hurlbutt stated that the Legislation and Regulation Subcommittee met on Monday, April 16, 2012 where the subcommittee accepted public comment for items not on the meeting agenda, approved the December 12, 2011 subcommittee meeting minutes, presented a brief Chairperson’s report, and staff provided a statutory update and a table that informed of the statute changes that the subcommittee had previously approved. She reported that the subcommittee discussed and acted upon the following legislation:

- Assembly Bill 1588 (Atkins), the subcommittee recommends a watch position;
- SB 694 (Padilla), Mr. Langstaff recused himself and the subcommittee recommends a watch position;
- SB 1575 (Senate Business, Professions & Economic Development Committee), the subcommittee took no action on the bill;
- SB 1202 (Leno), the subcommittee deliberated and supported several amendments to the bill and reviewed them with the Full Committee. She stated that the amendments are indicated by strikeouts and bold lettering in the copy of the bill provided for the Full Committee’s review.

Ms. Hurlbutt requested Ms. Galliano to address the new language that the subcommittee agreed upon in concept to be presented to the bill’s author, Senator Mark Leno. Ms. Galliano stated that it is unknown whether Senator Leno will accept the new language pertaining to the Commission on Dental Accreditation (CODA) to be placed in the bill, but asked for the Full Committee’s support in concept for the new language. She indicated that in light of the recent occurrence in California on the approval of a school provisionally accredited by CODA, the statutory language needed to be strengthened to allow the Committee the oversight necessary to protect the public and consumers who are enrolling in the dental hygiene programs. She continued that consumers are allowed to enroll in CODA’s provisionally approved programs, but cannot graduate because the program has not been fully accredited by the time of graduation. She added that the new language that amends BPC section 1941 mandates that a dental hygiene program meet the minimum standards that the CODA sets for accreditation. She explained that a school that wants to start a dental hygiene program would: 1) meet the minimum standards as set by CODA; 2) submit a feasibility study demonstrating the need for the new dental hygiene educational program; and 3) apply to the Committee for approval prior to seeking accreditation by CODA or an equivalent body. She stated that CODA already requires a feasibility study; however, the change is that the study would need to be reviewed and approved by the Committee first. She indicated that the purpose of the new language is to inhibit a similar circumstance that recently occurred where a school is provisionally accredited, accepts students, educates them for almost the full term of the program, and then denies them licensure because they cannot graduate from an unaccredited program.

Mr. Calero inquired about BPC section 1941(b) in regard to the feasibility study where it states, “...will be submitted to the Committee before a program submits it to CODA seeking initial approval from CODA...” He asked that if the Committee does not approve a program’s feasibility study, would it be a situation where the Committee tells the program not to present it to CODA. Ms. Hurlbutt stated that the Committee previously reviewed the language in regulation and did not have

the statutory authority to approve a program. She indicated that the proposed language provides the statutory authority to require a dental hygiene program to submit a feasibility study that includes a financial stability plan, a strategic plan, and all of the elements needed to deter a repeat occurrence that happened recently at a California school. She continued that the new language also provides the Committee the statutory authority to approve, provisionally approve, or disapprove a dental hygiene program and not base its approval upon CODA accreditation. Ms. DiFrancesco stated that the Committee is charged with the oversight of the CODA accreditations and the new statutory language provides more responsibility that would enhance the Committee's oversight of the accredited programs. Ms. Yazigi stated that the new language provides the Committee with new statutory authority to decide whether a program can be approved or not, whereas the previous language automatically approved a program because it was accredited by CODA.

Ms. Hurlbutt continued with her Chairperson report and stated that staff updated the subcommittee on the regulatory rulemaking proposals and submitted a grid that tracked the three phases to implement the Committee's regulations. She reported that phase one contained the largest number of regulatory proposals and would be submitted soon for DCA and ultimately OAL to review.

Ms. Hurlbutt reported that staff updated the subcommittee on the mandatory report to the Legislature regarding Licensure by Credential and reviewed the submitted report as well.

Ms. Hurlbutt reported that staff also updated the subcommittee on the proposed amendment to the Retroactive Fingerprinting requirements and that the subcommittee recommends the amendments be approved.

Ms. Hurlbutt submitted the Legislative and Regulatory Subcommittee meeting report with its recommendations concerning legislation to the Full Committee exclusive of a separate action request regarding SB 1202.

Mr. Calero asked for a motion to accept the Legislative and Regulatory Subcommittee report.

- **Andrew Wong moved to accept the Legislative and Regulatory Subcommittee report.**

**Cathy DiFrancesco seconded the motion.**

Mr. Calero asked for any comments from the Committee members and the public. There was no comment.

**Vote: The motion passed unanimously (6 – 0).**

Mr. Calero asked Ms. Hurlbutt for a motion on her second action item.

- **Michelle Hurlbutt moved to approve the following:**
  - 1) **The proposed amendment to the retroactive fingerprinting requirement language and direct staff to take all of the necessary steps to initiate the formal rulemaking process including noticing the**

**proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing no adverse comments are received, the Committee authorizes the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process and adopt the proposed additions to the CCR Title 16, section 1132 as noticed in the proposed text.**

- 2) The proposed amendments to SB 1202 as presented to the full Committee pending approval by the bill's author.**

**Evangeline Ward seconded the motion.**

Mr. Calero asked for any comments from the Committee members or the public.

Ms. Yazigi suggested an amendment Ms. Hurlbutt's motion because the current motion is presumptuous that no public comment will be received and that the language addressing this should be removed.

Ms. Hurlbutt declined to revise her motion because she did not want to delay the rulemaking process by having the regulatory package return to the Committee after the 45-day comment period. Mr. Wong inquired as to why DCA counsel requested to have the motion amended. Ms. Yazigi explained that a motion such as Ms. Hurlbutt's would be appropriate for a 15-day notice because there had already been a full 45-day comment period and possibly a regulatory hearing. She indicated that by stating the motion as is without an amendment, it may present a problem of presumption to the point where it could deter public comment.

Mr. Calero asked for any further comments from the Committee members or the public. There was no further comment.

**Vote: The motion unanimously passed (6 – 0).**

#### **FULL 11 – Licensing and Examination Subcommittee Report**

Ms. Hurlbutt reported that the Licensing and Examination Subcommittee met on Monday, April 16, 2012 where public comment was received, the December 12, 2011 subcommittee meeting minutes were approved, the Chairperson's report was given, the subcommittee was updated on the clinical and written examination statistics, updated on the licensure statistics, and updated on the selection process for the California Clinical Chief Examiner. She stated that there was a discussion on the acceptance of other regional testing agencies in addition to WREB. The subcommittee had a recommendation for the Full Committee. She reported that the recommendation from the subcommittee is to direct staff to provide the subcommittee the following:

- Lori Gagliardi's dissertation;
- ADHA materials dealing with regional testing agencies;
- CRDTS matrix comparing testing agencies;
- Letter responses from other regional testing agencies for the information contained in the matrix table.

Ms. Hurlbutt submitted the Licensing and Examination Subcommittee report with the recommendation to the Full Committee for review.

- **Michelle Hurlbutt moved to approve the Licensing and Examination Subcommittee report with the recommendation directing staff actions to the Full Committee for review.**

**Evangeline Ward seconded the motion.**

Mr. Calero asked for any comments from the Committee members or the public. There was no comment.

**Vote: The motion passed unanimously (6 – 0).**

#### **FULL 12 – Education and Outreach Subcommittee Report**

Ms. DiFrancesco reported that the subcommittee met on Monday, April 16, 2012 and received public comment for items not on the agenda, approved the December 12, 2011 subcommittee meeting minutes, the Chairperson's report was given, the Executive Officer updated the subcommittee on the website statistics and calendar of outreach events and informed the subcommittee on the results of her approved outreach. She stated that Ms. Hubble has had difficulty in obtaining approval for many of the Committee's outreach events and thanked her for her continued efforts to pursue outreach on behalf of the Committee.

Ms. DiFrancesco submitted the Education and Outreach Subcommittee report to the Full Committee for review.

- **William Langstaff moved to approve the Education and Outreach Subcommittee report.**

**Andrew Wong seconded the motion.**

Mr. Calero asked for any comments from the Committee members or the public. There was no comment.

**Vote: The motion passed unanimously (8 – 0).**

#### **FULL 13 – Closed Session**

There was no closed session at the meeting.

#### **FULL 14 – Adjournment**

Mr. Calero asked for any comments from the Committee members or the public.

Katie Dawson suggested that for the next election of officers for the Committee, there should be a perception of openness, as she did not sense any openness at the December 2011 meeting when the election of officers took place.

Ms. Yazigi stated that public perception is paramount and the appearance of impropriety is important to avoid for the public to have faith in the government. She indicated that when a slate of officers is introduced, there is no obligation for

the nominating member to justify the nomination; however, there should not be any discussions on this issue occurring prior to the nomination.

Mr. Calero asked for any further comments from the Committee members or the public. There was no further comment.

The meeting adjourned at 2:00 p.m.