



SEPTEMBER 6, 2013 FULL COMMITTEE MEETING

SEPTEMBER 7, 2013 FULL COMMITTEE – SUNSET REVIEW MEETING

EMBASSY SUITES – SOUTH SAN FRANCISCO  
250 GATEWAY BOULEVARD  
SOUTH SAN FRANCISCO, CA 94080



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee Agenda**

Agenda

Notice is hereby given that a public meeting of the Dental Hygiene Committee of California will be held as follows:

### **FULL COMMITTEE MEETING AGENDA**

The DHCC welcomes and encourages public participation in its meetings. The public may take appropriate opportunities to comment on any issue before the Committee at the time the item is heard.

**Friday, September 6, 2013  
9:00 a.m.  
Embassy Suites – South San Francisco  
Monterey/Saratoga Meeting Room  
250 Gateway Boulevard  
South San Francisco, CA 94080**

#### **9:00 a.m. Dental Hygiene Committee of California (DHCC) – Full Committee – Open Session**

Roll Call/Establishment of Quorum.

1. Public Comment for Items Not on the Agenda
2. Approval of the May 3, 2013 Meeting Minutes
3. President's Report
4. Executive Officer's Report
5. Update from the Dental Board of California (DBC)
6. Presentations by Virginia Mathews from Maximus, and Julie D'Angelo Fellmeth from the Center for Public Interest Law, on the Diversion Program
7. Discussion and Possible Action on the Diversion Program
8. Budget Report
9. Discussion and Possible Action to Increase all Renewal Fees
10. Discussion and Possible Action Regarding Extramural Clinic Fees
11. Update on DHCC Uniform Standards Related to Substance Abuse and Disciplinary Guidelines - §1138, Title 16, Division 11, California Code of Regulations
12. Discussion and Possible Action to Amend Proposed Regulatory Language in response to Comments Received During the 45-Day Public Comment Period for the Committee's

Rulemaking to Add Title 16, CCR, §1107 and 1108 Relevant to RDH Courses in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage

**13. Discussion and Possible Action on Proposed Dental Hygiene Regulations Title 16, Articles 1, 2, 6, and 8 of the California Code of Regulations**

**14. Update on the Following Legislation:**

- a) Assembly Bill (AB) 18 (Pan) - Health Care Coverage: Pediatric Oral Care Benefits
- b) AB 50 (Pan) – Healthcare Coverage: Medi-Cal Eligibility
- c) AB 186 (Maienschein) – Professions and Vocations: Military Spouses Licenses
- d) AB 213 (Logue) - Healing Arts: Licensure requirements: Military Experience
- e) AB 258 (Chavez) - State Agencies: Veterans
- f) AB 291 (Nestande) - California Sunset Review Commission
- g) AB 318 (Logue) - Medi-Cal: Teledentistry
- h) AB 512 (Rendon) - Healing Arts: Licensure Exemption
- i) AB 771 (Jones) - Public Health: Wellness Programs
- j) AB 1174 (Bocanegra/Logue) – Dental professionals: Teledentistry under Medi-Cal
- k) AB 1231 (Perez) - Regional Centers: Telehealth
- l) Senate Bill (SB) 28 (Hernandez) – California Health Benefit Exchange
- m) SB 176 (Galgani) – Administrative procedures
- n) SB 456 (Padilla) – Healthcare Coverage
- o) SB 532 (De Leon) - Professions and Vocations: Military Spouses
- p) SB 562 (Galgani) - Dentists: Mobile or Portable Dental Units
- q) SB 809 (DeSaulnier) - Controlled Substances: Reporting
- r) SB 821 (Senate Committee on Business, Professions and Economic Development) – Omnibus Bill
- s) Any Additional Legislation Impacting the Committee for the Committee’s Attention

**15. Closed Session**

*The Committee May Meet in Closed Session to Deliberate on Disciplinary Matters Pursuant to Government Code §11126 (c)(3)*

**Return to Open Session**

**16. Future Agenda Items**

**17. Adjournment**

Public comments will be taken on agenda items at the time the specific item is raised. The Committee may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-1978 or access DHCC's Web Site at [www.dhcc.ca.gov](http://www.dhcc.ca.gov).

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Anthony Lum at (916) 576-5004, via e-mail at: [anthony.lum@dca.ca.gov](mailto:anthony.lum@dca.ca.gov) or send a written request to DHCC at 2005 Evergreen Street, Ste. 1050, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 1**

**Public Comment for Items Not on the Agenda**



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 2**

Approval of the May 3, 2013

Meeting Minutes

**Dental Hygiene Committee of California**

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**DRAFT - DENTAL HYGIENE FULL COMMITTEE MEETING MINUTES**

**Hilton Los Angeles North - Glendale  
Montrose Executive Meeting Center  
100 West Glenoaks Boulevard  
Glendale, CA 91202  
Friday, May 3, 2013**

**Roll Call** – The Dental Hygiene Committee of California (Committee) President called the meeting to order with roll call at 8:10 a.m. With eight Committee members present, a quorum was established.

Committee members present:

Susan Good, Public Member  
Sherrie-Ann Gordon, Public Member  
Michelle Hurlbutt, President, Registered Dental Hygienist (RDH) Educator  
Joyce Noel Kelsch, Registered Dental Hygienist in Alternative Practice (RDHAP)  
(arrived at 1:30 p.m.)  
Timothy Martinez, DMD  
Nicolette Moultrie, RDH  
Garry Shay, Public Member  
Evangeline Ward, RDH

Committee members absent:

None

Staff present:

Lori Hubble, Executive Officer (EO)  
Anthony Lum, Administrative Analyst  
Donna Kantner, Retired Annuitant  
Richard Wallinder, Retired Annuitant

Claire Yazigi, Department of Consumer Affairs' (DCA) Legal Representative

Public present:

Carmen Dones, West Los Angeles College  
Katie Dawson, California Dental Hygienist Association (CDHA)  
Karen Fischer, Executive Officer, Dental Board of California (DBC)  
JoAnn Galliano, Program Director, Chabot College  
Rebecca Howard, Western Regional Examining Board (WREB)  
Lisa Kamibayashi, Educator, West Los Angeles College

Kim Laudenslager, Director of Dental Hygiene Examinations, Central Regional  
Dental Testing Service (CRDTS)  
Huong Le, DDS, President, DBC  
Bill Lewis, California Dental Association (CDA)  
Lin Sarfaraz, RDH, CDHA  
Vickie Kimbrough-Walls, Director, Southwestern College Dental Hygiene  
Program, CDHA

**President's Announcement –**

President Hurlbutt introduced three new public Committee members:

- Susan Good
- Sherrie-Ann Gordon
- Garry Shay

She stated that the new members are an excellent addition to the Committee.

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

Bill Lewis from the California Dental Association (CDA) informed the members about the third annual CDA Cares Clinic in San Jose. He noted that it will be held May 18-19, 2013 at the San Jose Convention Center. He explained that the event is similar to the Remote Area Medical (RAM) events that have taken place for the last several years. He added that the difference is that this is a dental only event.

Mr. Lewis said that CDA held this event in Modesto and Sacramento last year and over the course of four days (two days for each location) almost 4,000 patients were seen. He indicated that the patients received dental hygiene care, temporary dentures, and extractions.

Lisa Kamibayashi, an educator with West Los Angeles College, shared her opinion that the \$200 annual fee charged for the extramural sites for dental hygiene programs in California inhibits dental hygiene education in California because it restricts the dental hygiene students' experiences by forcing them to have limited clinical rotations.

President Hurlbutt asked for any further public comment. There was no further public comment.

**FULL 2 – Approval of the February 27, 2013 Teleconference Meeting Minutes**

President Hurlbutt asked for a motion to accept the February 27, 2013 Teleconference Meeting minutes.

- **Evangeline Ward moved to accept the February 27, 2013 Teleconference Committee Meeting Minutes.**

**Nicolette Moultrie seconded the motion.**

President Hurlbutt requested to include the location of each Committee member for the teleconference meeting in the minutes.



President Hurlbutt then asked for any comments from the Committee members or the public. There was no comment.

President Hurlbutt asked for a vote of the Committee members who were present at the February 2013 teleconference meeting.

**Vote: The motion passed (4 – 0; Noel Kelsch was absent for the vote)**

### **FULL 3 – President's Report**

President Hurlbutt reported that at the last Committee meeting (December 3-4 , 2012), Alex Calero was elected President and Ms. Hurlbutt was elected Vice-President. She stated that in January 2013, Committee members and staff learned that Mr. Calero and the other two public members (Rita Fujisawa and Andrew Wong respectively) were not re-appointed to the Committee. Consequently, she indicated that she assumed the role of President and will fill the unexpired term until December 2013.

President Hurlbutt then thanked former public members Alex Calero, Rita Fujisawa, and Andrew Wong for their dedication and service to the Committee. She stated that the former members had enriched the Committee with their depth of experience and knowledge.

President Hurlbutt reported that she had participated and will participate in the following activities as Committee President:

- Attended the annual California Dental Hygiene Educators Association Meeting in February 2013 with Lori Hubble, the Committee's EO. She and Ms. Hubble provided an update of the Committee activities to dental hygiene educators. She explained that this was the third annual presentation and each meeting has been very beneficial for both regulators and educators as it provides an opportunity to discuss matters of hygiene education.
- Presided over the February 27, 2013 Committee Teleconference meeting.
- Met with Committee staff and Subject Matter Experts (SME) regarding draft regulatory language concerning educational program regulations.
- Met with Committee staff and chief examiners of the California Clinical Examination to discuss examination procedures.
- Discussed examination procedures via teleconference with the Committee clinic supervisor.
- Will attend her 4<sup>th</sup> Teledentistry evaluation meeting as a member of the Office of Statewide Health Planning and Development (OSHPD) evaluating the Teledentistry project next week in Visalia.
- Will attend the Committee examiners' orientation in June 2013 at West Coast University. She explained that once a year, the Committee has an orientation for the examiners on the day before the clinical examination. She will attend the orientation only and not the Committee's clinical examination. She explained that as an educator, she does not attend any clinical examinations where students from Loma Linda University may be present.

President Hurlbutt said that she will be contacting each of the Committee's members to poll them about their interest to either remain on the subcommittee they are assigned or appoint them to a new subcommittee.

President Hurlbutt then thanked the Committee staff as well as the Department of Consumer Affairs (DCA) Legal Counsel, Claire Yazigi, for their hard work on Committee programs and projects. She noted that Ms. Hubble had worked hard to bring capable staff on board and was ably directing them through some very difficult times.

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

Ms. Hubble said that the first item she wanted to share with the Committee members was information concerning the Committee's Sunset Review. She noted that Section 1901 of the California Business and Professions Code (BPC) states that effective January 1, 2015, the Committee will sunset. She then reported that she had recently received a memo from the Senate Business and Professions and Economic Development Committee (BPED) with a list of questions that the Committee staff will need to answer. She explained that the Committee's responses will then be returned to the BPED for review. She continued that based on a review of the Committee's responses to the questions, the BPED will draft a report that will serve as the basis for a hearing in early 2014, at which the Committee will respond to any questions from the Legislators or legislative staff. She noted that the Committee's response to the BPED questions is due back to them by November 1, 2013. She added that prior to submitting the report to the BPED, the Committee will hold a meeting in September 2013 for the Committee to review and approve it.

JoAnn Galliano, representing CDHA Legislative Council, inquired whether there needs to be legislation in 2014 to prevent the Committee from being sunsetted in 2015. Ms. Hubble stated that legislation would be needed in 2014. She indicated that a legislative public hearing would be held in early 2014 and that legislation would then be introduced soonafter.

Ms. Galliano noted that in past Sunset Reviews, the professional organizations have had the opportunity to complete a report utilizing the questions posed to the Committee by the BPED. Ms. Hubble said that she would forward the questions to Ms. Galliano for her review and use. Ms. Galliano stated that prior CDHA reports have usually supported the continuance of the Committee's existence.

Ms. Hubble then reported that the BreEZe project is a new computer system that the DCA is implementing to replace two antiquated computer systems. She indicated that DCA staff is working with several boards on Release 1 and that the Committee will be part of Release 2 sometime in the future. She noted that this project is taking a large amount of staff resources and time to initiate it. She explained that the Committee has assigned Traci Wesley-Smith (Napper) to represent the Committee as a staff participant on the project. She also said that she has been very involved in the project to obtain an understanding of the new computer system. She reported that there is no current date for Release 1 to implement the program. She stated that November of 2013 has been projected as the implementation date; however, it may be postponed due to quality control

issues. She reported that over the next few months, the Committee staff will be dedicated to the BreEZe project workload and, consequently, will be working with a minimal crew to maintain day-to-day operations. She indicated that the contributions of the Committee's two retired annuitants will become very valuable during this time to maintain program operations.

In response to a question from Ms. Gordon concerning what BreEZe was supposed to do, Ms. Hubble indicated that the BreEZe system would replace the existing antiquated applicant tracking system, licensee tracking system, as well as provide functions that are currently not available to Committee licensees (e.g., register for examinations online, renew licenses online in real time, and allow address and name changes online). She also stated that Enforcement staff will have an improved method to track Enforcement statistics and that this is just some of the features of what the system can do.

Ms Hubble reported that the BreEZe system would be brought online in three phases. She explained that the larger boards, like the Medical Board, will participate in Phase I, during which time they will undergo user acceptance testing to ensure that all of the business processes are functioning correctly.

President Hurlbutt asked if there was an estimate of cost for the BreEZe project. Anthony Lum responded that the current costs for the BreEZe system are approximately \$45,000 - \$50,000 per year. He indicated that ongoing costs have not been determined as the operating parameters have not been finalized. Ms. Hubble noted that ongoing costs will be lower than those for establishing the program because the DCA Office of Information Service (OIS) will oversee the computer program once the contracted vendor has finished its implementation.

Ms. Hubble then directed the Committee members to the charts in the meeting materials showing the number of Internet hits for the Committee's website and a worldwide map showing the activity from other countries.

In reporting about the Committee staffing, Ms. Hubble noted that she was pleased to report that the Committee currently has six permanent staff. She reminded the Committee members that for two years there were hiring freezes that kept the Committee at only two staff plus the EO and as a result of the lack of staff, only essential, mission critical functions were completed during that time. She stated that in addition to the six permanent staff, the Committee also has two retired annuitants (RA) through June 30, 2013. She added that in light of the BreEZe project and other mission critical activities, an exemption to keep the RAs for an additional two years has been submitted to the Governor's office for review.

Ms. Hubble reported that there is one current staff vacancy, which is being advertised to fill. She stated that Tom Jurach accepted a position with the DCA OIS and will be working on the BreEZe project.

Ms. Hubble closed her report noting that the Committee was approved a new Office Technician position starting July 1, 2013 as a result of the legislative language from Senate Bill (SB) 1202 (Ch. 331 Statutes of 2012) that became effective January 1, 2013 establishing a special permit program.

**FULL 5\* – Update from the Dental Board of California (DBC)**

President Hurlbutt introduced Dr. Huong Le, President of the Dental Board of California (DBC), and Karen Fischer, EO of the DBC.

President Hurlbutt informed the Committee members that she was excited about having Dr. Le and Ms. Fischer attend today's Committee meeting as this had never occurred before.

Dr. Le informed the Committee members that 14 of the 15 Dental Board member positions were filled. She stated that on April 5, 2013, the DBC appointed Karen Fischer as their EO and that she had served as Interim EO since December 2012 when Richard DeCuir, the prior EO, retired. She indicated that before this current appointment as EO, Ms. Fischer had worked for four years as a special assistant to Mr. DeCuir.

Dr. Le noted that for 2013, the DBC has a very ambitious regulatory project schedule.

- In May 2013, the DBC staff is moving forward with the Final Statement of Reasons for the Uniform Standards Related to Substance Abuse in licensees.
- DBC staff is also preparing a regulatory package for a fee increase for dentists, as the Dental licensing fees have not increased in over 14 years.
- DBC staff is also preparing a regulatory package for the portfolio pathway for licensure for dentists who graduate from California dental schools.

Dr. Le indicated that she would provide further updates on these regulatory packages at the next Committee meeting.

Dr. Le informed the Committee members that the DBC's regulations relating to Sponsored Health Pre-care events became effective December 7, 2012. She stated that one of the first events this year was the RAM where patients received free vision and dental services. The DBC received a report that five out-of-state licensed dentists participated in the Santa Ana Free Health Care event held on April 11-14, 2013. She indicated that the five dentists who went through the process to obtain a temporary license in California were associated with Columbia University of New York. She added that these dentists provided free services to 115 patients over a two-day period.

Dr. Le stated that the next DBC meeting will be held on May 16-17, 2013 in Oakland and invited the Committee President and EO to attend the meeting. She indicated that she hoped that the future president of the DBC could attend the Committee meeting in December 2013, as she thought that participating in this meeting was the beginning of a great partnership in which the DBC and the Committee could work together on issues of shared concern. She then thanked the Committee for the invitation to the meeting.

Ms. Fischer thanked the Committee for the opportunity to attend the meeting. She stated that there is a lot of work to do at the DBC as many individuals had

retired in December 2012, including both the EO and Assistant EO (AEO). She indicated that to date, the AEO position has not been filled.

Ms. Fischer informed the Committee members that DBC elections would be held at the November 2013 DBC meeting and a new president will be chosen at that time. She indicated that she has every intention to attend the Committee's December 2013 meeting.

## **FULL 6 – Budget Report**

Mr. Lum stated that his report would provide a fiscal status of the Committee's budget as the report would review both expenditures and revenue. He indicated that he had provided a quick review and explanation of the budget documents the past few meetings for new members appointed to the Committee and would do so again to assist the newly appointed members. He reviewed the expenditure projection sheet that is used to estimate the Committee's expenditures through the end of 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 showed 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.

In response to a request from Ms. Hubble, Mr. Lum informed members that the FY for State budgets is from July 1st to June 30<sup>th</sup> of each year.

In response to a question from President Hurlbutt, Mr. Lum explained that the C/P Services Internal (Consultative and Professional Services within DCA) was a line-item that was created for contracts between the DCA and the Committee for DCA consultative and professional services, if needed. He continued that because the Committee had not expended any funds from this line item, they have been re-distributed to other line items within the Committee's budget.

Mr. Lum then reviewed the Annual Expenditure and Revenue Tracking document. He noted that as requested at a previous meeting, he included information concerning exam revenue. He reported that the revenue received from the Committee's clinical examinations has declined over the past two years due to the availability of the Western Regional Examination Board's (WREB) exam.

President Hurlbutt asked what is considered a prudent fund reserve to have a healthy fund condition. Mr. Lum stated that agencies within DCA are expected to sustain a three to six month fund reserve, but given that expenses can quickly drain its reserve, he opined that a 12-month reserve is more appropriate for any unexpected expenses.

President Hurlbutt requested for Mr. Lum to provide a breakout of the expenditures for the BreEZe project on the Analysis of the Fund Condition for the Committee's September 2013 meeting.

**FULL 7 – Discuss and Possible Action on Increase of RDH License Renewal Fees**

Mr. Lum referred the Committee members to the Fund Condition hand-out in their meeting packet.

Mr. Lum said that originally he had drafted a proposal for the Committee to review an increase to the dental hygienists biennial license renewal fees; however, due to a last minute discovery in the current fee structure and statutory language, the original fee recommendation was in need of revision to ensure that the proposed fee increases are adequate to keep the Committee's fund solvent.

Mr. Lum suggested that in light of his new discovery and review, he recommended tabling any discussion or action on the agenda item at this meeting to allow for further research so that a complete revenue generating recommendation to avoid insolvency can be presented at the September 2013 meeting.

- **Evangeline Ward moved to table agenda item 7 on fees until the next meeting.**

**Nicolette Moultrie seconded the motion.**

**Vote: The motion passed (7 – 0; Noel Kelsch was absent for the vote).**

**FULL 8 – Discuss and Possible Action to Extend DHCC's Strategic Plan**

Mr. Lum stated that the current strategic plan was developed as a 3-year plan (from 2010 – 2013) during the Committee's inception in FY 2009/10. He stated that the Committee's staff has been working diligently since that time to complete as many objectives as possible; however, because many of the objectives were directed at establishing the Committee as a stand-alone program and were time and staff intensive, the current plan could not be fully accomplished within the timeframe allotted. He noted that many of the plan's objectives require legislation and/or regulations and both of these processes can take one to two years or more to complete. He indicated that staff has also faced other hurdles in the past few years such as furloughs, staff shortages, and travel restrictions that hindered the progress of the plan's objectives.

He reminded the Committee members that at the December 2012 meeting, the members approved scheduling a Strategic Planning session in 2013 to re-evaluate and update the plan's objectives and priorities; however, due to the addition of the Sunset Review and the BreEZe project workloads, he indicated that staff was requesting a revision to the recommendation approved at the December 2012 meeting. He suggested extending the current plan's end date from 2013 to 2015, thus changing the current 3-year Strategic Plan to a 5-year plan. He explained that this change would allow staff to complete the Sunset Review process, manage the BreEZe project workload, and further address lengthy issues in the current plan such as regulations.

Ms. Hubble stated that in discussions with DCA staff that assist with drafting Strategic Plans, she was informed that traditionally, Strategic Plans should be a 5-year plan. She added that as the Committee will be going through Sunset Review, there will be recommendations provided by BPED's review which would give the Committee opportunities to incorporate some of their recommendations into the Strategic Plan.

- **Nicolette Moultrie moved to extend the Committee's Strategic Plan from a 3-year plan to a 5-year plan ending in 2015.**

**Timothy Martinez seconded the motion.**

President Hurlbutt asked for any comments from the Committee or public. Ms. Galliano complimented the Committee on having completed so many objectives within the Strategic Plan in such a short amount of time.

**Vote: The motion passed (7 – 0; Noel Kelsch was absent for the vote).**

**FULL 9 – Discuss and Possible Action on Diversion Program: §1966 – 1966.6 of the Business and Professions Code**

Mr. Lum shared with the Committee members that the Diversion program is a means to identify and rehabilitate licensees whose competency may be impaired due to the abuse of dangerous drugs or alcohol. The program's purpose is to treat those licensees who are afflicted and return them to the practice of dental hygiene in a manner that will not endanger the public health and safety. He noted that Diversion may be a voluntary self-referral by the licensee on a confidential basis or as ordered by the Committee as a condition of a licensee's disciplinary probation. The program is intended to be a voluntary alternative approach to traditional disciplinary actions.

He noted that Business and Professions Code (BPC) Section 1966.1 states that the Committee shall establish the criteria for the acceptance, denial, or termination of licensees in a Diversion program. Unless ordered by the Committee as a condition of a licensee's disciplinary probation, only those licensees who have voluntarily requested diversion treatment and supervision by a Diversion Evaluation Committee shall participate in a Diversion program.

Mr. Lum said that a Diversion program may be appropriate for programs that have a need and want to direct their licensees and resources to such a program. He explained, however, that the following three reasons are why a Committee Diversion program should not be considered at this time:

- 1) Although the Legislature's intent was for the Committee to establish a Diversion program when BPC section 1966 was written, there is no current overwhelming need by licensees for a Diversion program to be addressed by the Committee [currently there are two participants from over 25,000 licensees since the Committee's inception in 2009];
- 2) In the instance that there is a licensee in need of Diversion treatment, the Committee has a solution where it would utilize the DBC's Diversion program

contract with Maximus for the Diversion services rendered. To date for the two participants, this arrangement has been conducted through invoicing; however, the Committee staff will begin to work with DBC on a Memorandum of Understanding (MOU) for Diversion treatment for its licensees rather than absorb the full cost of a Diversion contract for a program that is not in demand. The MOU will document each program's role for the Diversion treatment rather than simply billing through an invoice.

- 3) The cost to implement a separate Committee Diversion program is expensive and the necessary resources that are needed for such a program could be utilized by other Committee issues more efficiently.

Mr. Lum explained that for these reasons, Committee staff will be working in the near future to create the MOU with the DBC for the continuation of the existing Diversion Treatment Program for its licensees.

Ms. Hubble summarized Mr. Lum's presentation stating that the Committee currently provides Diversion for its licentiates utilizing the DBC Diversion program. She noted that a dental hygienist sits on the DBC's Diversion Program Committee and that while the Committee currently has an informal understanding with the DBC, by creating an MOU, there would be a more formal agreement.

Garry Shay asked if the Committee advertises the Diversion program's existence and how would a licentiate know to volunteer for it. Ms. Hubble noted that information about the Diversion Program is available on the Committee's website.

Mr. Shay said that the Committee needs to make sure that dental hygienists know that this program exists. Mr. Wallinder advised the Committee that this information can be an item in the next Committee newsletter.

Ms. Ward noted that classes required to maintain an RDH license include information about the Diversion Program.

President Hurlbutt commented that the Committee is bound by statute to have a Diversion Program. She said that she thought the staff's recommendation to establish a formalized MOU with the DBC would be appropriate for the Committee at this time.

President Hurlbutt inquired whether having a separate Committee Diversion program would increase Committee costs for the program. Mr. Lum stated that it would increase the cost of the program. He noted that per participant, administrative costs by Maximus, the contractor, are about \$300 per month per participant. He reported that to date, Diversion program costs were roughly \$6,000 for the two participants. Mr. Lum added that a Diversion program participant is usually in the program for an average of five years.



In response to a question from Ms. Ward, Mr. Lum explained that the licensee is responsible for paying for testing, medical expenses, etc., and the Committee pays for administrative costs to have the program in place. Ms. Hubble said that it would be her recommendation that the MOU be in effect for the length of the Maximus contract. There was no objection from any of the Committee members for this recommendation.

**FULL 10 – Discuss and Possible Action Regarding RDHAP's Established Practice in Underserved Areas**

Donna Kantner said that there has been some question about practice locations of RDHAPs. She informed the Committee members that according to the provisions of BPC Section 1926, RDHAPs may perform their authorized dental hygiene duties in only four specified locations:

1. Residences of the homebound.
2. Schools.
3. Residential facilities and other institutions.
4. Dental health professional shortage areas (as certified by the OSHPD in accordance with existing office guidelines).

She stated that since this statute became law in 1998, RDHAPs have worked in these locations and established practices serving the dental hygiene needs of patients in designated underserved areas. She explained that RDHAPs are concerned that they may lose their ability to work in an area where they have established a practice because by establishing a practice and serving the area's consumers, it may lose its designation as an underserved area. She said that the Committee staff is asking for direction as to the necessary actions needed to pursue this issue.

Ms. Kantner added that in talking with Ms. Yazigi, DCA legal counsel observed that it would be an unfortunate consequence that an area is no longer considered underserved because an RDHAP has a practice in what had been considered an underserved area. She underscored her viewpoint noting that dismantling the practice would eventually return the area to being underserved.

Ms. Kantner explained that the Committee could pursue regulations to clarify underserved work areas for RDHAPs; however, staff is not sure that the Committee has the legal authority to set aside the requirement that the RDHAP work in an underserved area.

President Hurlbutt informed the Committee members that the situation Ms. Kantner described had occurred. She cited an example that an RDHAP had established a practice in a medically underserved/shortage area and when it came up for review as a designated underserved area, it was determined that the practice location would no longer be considered medically underserved, thus impacting the RDHAP's ability to practice in that location. She indicated that in challenging the decision, it was determined that the formula was calculated incorrectly and the area was still considered an underserved area.

President Hurlbutt asked if the Committee staff could define that establishing an office by a sole proprietor must be done in an underserved area. Ms. Yazigi stated that she could review the matter and update the Committee at a future meeting.

After a Committee discussion, it was decided that Committee staff would continue to investigate RDHAPs establishing their practice in an underserved area and report its findings to the Committee with recommendations at a later date. It was also suggested that a resolution may be included in the Committee's Sunset Review.

Ms. Hubble noted that one of the questions in the Sunset Review questionnaire pertains to identifying some challenging areas facing the Committee and its licensees. She suggested that staff could list this item as one of the Committee's challenges for review by the BPED.

#### **FULL 11 – Update on Enforcement Statistics**

Ms. Hubble informed the Committee members that the Enforcement statistics were prepared by Nancy Gaytan, the Committee's Enforcement Analyst, and provided the following summary:

##### *Open Investigations – 3:*

- Working Outside Scope (1)
- Fraud (2)

##### *Records Requests - 22 (received rap sheets for licensees/applicants):*

- Drugs/Alcohol (17)
- Petty Theft (1)
- Corporal Injury/Assault (3)
- Hit and Run (1)

##### *Cases Referred to Attorney General's Office (AG) - 13:*

- Preliminary Accusations/Statement of Issues (SOI): 7
- Filed Accusations/SOI: 6

##### *Probationers – 9 (see Table 1 below):*

Table one displays the reasons for probation and the number of probationers in each category. Tolling (pending) probation is used for individuals that leave the state and, upon their return, resume their probationary status.

Table 1. Probationers

Table 1 <b>Active: 4</b>	<b>Tolling: 5</b>
Drugs/Alcohol (1)	Drugs/Alcohol (3)
Unlicensed Practice (1)	Negligence (1)
Subversion of Exam (1)	Unlicensed Practice (1)
Reinstatement (1)	

President Hurlbutt asked Ms. Hubble to explain the difference between a preliminary accusation and a filed accusation. Ms. Hubble explained that a preliminary accusation is a matter that has been forwarded to the AG's Office for formal legal action. She stated that a filed accusation is one that has been prepared by the Deputy Attorney General (DAG) and signed by the EO pending a hearing or stipulation. She added that the accusation will become a public document 30 days after filing.

**FULL 12 – Update on Department of Consumer Affairs (DCA) Performance Measures**

Ms. Hubble explained that the DCA Performance Measures are a means for the Committee to determine its progress in meeting its enforcement goals and targets. She then reviewed the informational charts in the member's meeting materials, noting that for every measure shown, the Committee was meeting its goals.

**FULL 13 – Discuss and Possible Action on DCA Legal Division's Policy Regarding Petition for Reinstatement Procedures**

Ms. Hubble stated that at the December 2012 Committee meeting, a licensee petitioned for reinstatement of their license. She indicated that prior to the Committee beginning their deliberations in closed session to discuss and decide the matter, the DCA legal counsel is normally allowed to attend the closed session to offer legal advice to the Committee members to assist them in making a decision.

Ms. Hubble explained that in this case; however, the assigned Administrative Law Judge (ALJ) informed the Committee members that they had a choice where either the DCA legal counsel (Ms. Yazigi) left the room during deliberations or the ALJ would leave. She stated that as a result of this unexpected action by the ALJ, Committee members and staff decided that a policy needed to be developed to avoid this situation in the future and would be submitted to the Office of Administrative Hearings when the Committee scheduled another petition for reinstatement hearing.

Ms. Yazigi noted that the language included in the Committee members' meeting materials was language that another board within the DCA had drafted and that Ms. Hubble and Ms. Gaytan modified the policy to meet the Committee's needs.

The Committee reviewed the proposed policy and the following amendments were suggested (underlined and *italics*):

4. During closed session, the ALJ, if any, may assist the Committee with its deliberations. The Committee's legal counsel shall be present to advise the Committee in its decision making, unless directed otherwise by the Committee.

- **Gary Shay moved to adopt the amended proposal to be submitted to the Office of Administrative Law.**

**Sherrie-Ann Gordon seconded the motion.**

**Vote: The motion passed (7 – 0; Noel Kelsch was absent for the vote).**

Ms. Moultrie directed members to the final sentence of the proposed policy. She suggested that the words “if present” be struck.

- **Nicolette Moultrie moved to adopt the additional amendment to strike “if present” from the final sentence of the proposal for the Office of Administrative Law.**

**Susan Good seconded the motion.**

**Vote: The motion passed (7 – 0; Noel Kelsch was absent for the vote).**

#### **FULL 14 – Update on DHCC Clinical and Written Examination Statistics**

Ms. Hubble informed the Committee members that there were no clinical examination statistics to report because there was no March 2013 clinical examination administration.

Ms. Hubble directed members to the information in their meeting materials that provided statistics for both the RDH and RDHAP results for the written Law and Ethics Examination from November 13, 2012 to April 22, 2013. Table 2 shows the law and ethics examination results.

Table 2. Law and Ethics Exam Results

RDH Law and Ethics Exam Results (11/13/12 – 4/22/13)	RDHAP Law and Ethics Exam Results (11/13/12 – 4/22/13)
Passed = 58 (77%)	Passed = 20 (71%)
Failed = 17 (23%)	Failed = 8 (29%)
Total RDH Examinees = 75	Total RDHAP Examinees = 28

President Hurlbutt asked when the Law and Ethics exam had last been updated. Ms. Hubble responded that the RDH and RDHAP written exams had been recently updated and contained information about recent legislative changes.

#### **FULL 15 – Update on Licensure Statistics**

Ms. Hubble noted that Ms. Wesley-Smith (Napper) of the Committee staff had prepared the information concerning the Update on the Committee's licensure statistics.

Ms. Hubble directed the Committee members to the information provided in their meeting materials. She provided a brief history of the Licensure by Credential (LBC) license type noting that its purpose was to increase the number of hygienists working in underserved areas of California.

Ms. Galliano asked what the acronyms FNP and RP represented. Ms. Hubble answered that FNP was for Fictitious Name Permits and that RP was for a Registered Provider of dental hygiene services.

#### **FULL 16\* – Discuss and Possible Action on the Combined DHCC and DBC Infection Control Subcommittee's Review of §1005 of Title 16 of the California Code of Regulations Relevant to the Annual Review of Minimum Standards for Infection Control**

Ms. Hurlbutt asked that this item be tabled until after lunch so that Committee member Noel Kelsch could participate in the discussion.

President Hurlbutt informed the Committee members that both the DBC and the Committee were required by law to annually review the minimum standards for infection control. She stated that the DBC has an Infection Control Subcommittee that reviews these standards and the Committee sends a representative to attend these meetings. She indicated that Ms. Kelsch was the Committee representative for the Infection Control Subcommittee.

Ms. Hubble reported that she and Ms. Fischer held a telephone conference meeting with the Subject Matter Experts who are part of the Infection Control Subcommittee. She stated that Ms. Kelsch, Denise Romero, and Dr. Le also participated in the February 4, 2013 teleconference meeting.

Ms. Hubble reported that the following two items were discussed at length in the teleconference meeting:

- Concern about "other potentially infectious materials;" and
- Concerns with the "heavy glove" language.

Ms. Hubble emphasized that the public is protected with the current existing infection control guidelines. She noted that the guidelines were updated in 2011 and suggested that Committee staff keep a list of the items that may be of concern regarding the guidelines and incorporate these changes through a future regulation amendment.

Ms. Fischer reported that the DBC reviewed these guidelines at their February 2013 meeting. The DBC members voted to accept the Infection Control Subcommittee's recommendation to keep a list of items that would be changed to better protect the public. She explained that these changes, should they be needed, would be incorporated in a regulatory package.

Ms. Kelsch commended the Infection Control Subcommittee participants for being able to work so well together.

President Hurlbutt commented that it seemed cumbersome to review the guidelines every year. She asked if there was a way during the Sunset Review process to change the current review timeframe to a 2-year review. Ms. Kelsch commented that this was something the subcommittee members had discussed. She stated that a review of the guidelines could be conducted every two years while maintaining effective regulations for infection control. Ms. Hubble said that because DBC and the Committee do a lot of companion activities, this is an issue that both agencies can review.

**FULL 17 – Discuss and Possible Action on the Following Regulations:**

**a) DHCC Uniform Standards Related to Substance Abuse and Disciplinary Guidelines - §1138, Title 16, Division 11 of the California Code of Regulations**

Ms. Kantner reported that at its April 2012 meeting, the Committee approved language relative to the Uniform Standards for substance abusing licensees and Disciplinary Guidelines. She stated that the Committee directed 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 authorizing the EO to make any non-substantive changes to the rulemaking package.

Ms. Kantner stated that under the direction of the Committee, an Initial Statement of Reasons was prepared according to the requirements that each proposed subsection meet the six Administrative Procedures Act standards: authority, clarity, consistency, necessity, non-duplication, and reference and that the regulatory process was initiated by noticing a public hearing for April 16, 2013. She indicated that the hearing was conducted and there were no comments received.

Ms. Kantner stated that Committee staff is preparing the Final Statement of Reasons for the regulation package and other documents that will complete the rulemaking file. She explained that upon completion, the file will be submitted to DCA's Legal Office, Office of Legislation and Policy Review, and Executive Office for review and approval. She indicated that once the rulemaking file is approved by all three DCA offices, the file will be submitted to the State and Consumer Services Agency for review and approval. She continued that if the file is deemed to have a fiscal impact, it may require a review and approval by the Department of Finance. She stated that after all of the above entities have reviewed and approved the rulemaking file, it will be submitted to the Office of Administrative Law (OAL) for a final review. She continued that OAL has 30 working days to complete its review of the rulemaking file before notifying the Committee.

**b) DHCC Retroactive Fingerprint Requirements - §1132, Title 16, Division 11 of the California Code of Regulations**

Ms. Kantner reported that the California Code of Regulations (CCR), Section 1132 requires, as a condition of renewal for a license expiring on or after July 1, 2011, a licensee who was initially licensed prior to January 1, 1994, or for whom an electronic record of the submission of fingerprints no longer exists, must furnish to the California Department of Justice (DOJ) a full set of electronic fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the DOJ.

Ms. Kantner stated that at its April 2012 meeting, the Committee adopted an amendment to CCR Section 1132 to exempt inactive licensees from the current fingerprinting requirement until the license is reactivated. She explained that this amendment was proposed because licensees who hold an inactive license and live out of state have said that the fingerprinting requirement creates a financial hardship as they are unable to travel to California to have their fingerprints completed electronically.

Ms. Kantner stated that on March 6, 2013, the completed rulemaking file for retroactive fingerprint requirements was submitted to the OAL, which, by law has 30 working days to review the file, or until April 19, 2013. She reported that on April 17, 2013, OAL sent notice that the file was approved and will be effective as of July 1, 2013.

**c) Sponsored Free Healthcare - §1149 - 1153, Title 16, Division 11 of the California Code of Regulations**

Ms. Kantner reported that on December 20, 2012, Committee staff submitted the regulatory file pertaining to Sponsored Free Health Clinics to the OAL. She indicated that on February 1, 2013, Committee staff was notified of OAL's pending disapproval of the package for concerns relating to the necessity and clarity of the regulations, as well as certain non-substantive changes needed. She continued that all non-substantive corrections were made, and the Staff Counsel at OAL was contacted several times in an effort to clarify the two remaining issues; however, OAL disapproved the file on February 6, 2013. She added that by law, the Committee has 120 days to address the concerns identified by OAL and resubmit the rulemaking package for review. She noted that staff drafted amendments to the text addressing OAL's concerns that were approved by the Committee at its February 27, 2013 teleconference meeting. She stated that there were no comments on the amendments and Committee staff resubmitted the file to OAL on March 11, 2013 for its review. She added that the Committee staff was notified on April 10, 2013, that this rulemaking was approved, and due to the Committee staff's justification, is effective immediately.

**FULL 18\* – Discuss and Possible Action on Regulations Regarding Gingival Tissue Curettage, Administration of Local Anesthesia, and Administration of Nitrous Oxide-Oxygen Analgesia - §1107 – 1108, Title 16, Division 11 of the California code of Regulations**

President Hurlbutt informed the Committee that since 2011 there has been a task force of Committee members as well as SMEs working on these regulations concerning the providers of the courses. She stated that at the Committee's last meeting, the question was asked of the status on the regulations.

Ms. Kantner reported that the need for regulatory language in this area was discussed at the Committee's December 2009 meeting, and progress was reported at several meetings since, but due to staffing shortages and other workload and regulatory priorities, the text was only recently completed and the associated application and forms finalized.

President Hurlbutt reminded the Committee members that currently if an applicant does not graduate from a California school, or graduate from a school where the Committee accepts the educational program for injections, nitrous oxide administration, and performing soft tissue curettage, an applicant for licensure must attend an approved course. She explained that after successfully completing the course, the individual would receive a certificate and continues forward with the licensing process. Ms. Kantner added that all California hygiene programs have these programs contained within their educational program for their students; however, most California schools choose not to offer these programs for applicants coming from other states.

Ms. Yazigi suggested a number of non-substantive changes to the regulatory language for consistency (see Attachment A).

- **Evangeline Ward moved to approve the proposed modified text for a 45-day public comment period and delegate to the EO the authority to adopt those regulatory changes as modified. If there are no adverse comments received during the 45-day comment period, also to delegate to the EO the authority to make any technical or non-substantive changes that may be required in completing the rule making file.**

**Garry Shay seconded the motion.**

**Vote: The motion passed (8 – 0).**

**FULL 19\* – Discuss and Possible Action on Regulations to Implement Business and Professions Code Sections 114.3 (AB 1588) Regarding Military Reservists Licensees: Fees and Continuing Education**

Ms. Kantner reported that Assembly Bill (AB) 1588 became effective January 1, 2013, requiring all boards, commissions, and bureaus under the DCA to waive professional license renewal fees and continuing education (CE) requirements for licensees called to active duty in the United States armed forces, if the following conditions are met:



- a) The license was in good standing at the time the reservist was called to active duty;
- b) The waiver is only for the period when the reservist is on active duty service; and,
- c) Written proof of active duty service must be provided to the board.

Ms. Kantner said that this new law provides for waivers from professional license renewal fees and CE requirements for active duty military members. Additionally, the licensee must meet all renewal requirements within six months of the date of discharge from active duty service, and must notify the Committee within 60 days of his or her notice of discharge. No private practice is permitted during the period of active duty. Committee staff estimated that a very small number of current active licensees will qualify for this waiver. Regulations will need to be implemented for these new provisions of law.

Ms. Kantner reminded members that at the December 3, 2012 Committee meeting, the Committee asked staff to prepare sample proposed language for consideration at its next meeting. She directed the Committee members to their meeting materials for reference.

Ms. Yazigi informed members that the language she drafted was to add substance and detail to the requirements of BPC Section 114.3. She indicated that what the Legislature wanted to do was give licensees who are also service members a break if they are current and active with their license and called up to active military duty, and at some point during their active duty, their license is set to expire.

After a lengthy discussion, the Committee directed staff to develop a definition for the term “call to active duty” so that Committee members have a clear idea of who this legislation impacts.

The Committee also directed staff to review subsection (b) and add in language that clearly requires that the mandatory course work (i.e., Basic Life Support, California Dental Practice Act, infection control, and law and ethics) for license renewal are met.

## **FULL 20 – Update on Phase I of the Transfer and Possible Amendment of Dental Hygiene Regulations into Division 11 of Title 16, Articles 1-12 of the California Code of Regulations**

Ms. Kantner informed the Committee members that these proposed regulations were the bulk of the regulations that exist in the DBC regulations.

At the December 10, 2011 meeting, Committee members approved staff's recommendation to complete the regulatory process in a three phase plan. The phases are:

- Phase 1 - existing regulations from the Dental Practice Act (DPA) with none or minor revisions (non-substantive changes)( Sections 1067 – 1088). These regulations have been in place for a number of years in the DPA. Transfer from the DPA to the Dental Hygiene Committee with non-substantive changes.

- Phase 2 - regulations that have been revised with substantive changes.
- Phase 3 - new regulations – the Committee currently has no statutory authority to implement.

Ms. Kantner reported that in drafting the Initial Statement of Reasons for the regulations in Phase I, the Committee staff noticed that portions of the text used outdated language and other portions are simply unclear – which violates one of the six standards of regulations – clarity. Additionally, she reported that some sections of statute are duplicative and, as written, the draft regulations would not pass a review by OAL as they violate two of the six standards: clarity and duplication. She indicated that Committee staff is working on regulatory text revisions that will be reviewed by Ms. Yazigi prior to bringing it forward for the Committee’s consideration at the September 2013 meeting.

**FULL 21 – Discuss and Possible Action on the Following Legislation:**

**a) Assembly Bill (AB) 50 (Pan) – Healthcare Coverage: Medi-Cal Eligibility**

President Hurlbutt shared with members that normally a subcommittee would have met earlier and reviewed the legislative materials and brought its recommendations concerning what action to take to the full Committee. She indicated that since there was no subcommittee meetings conducted for recommendations, the full Committee would work together on this agenda item.

Ms. Kantner informed the Committee members that she had prepared an analysis for a number of bills she was tracking that pertain to the practice of dental hygiene, or potentially pertain to the practice of dental hygiene. She explained that this bill (AB 50) is being tracked due to its potential impact relating to the Federal Patient Protection and Affordable Care Act. She indicated that Committee staff will continue to monitor the bill and inform the Committee of any impacts on the practice of dental hygiene. She recommended a “watch” position; however, she reminded the Committee that they were not required to take a position. She explained that this bill would require the Department of Health Services to implement a process by a specific date to inform enrollees of their options. She added that at this time, the legislation does not impact the Committee or its licensees.

There was no further comment from the Committee on the issue.

**b) AB 186 (Maienschein) – Professions and Vocations: Military Spouses Licenses**

Ms. Kantner informed the Committee members that the bill (AB 186) as originally drafted did not impact the Committee. She stated that the bill allows boards to issue a temporary license to someone who is the spouse or domestic partner of a member of the armed forces that is currently assigned to duty in California. However, she explained that since the requirement was discretionary and the Committee does not have the authority to issue a temporary license, there was little concern for the Committee with this legislation. She noted that this concern changed with the amendments made to the bill on April 1, 2013 when any discretionary action was removed and all boards would be required to issue a temporary license.

Ms. Kantner noted that the bill's only requirement for issuing a temporary license is that the individual be licensed in at least one other state and that they submit fingerprints to the Committee, though the fingerprint results do not have to be received prior to licensure. She added that the temporary license would be valid for 12 months and it would not rollover into a permanent license.

Ms. Kantner indicated that the potential impact of this bill could be significant, since the Committee does not currently issue provisional or temporary licenses to applicants. She stated that to ensure public protection, the Committee issues licenses only to qualified applicants who have met all statutory and regulatory licensing requirements, including mandatory fingerprinting requirements for a background check for all applicants and licensees. She explained that the Committee would need to create a process for issuance of a temporary license, which would be burdensome utilizing the current computer system. She did not know whether such a process might interface with the BreEZe computer system already underway.

- **Evangeline Ward moved to oppose the bill unless amended.**

**Noel Kelsch seconded the motion.**

**Vote: The motion passed (8 – 0).**

**c) AB 213 (Logue) – Healing Arts: Licensure Requirements: Military Experience**

Ms. Kantner informed the Committee that existing law provides for licensure for all qualified professionals. She explained that this bill would require that if a board accredits or approves schools that offer educational programs for meeting the licensing requirements, the schools that seek to be approved by the Committee by July 1, 2015 would need to have procedures in place to evaluate the applicant's military education and training and practical experience toward the completion of an educational program that would qualify an individual to apply for licensure.

Ms. Kantner stated that this bill would impact dental hygiene educational programs applying for approval, as they would be required to submit proof of a process for evaluating an applicant's military education, training, and experience.

The Committee members decided to take no action on this bill.

**d) AB 512 (Rendon) Healing Arts: Licensure Exemption**

Ms. Kantner explained that this bill is the extension of the Sunset date for the sponsored health care events. She stated that existing law allows until January 1, 2014, for exemption of licensure requirements for health care professionals who hold a current, active license in another state who offers or provides services through a sponsored event, as defined by:

- (1) Services provided to uninsured or underinsured persons;
- (2) A short-term voluntary basis;

- (3) Association with a sponsoring entity that registers with the applicable healing arts board and provides specified information to the county health department of the county in which the health care services are provided; and
- (4) Charge no fee to the recipient or a 3<sup>rd</sup> party on behalf of the recipient.

She stated that this bill would extend those provisions until January 1, 2018.

Ms. Kantner reported that AB 512, as currently written, would have no impact on the Committee, as the process is in place through regulation to comply with existing law.

- **Nicolette Moultrie moved to support AB 512.**

**Sherrie-Ann Gordon seconded the motion.**

**Vote: The motion passed (8 – 0).**

**e) AB 555 (Salas) – Amended to have no impact to the DHCC**

Ms. Kantner reported that this bill was no longer of any interest to the Committee, as it had been revised and amended to an issue that did not pertain to the Committee.

**f) AB 1174 (Bocanegra/Logue) – Dental Professionals: Teledentistry under Medi-Cal**

President Hurlbutt informed the Committee members that this legislation would implement the findings of the Teledentistry Project.

She stated that the Teledentistry Project had identified two activities that would give Registered Dental Assistants in Extended Functions and Registered Dental Hygienists the following additional duties:

- After submitting evidence of education to the Committee of a Committee-approved course, they would be able to determine the appropriate radiograph to perform based on the symptoms that a patient presents; and,
- Place an interim therapeutic restoration upon the order of a licensed dentist.

Ms. Kantner said that one of the important components of this bill is that the Teledentistry aspect of the legislation is also considered a billable service under Medi-Cal. She also noted that regulations would be necessary to define an approved course of instruction.

After discussion, Committee members raised concerns as to whether the placement of interim therapeutic restorations is not already allowed by current law. Committee members also wanted clarification as to what is meant by an adhesive restorative material.

Ms. Galliano suggested that the Committee members take a support if amended position on this legislation, as such a position would allow the Committee to be called into a dialog with the author concerning any amendments.

- **Susan Good moved to support if amended (strike line 26 regarding the determination of the type of radiographs to perform) then continue to monitor.**

**Evangeline Ward seconded the motion.**

**Vote: The motion passed (8 – 0).**

**g) Senate Bill (SB) 28 (Hernandez) – California Health Benefit Exchange**

Ms. Kantner informed the Committee that this legislation requires the Department of Health Services, starting October 1, 2013, to designate an Exchange for the New Patient Protection Affordable Health Care Act. She explained that this bill is being tracked due to its potential impact relating to the Federal Patient Protection and Affordable Care Act (ACA).

Mr. Lewis stated that:

- Pediatric dental care is mandatory under the ACA and that it is offered as part of the essential benefits package that anyone purchasing through the Exchange process must have.
- There are many details being worked out at the Exchange level and through legislation. He reported that another bill: AB 18 (Pan) would deal with some of the specific issues about how dental plans and dental benefits are offered through the Exchange.
- Federal law only mandated children's benefits be offered and was inconclusive as to whether parents have to purchase it for their children. This point is being clarified through legislation.
- The Exchange is also planning to offer adult benefits through the Exchange mechanism but those benefits will be an add-on negotiated in a similar way with dental plans – but no one would be required to purchase it.
- The other issue of the ACA that impacts the dental profession is the expansion of Medicaid benefits to childless adults.

The Committee took no action on the bill and directed Committee staff to continue to monitor it.

**h) SB 176 (Galgani) – Administrative Procedures: California Regulatory Notice Register**

Ms. Kantner explained that there are certain requirements for regulations known as Administrative Procedures. She stated that this bill would add more requirements to the regulatory process.

Ms. Kantner indicated that the bill would require the Committee to submit for publication in the California Regulatory Notice Register notification 15 days prior to any meeting date or report that seeks input from the public. She explained that

it would include any Committee workshops, informational hearings, scoping hearings, preliminary meetings, public and stakeholder outreach meetings, 15-day comment period notices, and posting of Internet Web site links to informational and state reports prepared for public review and comment.

Ms. Kantner stated that the bill would create an additional administrative workload for Committee staff and increase the already lengthy timeframe involved in promulgating regulations. She indicated that all the Committee meetings would need to be noticed in the California Regulatory Notice Register since there is normally the opportunity for public discussion and input regarding current regulatory actions and any proposed future regulations at each meeting. She continued that it is unclear as to what format these notifications would require. She added that if the meeting agenda must be part of the notice, it will require additional time for review and finalization of all meeting agendas so that they will meet the deadline to be posted in the Public Register.

Ms. Hubble indicated that the legislation was in conflict with the Bagley-Keene Open Meetings Act requirement of a 10-day notice period prior to a meeting. Ms. Yazigi added that if the notice that appears in the Public Register is the meeting notice itself, then the current 10-day requirement is superseded by a 15-day notice. Such a requirement ties the Committee's hands with the agility with which it can cancel a meeting and re-notice or amend a meeting agenda. Additionally, publishing in the Register is very cumbersome in that it is only published on Fridays. Ms. Kantner added that if the Committee misses a publishing deadline, the next available deadline is a week later which could cause scheduling problems for meetings.

- **Susan Good moved to support the bill if amended to include an exemption for any agency, board, or commission operating under the requirements of the Bagley-Keene Open Meetings Act.**

**Noel Kelsch seconded the motion.**

**Vote: The motion passed (8 – 0).**

**i) SB 456 (Padilla) – Healthcare Coverage**

Ms. Kantner stated that this is a “spot bill” (legislation that is created as a placeholder to introduce new or additional language) intended to revisit last year’s proposed SB 694 that would have created a statewide Office of Oral Health within the Department of Public Health. She indicated that the Committee is still waiting for revisions to the legislation from the author.

Mr. Lewis commented that Senator Padilla decided not to move forward with the legislation because of a lack of funding sources.

**j) SB 821 (Senate Committee on Business, Professions and Economic Development) – Omnibus Bill**

Ms. Kantner explained that this bill is the DCA’s Omnibus bill, which contains various non-substantive and technical changes to statutory law governing boards,

bureaus, and committees under the DCA. The Committee proposed technical corrections for inclusion in the bill

- **Nicolette Moultrie moved to support SB 821.**

**Noel Kelsch seconded the motion.**

**Vote: The motion passed (8 – 0).**

#### **FULL 22 – CLOSED SESSION**

There was no closed session for this meeting.

#### **FULL 23 – Future Agenda Items**

Ms. Hubble stated that the following would be listed for future agenda items:

- Renewal fees for all licensees
- Sunset Review report
- Extramural facility fee
- AB 562 – Portable Dental Units
- AB 836 – Dentists (retired) – Continuing Education Requirements

President Hurlbutt asked for any comments from the Committee members or the public. There was no comment.

#### **FULL 24 – Next Scheduled Committee Meeting**

Ms. Hubble informed those present that the remaining meetings for 2013 are:

- 1) September 6-7, 2013 in the San Francisco Bay area;
- 2) December 6-7, 2013 in Sacramento at the Committee's headquarters building.

President Hurlbutt asked for any comments from the Committee members or the public. There was no comment.

#### **FULL 25 – Adjournment**

President Hurlbutt asked for any comments prior to adjournment from the Committee members or the public. There was no comment.

The Full Committee meeting adjourned at 6:33 p.m.

*\*Agenda items taken out of order to accommodate speakers or time constraints*

## **ATTACHMENT A**

### Dental Hygiene Committee of California

#### **PROPOSED LANGUAGE**

Adopt Section 1107 Division 11 of Title 16 of the California Code of Regulations to read as follows:

#### **§1107. Approval of RDH Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage**

The Committee shall approve only those educational courses for these duties in dental hygiene which continuously meet all course requirements. This article governs the approval of educational programs for courses in local anesthetic, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage. Continuation of approval will be contingent upon compliance with these requirements.

(a) A course in local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage is a course that provides instruction in the following duties:

(1) Administration of local anesthetic agents, infiltration and conductive, limited to the oral cavity;

(2) Administration of nitrous oxide and oxygen when used as an analgesic; utilizing fail-safe type machines containing no other general anesthetic agents; and

(3) Periodontal soft tissue curettage.

(b) An applicant course provider shall submit an "Application for Approval of a Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage" (DHCC SLN-01 05/2013) hereby incorporated by reference, accompanied by the appropriate fee, for approval of a new course and shall receive approval prior to operation. If the Committee denies approval of a course, the committee shall provide to the applicant the specific reasons for denial in writing within ninety (90) days.

(c) The Committee may withdraw approval at any time it determines a course does not meet the requirements established in this section or other requirements of law.

(d) All courses shall be at the postsecondary educational level.

(e) Each approved course shall be subject to review by the Committee at any time.

(f) Each approved course shall submit a biennial report "Report of a Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage" (DHCC SLN-03 05/2013) hereby incorporated by reference.

Note Authority cited: Section 1905, 1906, 1909 and 1944, Business and Professions Code. Reference: Section 1905, 1909, and 1944, Business and Professions Code.

Adopt Section 1108 Division 11 of Title 16 of the California Code of Regulations to read as follows:



### **§1108. Requirements for Approval of Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage**

(a) Administration. Each course shall provide the resources necessary to accomplish education as specified in this section. Course providers shall be responsible for informing the Committee of any changes to the course content, physical facilities, and faculty, within 10 days of such changes. Upon successful completion of the course, students shall receive a certificate of completion. The course provider shall require students to possess current certification in Basic Life Support for health care providers as required by Title 10, Chapter 1, Article 4, Section 1016 (C) of the California Code of Regulations (CCR) in order to be eligible for admission to the course, and either:

- (1) Possess a valid active license to practice dental hygiene; or,
- (2) Graduate from an educational program for dental hygienists approved by the Commission on Dental Accreditation.

(b) Faculty. Faculty, including course director and supervising dentist(s) shall:

- (1) possess a valid, active California license to practice dentistry or dental hygiene for at least two (2) years immediately preceding any provision of course instruction.
- (2) provide pre-clinical and clinical instruction only in procedures within the scope of practice of their respective licenses.
- (3) have education in educational methodology within the last two (2) years and must be calibrated.

(c) Facilities and Equipment. Physical facilities and equipment shall be maintained and replaced in a manner designed to provide students with an educationally optimal environment. A physical facility shall have all of the following:

- (1) A lecture classroom, a patient clinic area, a radiology area, and a laboratory for use by the students.
- (2) All students shall have access to equipment necessary to develop dental hygiene skills in these duties.
- (3) Infection control equipment shall be provided according to the requirements of CCR Title 16, Division 11, Chapter 1, Article 1, Section 1005.

(d) Health and Safety. Course providers must document compliance with health and safety policies in accordance with local, state, and federal laws and regulations.

- (1) All students shall have access to the course's hazardous waste management plan for the disposal of needles, cartridges, medical waste and storage of oxygen and nitrous oxide tanks.
- (2) All students shall have access to the course's clinic and radiation hazardous communication plan.
- (3) All students shall receive a copy of the course's bloodborne and infectious diseases exposure control plan, which shall include emergency needlestick information.

(e) Clinical Education. As of January 1, 2016, each course's clinical training shall be given at a dental or dental hygiene school or facility approved by the Committee, which has a written contract of affiliation for such training with a dental or dental hygiene program. Such written contract of affiliation shall include a description of the settings in which the clinical training may be received and shall provide for direct supervision of such training by faculty designated by the dental or dental hygiene school. An affiliated facility shall not include a dental office unless such office is an extramural facility approved by the Committee. Each course shall provide the

clinical facilities and clinical resources necessary to accomplish education in local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage as provided in California Code of Regulations (CCR) Title 16, Division 10, Section 1072.1(g)(4).

(f) Recordkeeping. Course providers must possess and maintain for a period of not less than 5 years:

- (1) Copies of curriculum containing a course syllabus.
- (2) Copies of written examinations, lab and clinic rubrics, and competency evaluations.
- (3) Copies of faculty credentials, licenses, and certifications including documented background in educational methodology within previous two years.
- (4) Individual student records, including those necessary to establish satisfactory completion of the course.
- (5) Student course evaluations and summaries.

(g) Curriculum Organization and Learning Resources.

- (1) The organization of the curriculum for the course shall be flexible, creating opportunities for adjustments to and research of advances in the administration of local anesthetic, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage as provided in subdivision (g)(4)(C) of Section 1105 of this article [or Section 1072.1 of Article 2, Chapter 3 of Division 10].
- (2) Curriculum shall provide students with a basic understanding of these procedures as provided in subdivision (g)(4)(C) of Section 1105 of this article [or Section 1072.1 of Article 2, Chapter 3 of Division 10] and an ability to perform each procedure with competence and judgment.
- (3) Curriculum shall prepare the student to assess, plan, implement, and evaluate these procedures as provided and in accordance with subdivision (g)(4)(C) of Section 1105 of this article [or Section 1072.1 of Article 2, Chapter 3 of Division 10].
- (4) Curriculum must include remediation policy and procedures.
- (5) Students shall be provided a course syllabus that contains:
  - (A) Course learning outcomes.
  - (B) Textbook(s) published within the previous 5 years.
  - (C) Content objectives.
  - (D) Grading criteria which includes competency evaluations and lab and clinic rubrics to include problem solving and critical thinking skills that reflect course learning outcomes, and
  - (E) Remediation policy and procedures.
- (6) Students shall have reasonable access to dental and medical reference textbooks, current scientific journals, audio visual materials and other relevant resources.

(h) General Curriculum Content. Areas of didactic, laboratory, preclinical and clinical instruction shall include:

- (1) Indications and contraindications for all patients of:
  - (A) periodontal soft tissue curettage;
  - (B) administration and reversal of local anesthetic agents;
  - (C) nitrous oxide-oxygen analgesia agents
- (2) Head and neck anatomy;
- (3) Physical and psychological evaluation procedures;
- (4) Review of body systems related to course topics;
- (5) Theory and psychological aspects of pain and anxiety control;

- (6) Selection of pain control modalities;
- (7) Pharmacological considerations such as action of anesthetics and vasoconstrictors, reversal and nitrous oxide-oxygen analgesia agents;
- (8) Recovery from and post-procedure evaluation of periodontal soft tissue curettage, local anesthesia and nitrous oxide/oxygen analgesia;
- (9) Complications and management of periodontal soft tissue curettage, local anesthesia & nitrous oxide-oxygen analgesia emergencies;
- (10) Armamentarium required and current technology available for local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage;
- (11) Technique of administration of maxillary and mandibular local infiltrations, field blocks and nerve blocks, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage;
- (12) Proper infection control techniques according to the provisions of CCR Title 16, Division 11, Chapter 1, Article 1, Section 1005;
- (13) Patient documentation, including computation of maximum recommended dosages for local anesthetics and total lung capacity for nitrous oxide-oxygen analgesia;
- (14) Medical and legal considerations including patient consent, standard of care, and patient privacy;
- (15) Student course evaluation mechanism.

(i) Specific Curriculum Content.

- (1) Local anesthetic agents curriculum must include at least thirty (30) hours of instruction, including at least fifteen (15) hours of didactic, preclinical and/or laboratory instruction and at least fifteen (15) hours of clinical instruction that includes at least three (3) clinical experiences per injection on three different patients, of which only one may be on a student. Curriculum must include maxillary and mandibular anesthesia techniques for local infiltration, field block and nerve block to include anterior superior alveolar (ASA) nerve block (infraorbital), middle superior alveolar nerve block (MSA), anterior middle superior alveolar nerve block (AMSA), posterior superior alveolar nerve block (PSA), greater palatine nerve block, nasopalatine (P-ASA) nerve block, supraperiosteal, inferior alveolar nerve block (to include Gow-Gates technique), lingual nerve block, buccal nerve block, mental nerve block, incisive nerve block and intraseptal injections. One of these clinical experiences per injection will be used as a clinical competency. The competency evaluation for each injection and technique must be achieved at a minimum of 75%.
- (2) Nitrous oxide-oxygen analgesia curriculum must include at least eight (8) hours of instruction, including at least four (4) hours of didactic, preclinical and/or laboratory instruction and at least four (4) hours of clinical instruction. This includes at least three (3) clinical experiences on patients, of which only one may be on a student and one of which will be used as a clinical competency. Each clinical experience shall include the performance of a dental hygiene procedure while administering at least twenty (20) minutes of nitrous oxide-oxygen analgesia. The competency evaluation must be achieved at a minimum of 75%.
- (3) Periodontal soft tissue curettage curriculum must include at least six (6) hours of instruction, including at least three (3) hours of didactic, laboratory and/or preclinical instruction and at least three (3) hours of clinical instruction. Education may include soft tissue laser. This includes at least three (3) clinical experiences on patients, of which

only one may be on a student and one of which will be used as a clinical competency.  
The competency evaluation for this procedure must be achieved at a minimum of 75%.

(j) Certificate of Completion. A course provider shall issue a certificate of completion  
“Certification in Administration of Local Anesthesia, Nitrous Oxide-Oxygen Analgesia, and  
Periodontal Soft Tissue Curettage, (DHCC SLN-02 05/2013) hereby incorporated by reference,  
only after a student has achieved clinical competency of the three procedures.

Note Authority cited: Sections 1905, 1906 and 1909, Business and Professions Code. Reference: Sections 1905 and 1909 Business and Professions Code.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 3**

President's Report  
A verbal report will be provided.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 4**

Executive Officer's Report  
A verbal report will be provided.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 5**

Update from the Dental Board of California  
(DBC)

A verbal report will be provided.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 6**

**Presentations on Diversion Program**





**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 7**

Discussion and Possible Action on  
Diversion Program



**DENTAL HYGIENE COMMITTEE OF CALIFORNIA**

2005 Evergreen Street, Suite 1050, Sacramento, CA 95815

P (916) 263-1978 | F (916) 263.2688 | [www.dhcc.ca.gov](http://www.dhcc.ca.gov)



## MEMORANDUM

<b>DATE</b>	September 6, 2013
<b>TO</b>	DHCC Committee Members
<b>FROM</b>	Anthony Lum, Administrative Analyst
<b>SUBJECT</b>	<b>Agenda Item 7 - Discuss and Possible Action on Diversion Program: §1966-1966.6 of the Business and Professions Code</b>

### Background

The Diversion Program is a legislatively mandated program that provides a means to identify and rehabilitate licensees whose competency may be impaired due to the abuse of dangerous drugs or alcohol, so that licensees so afflicted may be treated and returned to the practice of dental hygiene in a manner that will not endanger the public's health and safety.

DHCC licensees have three ways to enter the Diversion Program: 1) self-referral; 2) Board order, and 3) in-lieu of continued investigation, which is where the Diversion Program gets part of its name – licensees are diverted away from discipline and into treatment.

There are two registered dental hygienists who participate in the Diversion Program maintained by the Dental Board of California. The administrative cost for the two participants is currently \$7,200 (\$3,600 per participant) per year.

### DHCC Action Requested

- ☐ Decide whether to continue offering the Diversion Program to DHCC licensees.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

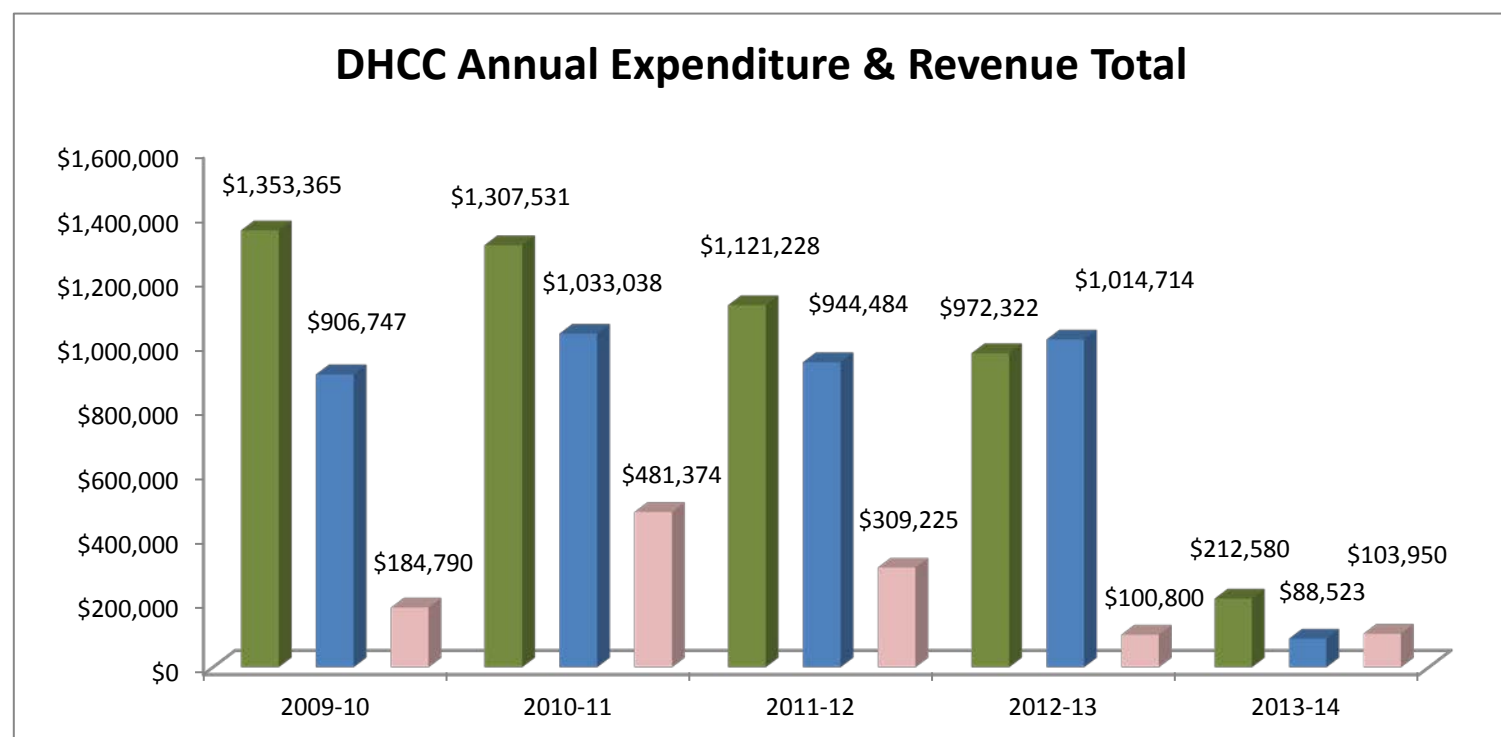
**Agenda Item 8**

**Budget Report**

<b>DHCC ANNUAL EXPENDITURE &amp; REVENUE TRACKING</b>						
<b>Fiscal Year (FY)</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>
<b>DHCC Revenue per FY</b>	\$1,353,365	\$1,307,531	\$1,121,228	\$972,322	\$212,580	\$0
<b>DHCC Exam Revenue</b>	\$184,790	\$481,374	\$309,225	\$100,800	\$103,950	\$0
<b>DHCC Expenditure per FY</b>	\$906,747	\$1,033,038	\$944,484	\$1,014,714	\$88,523	\$0

## Notes:

- a) DHCC established in FY 2009/10
- b) Exam Fees - increased to \$525 in FY 2009/10 from \$220
- c) WREB exam accepted in FY 2010-11
- d) FY 2013-14 data thru 7/31/2013



GREEN = Total Revenue

BLUE = Total Expenditures

PINK = Exam Revenue

# 3140 - State Dental Hygiene Fund

## Analysis of Fund Condition

Prepared 8/16/13

(Dollars in Thousands)

### Governor's Budget 2013-14

	Actual 2011-12	PY 2012-13	Governor's Budget CY 2013-14	BY 2014-15	BY+1 2015-16	BY+2 2016-17
<b>BEGINNING BALANCE</b>	\$ 696	\$ 888	\$ 565	\$ 141	\$ -307	\$ -787
Prior Year Adjustment	\$ 18	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 714	\$ 888	\$ 565	\$ 141	\$ -307	\$ -787
<b>REVENUES AND TRANSFERS</b>						
Revenues:						
114300 Other Motor Vehicle Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125600 Other regulatory fees	\$ 7	\$ 7	\$ 7	\$ 7	\$ 7	\$ 7
125700 Other regulatory licenses and permits	\$ 374	\$ 391	\$ 399	\$ 399	\$ 399	\$ 399
125800 Renewal fees	\$ 722	\$ 676	\$ 686	\$ 686	\$ 686	\$ 686
125900 Delinquent fees	\$ 13	\$ 12	\$ 12	\$ 12	\$ 12	\$ 12
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 3	\$ 2	\$ 1	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1
164300 Penalty Assessments	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,119	\$ 1,089	\$ 1,106	\$ 1,105	\$ 1,105	\$ 1,105
Transfers from Other Funds						
0380 - Committee on Dental Auxilliaries	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds						
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 1,119	\$ 1,089	\$ 1,106	\$ 1,105	\$ 1,105	\$ 1,105
Totals, Resources	\$ 1,833	\$ 1,977	\$ 1,671	\$ 1,246	\$ 798	\$ 318
<b>EXPENDITURES</b>						
Disbursements:						
0840 State Controller (State Operations)	\$ 1	\$ 1	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 2	\$ 8	\$ 7			
SB 821 CH 307/09 Leg Appropriation	\$ 15	\$ 264	\$ -	\$ -	\$ -	\$ -
<u>Budget Act</u>						
1110 Program Expenditures (State Operations)	\$ 927	\$ 1,139	\$ 1,523	\$ 1,553	\$ 1,585	\$ 1,616
Total Disbursements	\$ 945	\$ 1,412	\$ 1,530	\$ 1,553	\$ 1,585	\$ 1,616
<b>FUND BALANCE</b>						
Reserve for economic uncertainties	\$ 888	\$ 565	\$ 141	\$ -307	\$ -787	\$ -1,298
<b>Months in Reserve</b>	7.5	4.4	1.1	-2.3	-5.8	-9.4

#### NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- ASSUMES INTEREST RATE AT .30%.
- ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 9**

Discussion and Possible Action to  
Increase all Renewal Fees



## MEMORANDUM

DATE	September 6, 2013
TO	DHCC Committee Members
FROM	Anthony Lum, Administrative Analyst
SUBJECT	<b>Agenda Item 9 - Discussion and Possible Action to Increase all Renewal Fees</b>

### Background

The Committee has been very frugal and accountable for its resources and expenses since its inception in 2009. With all of the additional expenditures the Committee has absorbed over the past four years and the increased cost of doing business, the fund's reserve was gradually depleted and needs to be replenished. As such, additional revenue is needed now to restore the Committee's fund to a healthy level.

After a review of the Committee's fund condition, it is anticipated that there is a threat of insolvency by fiscal year (FY) 2014-15; however, the fund is projected to be very low this year, FY 2013-14. In order to avoid a low fund reserve and insolvency, additional revenue must be collected to increase the fund's reserve to acceptable levels (which is currently a minimum 3-6 month reserve). Even at this acceptable level, it could be depleted by one program mandate or legal case to where the Committee would need additional revenue. Although there were new fee categories approved in December 2012 (i.e., special permits, mobile dental hygiene clinics, extramural clinical facilities, etc.), those fees will not generate enough revenue to increase and sustain the fund's reserve balance.

The reason that the fund needs to be replenished and remain at a healthy level is so that the Committee is fiscally prepared to deal with:

- Possible future legislative mandates;
- Increases in enforcement actions and investigative costs for consumer protection;
- Expensive curriculum review of the dental hygiene schools;
- The new BreEZe computer system;
- Existing and new Committee goals and objectives requiring more resources and staff to be able to function;
- Other unforeseen expenses.

Additional revenue will help deter insolvency of the Committee's fund and boost the reserve for the expected expenditures listed above.

Committee staff has identified primary sources of additional revenue which is the renewal fees for all licensure categories, delinquent renewal fees, and Fictitious Name Permit (FNP) renewal fees. These fees are targeted because they are a main, ongoing, and reliable source of revenue for the Committee. The fees for these licensure categories have not increased since the Committee's genesis in 2009 and are the only revenue sources that will maintain the fund reserve balance at a healthy level.

### **Committee Action Requested**

Committee staff recommends an increase to the RDH, RDHAP, RDHEF, and FNP renewal fees by \$80.00 to \$160.00 biennially (= \$80 annually) and the delinquent renewal fees by \$40 to \$80 by resolution to be effective January 1, 2014. The fee increases are projected to sustain the fund for four to six (4 to 6) years\* at an acceptable level barring any new mandates or additional programmatic expenditures.

As a comparison, some other State's RDH License Renewal Fees are:

Nevada \$300 (biennial = \$150 annually);  
Arizona \$300 (triennial = \$100 annually); and  
Oregon \$155 (biennial = \$77.50 annually)

Staff is aware that this request doubles the current renewal and delinquent fees. With the fund projected to be insolvent by next year, it is paramount that the Committee increases its revenue. The fee increases are also supported by the CDHA.

\*Projected to sustain the DHCC fund as of 8/14/2013



# 3140 - State Dental Hygiene Fund

## Analysis of Fund Condition

Prepared 8/16/13

(Dollars in Thousands)

### Governor's Budget 2013-14

	Actual 2011-12	PY 2012-13	Governor's Budget CY 2013-14	BY 2014-15	BY+1 2015-16	BY+2 2016-17
<b>BEGINNING BALANCE</b>	\$ 696	\$ 888	\$ 565	\$ 141	\$ -307	\$ -787
Prior Year Adjustment	\$ 18	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 714	\$ 888	\$ 565	\$ 141	\$ -307	\$ -787
<b>REVENUES AND TRANSFERS</b>						
Revenues:						
114300 Other Motor Vehicle Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
125600 Other regulatory fees	\$ 7	\$ 7	\$ 7	\$ 7	\$ 7	\$ 7
125700 Other regulatory licenses and permits	\$ 374	\$ 391	\$ 399	\$ 399	\$ 399	\$ 399
125800 Renewal fees	\$ 722	\$ 676	\$ 686	\$ 686	\$ 686	\$ 686
125900 Delinquent fees	\$ 13	\$ 12	\$ 12	\$ 12	\$ 12	\$ 12
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 3	\$ 2	\$ 1	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1
164300 Penalty Assessments	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,119	\$ 1,089	\$ 1,106	\$ 1,105	\$ 1,105	\$ 1,105
Transfers from Other Funds						
0380 - Committee on Dental Auxilliaries	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds						
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 1,119	\$ 1,089	\$ 1,106	\$ 1,105	\$ 1,105	\$ 1,105
Totals, Resources	\$ 1,833	\$ 1,977	\$ 1,671	\$ 1,246	\$ 798	\$ 318
<b>EXPENDITURES</b>						
Disbursements:						
0840 State Controller (State Operations)	\$ 1	\$ 1	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 2	\$ 8	\$ 7			
SB 821 CH 307/09 Leg Appropriation	\$ 15	\$ 264	\$ -	\$ -	\$ -	\$ -
<u>Budget Act</u>						
1110 Program Expenditures (State Operations)	\$ 927	\$ 1,139	\$ 1,523	\$ 1,553	\$ 1,585	\$ 1,616
Total Disbursements	\$ 945	\$ 1,412	\$ 1,530	\$ 1,553	\$ 1,585	\$ 1,616
<b>FUND BALANCE</b>						
Reserve for economic uncertainties	\$ 888	\$ 565	\$ 141	\$ -307	\$ -787	\$ -1,298
<b>Months in Reserve</b>	7.5	4.4	1.1	-2.3	-5.8	-9.4

#### NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- ASSUMES INTEREST RATE AT .30%.
- ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.

# 3140 - State Dental Hygiene Fund

## Analysis of Fund Condition

Prepared 8/14/2013

(Dollars in Thousands)

### Governor's Budget 2013-14

	Governor's Budget					
	ACTUAL 2011-12	PY 2012-13	CY 2013-14	BY 2014-15	BY+1 2015-16	BY+2 2016-17
<b>BEGINNING BALANCE</b>	\$ 696	\$ 888	\$ 565	\$ 491	\$ 742	\$ 962
Prior Year Adjustment	\$ 18	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 714	\$ 888	\$ 565	\$ 491	\$ 742	\$ 962
<b>REVENUES AND TRANSFERS</b>						
Revenues:						
125600 Other regulatory fees	\$ 7	\$ 7	\$ 7	\$ 7	\$ 7	\$ 7
125700 Other regulatory licenses and permits	\$ 374	\$ 391	\$ 399	\$ 399	\$ 399	\$ 399
125800 Renewal fees (\$80)	\$ 722	\$ 676	\$ 686	\$ 686	\$ 686	\$ 686
125800 Increase to Renewal Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
RDH license renewal fee incr (8,375 x \$80 incr)	\$ -	\$ -	\$ 335	\$ 670	\$ 670	\$ 670
RDHAP license renewal fee incr (168 x \$80 incr)	\$ -	\$ -	\$ 7	\$ 13	\$ 13	\$ 13
RDHEF license renewal fee incr (14 x \$80 incr)	\$ -	\$ -	\$ 1	\$ 1	\$ 1	\$ 1
RDHAP FNP renewal fee incr (16 x \$80 incr)	\$ -	\$ -	\$ 1	\$ 1	\$ 1	\$ 1
125900 Delinquent fees (\$40)	\$ 13	\$ 12	\$ 12	\$ 12	\$ 12	\$ 12
125900 Increase to Delinquent Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
RDH delinq fee incr (300 x \$40 incr)	\$ -	\$ -	\$ 6	\$ 12	\$ 12	\$ 12
RDHAP delinq fee incr (5 x \$40 incr)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
RDHEF delinq fee incr (3 x \$40)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
RDHAP FNP delinq renewal fee incr (3 x \$40)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 3	\$ 2	\$ 1	\$ 2	\$ 3	\$ 3
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ -	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1
164300 Penalty Assessments	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,119	\$ 1,089	\$ 1,456	\$ 1,804	\$ 1,805	\$ 1,805
Transfers <b>from</b> Other Funds						
0380 - Committee on Dental Auxilliaries	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers <b>to</b> Other Funds						
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 1,119	\$ 1,089	\$ 1,456	\$ 1,804	\$ 1,805	\$ 1,805
Totals, Resources	\$ 1,833	\$ 1,977	\$ 2,021	\$ 2,295	\$ 2,547	\$ 2,767
<b>EXPENDITURES</b>						
Disbursements:						
0840 State Controller (State Operations)	\$ 1	\$ 1	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 2	\$ 8	\$ 7			
SB 821 CH 307/09 Leg Appropriation	\$ 15	\$ 264	\$ -	\$ -	\$ -	\$ -
<u>Budget Act</u>						
1110 Program Expenditures (State Operations)	\$ 927	\$ 1,139	\$ 1,523	\$ 1,553	\$ 1,585	\$ 1,616
Total Disbursements	\$ 945	\$ 1,412	\$ 1,530	\$ 1,553	\$ 1,585	\$ 1,616
<b>FUND BALANCE</b>						
Reserve for economic uncertainties	\$ 888	\$ 565	\$ 491	\$ 742	\$ 962	\$ 1,151
<b>Months in Reserve</b>	7.5	4.4	3.8	5.6	7.1	8.4

#### NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- ASSUMES INTEREST RATE AT .30%.
- ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 10**

**Discussion and Possible Action Regarding  
Extramural Fees**



## MEMORANDUM

<b>DATE</b>	September 6, 2013
<b>TO</b>	DHCC Committee Members
<b>FROM</b>	Anthony Lum, Administrative Analyst
<b>SUBJECT</b>	<b>Agenda Item 10</b> - Discussion and Possible Action Regarding Extramural Fees

### **Background**

At the December 2012 meeting, the Committee established the \$200.00 annual extramural fee to become effective on January 1, 2013.

At the May 2013 meeting, an educator shared concerns about the required \$200 annual fee charged for each extramural site for dental hygiene programs in California. It was reported that the annual fee was high and had a severe impact on most dental hygiene program budgets. Many dental hygiene programs utilize multiple sites to enhance the dental hygiene students' clinical experiences. The forced reduction in sites would result in inhibiting dental hygiene education because it restricts the dental hygiene students' experiences by having limited clinical rotations.

**Staff Recommendation:** Staff recommends a revision to the extramural fee to be changed to a \$100.00 annual fee instead of the current \$200.00 annual fee.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 11**

Update on DHCC Uniform Standards Related to  
Substance Abuse and Disciplinary Guidelines -§1138,  
Title 16, Division 11, California Code of Regulations



## MEMORANDUM

<b>DATE</b>	September 6, 2013
<b>TO</b>	DHCC Committee Members
<b>FROM</b>	Donna Kantner, DHCC Staff
<b>SUBJECT</b>	<b>Agenda Item 11</b> - Update on DHCC Uniform Standards Related to Substance Abuse and Disciplinary Guidelines -§1138, Title 16, Division 11, California Code of Regulations

### **Background**

At its April 2012 meeting the Committee approved language relative to Uniform Standards for substance abusing licensees and Disciplinary Guidelines and directed 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.

An Initial Statement of Reasons was prepared according to requirements that each proposed subsection meet the six standards of authority, clarity, consistency, necessity, non-duplication and reference and the regulatory process was initiated by noticing a public hearing for April 16, 2013. The hearing was held and there were no comments received.

Staff prepared the Final Statement of Reasons and other documents to complete the rulemaking file, and submitted the file to Department of Consumer Affairs' Legal Office, Legislation and Policy Review Unit, and Executive Office on May 7 for review and approval. Once the file is approved by all three, it will proceed to Business, Consumer Services and Housing Agency for review and approval. If the file is deemed to have a fiscal impact, it may require review and approval by the Department of Finance. After all entities have reviewed and approved the file, it will be submitted to the Office of Administrative Law (OAL) for final review. OAL has 30 working days to complete its review of the rulemaking file.

### **Committee Action Requested**

☐ Informational only. No action requested.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 12**

Discussion and Possible Action to Amend Proposed Regulatory Language as a result of Comments Received During the 45-Day Public Comment Period for the Committee's Rulemaking to Add *Title 16, CCR, §1107 and 1108* Relevant to RDH Courses in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage



## MEMORANDUM

DATE	September 6, 2013
TO	DHCC Committee Members
FROM	Donna Kantner, DHCC Staff
SUBJECT	<b>Agenda Item 12</b> - Discussion and Possible Action to Amend Proposed Regulatory Language as a result of Comments Received During the 45-Day Public Comment Period for the Committee's Rulemaking to Add <i>Title 16, CCR, §1107 and 1108</i> Relevant to RDH Courses in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage

### Background

At its May 3, 2013 meeting, the Committee approved proposed regulatory language, directed staff to take all necessary steps to initiate the formal rulemaking process and set the proposed regulations for a public hearing.

The proposed regulations were noticed and a public hearing set for August 21, 2013. Attached are written comments received from Dr. Michael Dunne and Joan Greenfield during the public comment period, along with staff's recommendations for each comment and proposed amendments to the text. Additional amendments were suggested by legal counsel and staff.

### **COMMENTS RECEIVED DURING THE 45-DAY PUBLIC COMMENT PERIOD:**

#### ***Comments Received from Dr. Michael Dunne:***

Dr. Dunne provided his background in teaching expanded duty courses and his concern that "the actual pre-clinical and clinical aspects of the course are extremely vague." He recommended "the Committee would see fit to require three laboratory/pre-clinical experiences and three clinical patient experiences in order to 'perform each procedure with competence and judgment.'

**Staff Recommendation:** Staff recommends the Committee accept this comment by requiring at least two preclinical experiences and four clinical experiences, for a total of six experiences, and specify that only one of the clinical experiences per injection may be on another student. Preclinical instruction normally takes place on students. These amendments would require three experiences on students, two during preclinical instruction and one during clinical instruction, and three clinical patient experiences per



injection. This results in a minimum requirement of 24 preclinical experiences and 48 clinical experiences. Staff recommends the following amendments to the second sentence of **Section 1108(i)(1)**:

Preclinical instruction shall include a minimum of two (2) experiences per injection, which may be on another student. Clinical instruction shall that includes at least three four (34) clinical experiences per injection on threefour different patients, of which only one may be on anothera student.

***Comments Received from Joan Greenfield:***

Joan Greenfield commented that she was concerned that Section 1108 allows a student to be used as one of the clinical patients, noting that “oral anatomy, patient reactions, emotional responses, and tissue conditions vary from patient to patient.” She noted that “Student partners are pre-clinical experiences, not actual clinical patients.”

**Staff Recommendation:** Staff notes the concern and is aware that students are routinely used in preclinical instruction, but does not recommend restricting students from being a patient for one of the clinical experiences. A student can be as unique as any other patient. Staff recommends delineating between preclinical and clinical experiences, and has addressed this issue in the previous comment by drafting amendments that increase the number of clinical experiences and allow only one clinical experience on another student.

Ms. Greenfield commented that in proposed **Section 1108(a)**, a course provider must require students taking the course to either “(1) Possess a valid active license to practice dental hygiene; or, (2) Graduate from an educational program for dental hygienists approved by the Commission on Dental Accreditation.” She states that (1) would allow individuals licensed in other states who do not require completion of such a program to take the course, and (2) would limit “an out-of-state senior student in good standing from taking a California approved course until after graduation from their program.”

**Staff Recommendation:** Staff recommends the following amendments to address these concerns:

- (1) Possess a valid, active license to practice dental hygiene issued by the Committee;
- or,
- (2) Have Ggraduated from an educational program for dental hygienists approved by the Commission on Dental Accreditation or an equivalent accrediting body approved by the Committee; or,-
- (3) Provide a letter of certification from the dean or program director of an educational program approved by the Committee that the course applicant is in his or her final academic term and is expected to meet all educational requirements for graduation. The school seal must be affixed to the letter with the name of the program.

Ms. Greenfield commented that in proposed **Section 1108(b)(1)** relative to faculty, a course provider must require the course director and faculty to possess a valid, active California license to practice dentistry or dental hygiene. She commented that “there are

several didactic subjects that can be taught by an individual other than a dentist or hygienist.” Adding, “Head and neck anatomy could be taught by an anatomy faculty or other individual. Infection control and medical emergencies could be taught by a RDA or RDAEF faculty or EMT, RN, MD faculty”.

**Staff Recommendation:** Staff recommends acceptance of this comment and clarification by amending the text to specify that only pre-clinical and clinical faculty must be a Registered Dental Hygienist (RDH) or a dentist, consistent with Commission on Dental Accreditation (CODA) requirements for all RDH educational programs, as follows:

(b) Faculty. ~~Any Pre-clinical and clinical F~~faculty, including course director and supervising dentist(s), shall:

(1) ~~P~~possess a valid, active California license to practice dentistry or dental hygiene for at least two (2) years immediately preceding any provision of course instruction;:-

Ms. Greenfield commented that in proposed **Section 1108(b)(1)** relative to faculty, she disagrees with the requirement that faculty hold a license for two years, stating, “Although this statement appears in several other dental professional regulations, it makes little sense in and of itself. An individual with a license for two years does not assure they have been performing any expanded duties during that time period.” She suggested, “Perhaps a statement similar to . . . *The faculty shall be competent and clinically current in the administration of* . . . Would better accomplish the goal.”

**Staff Recommendation:** Staff recommends retaining the requirement that pre-clinical and clinical faculty possess a valid active California RDH or dental license for a minimum of two years. The suggested text has no measurable standards for competence, and would be subject to interpretation. The existing text is less restrictive while providing a minimum time of licensure that is standard throughout dental professional regulations. It is the responsibility of the course director to ensure that faculty is competent to instruct.

Regarding **Section 1108(b)(3)**, Ms. Greenfield commented that this section contained “Awkward grammar.” She suggested (3) have completed a teaching methodology course which includes clinical evaluation of the specific procedures for local anesthesia, nitrous oxide and soft tissue curettage, methods of evaluation and faculty calibration concepts. ~~education in education in educational methodology within the last two (2) years”~~

**Staff Recommendation:** Staff has drafted amendments for the Committee’s consideration to address this comment:

(3) ~~have education in~~Complete an educational methodology course within the last two (2) years; and

(4) ~~must B~~e calibrated in instruction and grading by the course provider.

Regarding **Section 1108(c)(1)**, Ms. Greenfield commented “There is nothing in the curriculum that requires either a lab or x-ray facilities. Why is this included?”

**Staff Recommendation:** Staff recommends accepting removal of the term laboratory; however radiology facilities are necessary in case a needle breaks during the course, necessitating x-rays to determine whether any needle fragments remain in the patient.

Regarding **Section 1108(d)(2)**, Ms. Greenfield recommends eliminating “radiation hazardous communication plan” from the required documents relative to health and safety policies in accordance with local, state and federal laws and regulation, commenting that “Taking X-rays at the facility is not a required part of the course”.

**Staff Recommendation:** Staff notes that while not a required part of the course, x-rays may be included within the course and students should have a copy of the plan in case of emergency.

Regarding **Section 1108(d)(3)**, which requires that all students receive a copy of the course’s bloodborne and infectious diseases exposure control plan and emergency needlestick information, Ms. Greenfield commented “Shouldn’t this be included in a lecture?”, however no suggested amendment is provided.

**Staff Recommendation:** Staff notes that it is up to the course provider whether to include this information in lecture. Students need a copy for reference. Staff recommends no change.

Regarding **Section 1108(e)** relative to facilities necessary for clinical education, Ms. Greenfield commented “The proceeding requirement is completely unfounded and appears to represents a bias on the part of the DHCC members. This requirement does nothing to guarantee the quality of an Expanded Duty course, and represents an attempt on the part of the committee to participate in unfair business practices. There are many private companies and organizations outside of the realm of a dental or hygiene school that have provided outstanding educational programs that rival or exceed those provided by hygiene or dental school programs. There is a long-standing history of two private companies providing this expanded duty course. In fact it was a private educational company that brought forward recommendations for increasing requirements for the Expanded Duty course in order to better protect the public and the hygiene profession. This requirement has no legitimate foundation and should be removed from the proposed language.”

**Staff Recommendation:** Staff has drafted the following amendments in response to this comment to allow a private company to contract for the use of appropriate clinical facilities for the course. The Committee has no jurisdiction over a course given at a dental office that is not an extramural facility, therefore this text needs to be retained.

The final sentence is stricken since facility requirements are contained in Section 1108(c).

(e) Clinical Education. As of January 1, 2016, each course's clinical training shall be given at a dental or dental hygiene school or facility approved by the Committee, which has a written contract of affiliation for such training with a dental or dental hygiene program. Such written contract of affiliation shall include a description of the settings in which the clinical training may be received and shall provide for direct supervision of such training by faculty designated by the dental or dental hygiene school. ~~An affiliated facility shall not include a dental office unless such office is an extramural facility of an educational program approved by the Committee. Each course shall provide the clinical facilities and clinical resources necessary to accomplish education in local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage as provided in California Code of Regulations (CCR) Title 16, Division 10, Section 1072.1(g)(4).~~

Regarding **Section 1108(f)(2)**, Ms. Greenfield commented "Rubrics' is a current "Buzz word" in education that will be replaced by some other buzzword in the future." She suggested "instead more general terms that will remain current such as . . . *Pre-clinical and clinical evaluation criteria and evaluation forms.*"

**Staff Recommendation:** Staff recommends retention of the term "rubrics", an accepted term for student assessment tools that has been used for over 30 years.

Regarding **Section 1108(f)(5)**, "student course evaluations and summaries", Ms. Greenfield commented, "What does this mean?"

**Staff Recommendation:** Staff notes that student course evaluations are routinely required of all students at the conclusion of a course. These evaluations are compiled and analyzed into summaries. Although no suggested amendments were provided, staff recommends the following clarifying amendments in response to this comment:

(5) Student course evaluations and ~~summaries~~ summation of student course evaluations.

Regarding **Section 1108(g)(5)**, Ms. Greenfield commented that "remediation policy" be changed to "remediation policies".

**Staff Recommendation:** Staff recommends acceptance of this comment, as a provider may have more than one remediation policy.

Regarding **Section 1108(g)(5)(B)**, relative to course syllabus requirements, Ms. Greenfield commented that "Textbook(s) published within the previous 5 years" should not be required if all content is presented in another format.

**Staff Recommendation:** Staff notes that this is a syllabus provided to students and not a requirement that textbooks be used, only that the titles of reference materials are to be provided to students in the format of a list. The following amendment is recommended for clarity:

(B) ~~Textbooks published within the previous 5 years,~~ Titles of references used for course materials.

**Regarding Section 1108(g)(5)(D),** relative to course syllabus requirements, Ms. Greenfield commented that rubrics be struck and replaced by evaluation criteria and evaluation forms.

**Staff Recommendation:** Staff recommends retention of the term rubrics and does not recommend that a specific student evaluation form be required for all course providers to use in assessment of students' achievement, only that whatever assessment tool is used must be provided to students taking the course.

Regarding **Section 1108(h)(7)**, Ms. Greenfield commented "Nitrous oxide is not an agent" and suggests the following text: Pharmacological considerations such as action of anesthetics and vasoconstrictors, local anesthetic reversal agents, and nitrous oxide ~~sedation-oxygen analgesia agents~~.

**Staff Recommendation:** Staff recommends acceptance of the comment, but notes that nitrous oxide is not sedation, it is analgesia, and recommends the following amendments to address this comment:

(7) Pharmacological considerations such as action of anesthetics and vasoconstrictors, local anesthetic reversal agents, and nitrous oxide oxygen analgesia ~~agents~~.

Regarding **Section 1108(h)(11)**, Ms. Greenfield commented "Awkward sentence structure. You don't usually 'administer' STC."

**Staff Recommendation:** Staff recommends acceptance and has drafted the following amendments to address this comment:

(11) Technique of administration of maxillary and mandibular local infiltrations, field blocks and nerve blocks, nitrous oxide-oxygen analgesia and performance of periodontal soft tissue curettage;

Regarding **Section 1108(h)(13)**, Ms. Greenfield commented "Suggest you either be more accurate and complete with this definition or simply say 'patient procedure documentation'. If you are going to get specific here then at least be complete. EX. Patient documentation should include: Type of injection, location, type of anesthetic agent and amounts given, any reactions, etc. Nitrous oxide should include: Tidal volume, percentages or amounts of nitrous and oxygen given, duration of procedure,

length of oxygen delivery after, and any adverse reactions or complaints. STC. general tissue condition, probing measurements, tissue margins, edema, etc.”

**Staff Recommendation:** Staff recommends acceptance of this comment and has drafted amendments to the text that require documentation without listing a large number of documentation requirements that would normally be included in the standard of care, as follows:

(13) Patient documentation that meets the standard of care, including, but not limited to, computation of maximum recommended dosages for local anesthetics and total lung capacity for nitrous oxide-oxygen analgesia;

Regarding **Section 1108(i)(1)**, Ms. Greenfield commented “There is nothing indicating what is to occur within these pre-clinical/laboratory hours. According to the previous sentence as it is written, the student would be giving each patient ‘3’ of each of the injection listed. Assuming that is not what you meant, and I hope it isn’t, then the sentence needs to be rewritten.”

**Staff Recommendation:** Staff notes that this comment was accepted and addressed previously.

#### **COMMENTS RECEIVED AT THE REGULATORY HEARING ON AUGUST 21, 2013**

Ms. Jessica Scruggs, a member of the public, objected to the educational portion of the regulations that specifies the director and faculty must be licensed in California, stating that this prohibits any out-of-state program from being able to provide such a program. Ms. Scruggs noted that other states may teach to these same standards, but not have faculty that is licensed in California. She recommended that other states be allowed to use these standards as rubrics to gain course approval.

**Staff Recommendation:** Staff notes that this comment has been partially addressed by accepting a previous comment that allows non-licensed individuals to provide didactic instruction. Regarding the suggestion to allow other states to use these standards as rubrics in order to be approved by the Committee to provide courses in the expanded duties, staff does not recommend acceptance of this comment, as it would obligate the Committee to review applications from other states’ programs and continuing education providers, causing a backlog for review of these courses. The Committee does not currently have the staff resources to absorb this workload. Additionally, the Committee would have no oversight over courses given outside of California due to out-of-state travel restrictions.

#### **Additional Amendments**

In addition to the amendments proposed in response to the above comments, staff drafted further clarifying amendments to the text, which were reviewed by Legal counsel, whose recommendations are also included. These color-coded amendments are attached.

**Committee Action Requested**

- ☐ 1) Discuss each comment and either accept or reject staff's recommendation, providing a rationale that will be included in the rulemaking file.
- 2) Discuss the additional amendments drafted by staff and suggested by legal counsel.
- 3) Take action to accept or reject each of the proposed amendments.
- 4) If any amendments are accepted, direct staff to notice the proposed changes for a 15-day comment period and delegate to the Executive Officer any nonsubstantive changes necessary to complete the rulemaking file.

**September 6, 2013**

New text is underlined. ~~Strikeout~~ indicates deleted text.

Proposed amendments are color-coded as follows:

**Green** – Staff’s recommendations

**Blue** – Legal Counsel’s recommendations

**Red** – Changes resulting from comments received during public comment period

**§1107. ~~Approval of~~ RDH Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage**

(a) Approval of Course. The Committee shall approve only those educational courses of instruction~~for these duties~~ in local anesthetic, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage dental hygiene which that continuously meet all course requirements. ~~This article governs the approval of educational programs for courses in local anesthetic, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage.~~ Continuation of approval will be contingent upon compliance with these requirements.

~~(a)~~ (1) A course in local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage is a course that provides instruction in the following duties:

~~(1)~~ (A) Administration of local anesthetic agents, infiltration and conductive, limited to the oral cavity;

~~(2)~~ (B) Administration of nitrous oxide and oxygen when used as an analgesic; utilizing fail-safe type machines containing no other general anesthetic agents; and

~~(3)~~ (C) Periodontal soft tissue curettage.

~~(b)~~ (2) An applicant course provider shall submit an “Application for Approval of a Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage” (DHCC SLN-01 05/2013) hereby incorporated by reference, accompanied by the appropriate fee, for approval of a new course and shall receive approval prior to operation. ~~If the Committee denies approval of a course, the committee shall provide to the applicant the specific reasons for denial in writing within ninety (90) days.~~

~~(c) The Committee may withdraw approval at any time it determines a course does not meet the requirements established in this section or other requirements of law.~~

~~(3)~~ (d) All courses shall be at the postsecondary educational level.

~~(4)~~ (e) Each approved course shall be subject to review by the Committee at any time.

~~(5)~~ (f) Each approved course shall submit a biennial report “Report of a Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage” (DHCC SLN-03 05/2013) hereby incorporated by reference.

~~Note Authority cited: Section 1905, 1906, 1909 and 1944, Business and Professions Code. Reference: Section 1905, 1909, 1917 and 1944, Business and Professions Code.~~



## **~~§1108. Requirements for Approval of Course in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage~~**

~~(a) Administration.~~ **(b) Requirements for Approval.** In order to be approved, a course shall provide the resources necessary to accomplish education as specified in this section. Course providers shall be responsible for informing the Committee of any changes to the course content, physical facilities, and faculty, within 10 days of such changes.

~~(a) (1) Administration.~~ **Upon successful completion of the course, students shall receive a certificate of completion.** The course provider shall require students/course applicants to possess current certification in Basic Life Support for health care providers as required by Title 160, Division 10, Chapter 1, Article 4, Section 1016**(b)(1)(C)** of the California Code of Regulations ~~(CCR)~~ in order to be eligible for admission to the course, and either one of the following:

~~(1) (A)~~ **(A)** Possess a valid, active license to practice dental hygiene issued by the Committee; or,

~~(2) (B)~~ **(B)** Have Graduated from an educational program for dental hygienists approved by the Commission on Dental Accreditation or an equivalent accrediting body approved by the Committee; or,-

**(C)** Provide a letter of certification from the dean or program director of an educational program approved by the Committee that the course applicant is in his or her final academic term and is expected to meet all educational requirements for graduation. The school seal must be affixed to the letter with the name of the accredited dental hygiene program.

~~(b) (2) Faculty.~~ **Any Pre-clinical and clinical Faculty**, including course director and supervising dentist(s), shall:

~~(1) (A)~~ **(A)** Possess a valid, active California license to practice dentistry or dental hygiene for at least two (2) years immediately preceding any provision of course instruction;-

~~(2) (B)~~ **(B)** Provide pre-clinical and clinical instruction only in procedures within the scope of practice of their respective licenses;-

~~(3) (C)~~ **(C)** Have education in Complete an educational methodology course within the last two (2) years; and

~~(4) (D)~~ **(D)** Must Be calibrated in instruction and grading by the course provider.

~~(c) (3) Facilities and Equipment.~~ **Pre-clinical and clinical instruction shall be held at a physical facility.** Physical facilities and equipment shall be maintained and replaced in a manner designed to provide students with an educationally optimal environment/course calculated designed to meet the educational objectives set forth in this section. A physical facility shall have all of the following:

~~(1) (A)~~ **(A)** A lecture classroom, a patient clinic area, and a radiology area, ~~and a laboratory~~ for use by the students.

~~(2) (B)~~ **(B)** All students shall have a Access for all students to equipment necessary to develop dental hygiene skills in these duties.

~~(3) (C)~~ **(C)** Infection control equipment shall be provided according to the requirements of CCR Title 16, Division 1044, Chapter 1, Article 1, Section 1005.

~~(d)~~(4) Health and Safety. ~~A C~~course providers ~~shall comply~~must document compliance with ~~health and safety policies in accordance with~~ local, state, and federal health and safety laws and regulations.

~~(1)~~(A) All students shall have access to the course's hazardous waste management plan for the disposal of needles, cartridges, medical waste and storage of oxygen and nitrous oxide tanks.

~~(2)~~(B) All students shall have access to the course's clinic and radiation hazardous communication plan.

~~(3)~~(C) All students shall receive a copy of the course's bloodborne and infectious diseases exposure control plan, which shall include emergency needlestick information.

~~(e)~~(5) Clinical Education. As of January 1, 2016, each course's clinical training shall be given at a dental or dental hygiene school or facility approved by the Committee, which has a written contract ~~of affiliation~~ for such training with a dental or dental hygiene program. Such written contract ~~of affiliation~~ shall include a description of the settings in which the clinical training may be received and shall provide for direct supervision of such training by faculty designated by the dental or dental hygiene school. ~~An affiliated~~ facility shall not include a dental office unless such office is an extramural facility of an educational program approved by the Committee. ~~Each course shall provide the clinical facilities and clinical resources necessary to accomplish education in local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage as provided in California Code of Regulations (CCR) Title 16, Division 10, Section 1072.1(g)(4).~~

~~(f)~~(6) Recordkeeping. ~~A C~~course providers ~~shall~~must possess and maintain the following for a period of not less than 5 years:

~~(1)~~(A) ~~A copy~~Copies of each approved curriculum, containing a course syllabus.

~~(2)~~(B) ~~A copy~~Copies of completed written examinations, lab and clinic rubrics, and completed competency evaluations.

~~(3)~~(C) ~~A copy~~Copies of faculty calibration plan, faculty credentials, licenses, and certifications including documented background in educational methodology within previous two years.

~~(4)~~(D) Individual student records, including those necessary to establish satisfactory completion of the course.

~~(5)~~(E) Student course evaluations and ~~summaries~~summation of student course evaluations.

~~(g)~~(7) Curriculum Organization and Learning Resources.

~~(1)~~(A) The organization of the curriculum for the course shall be flexible, creating opportunities for adjustments to and research of advances in the administration of local anesthetic, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage as provided in ~~Section 1105 of this article~~the section in this article on Requirements for RDH Programs.

~~(2)~~(B) Curriculum shall provide students with a basic understanding of these procedures as provided in ~~subdivision (g)(4)(C) of Section 1105~~ the section in this article on Requirements for RDH Programs and an ability to perform each procedure with competence and judgment.

~~(3)~~(C) Curriculum shall prepare the student to assess, plan, implement, and evaluate these procedures as provided and in accordance with subdivision (g)(4)(C) of Section 1105 the section of this article on Requirements for RDH Programs.

~~(4)~~(D) Curriculum ~~must~~shall include remediation policyies and procedures outlining course policyguidelines for students who fail to successfully complete the course.

~~(5)~~(E) Students shall be provided a course syllabus that contains:

~~(A)~~(i) Course learning outcomes,

~~(B)~~(ii) Titles of references used for course materials, Textbook(s) published within the previous 5 years,

~~(C)~~(iii) Content objectives,

~~(D)~~(iv) Grading criteria which includes competency evaluations and lab and clinic rubrics to include problem solving and critical thinking skills that reflect course learning outcomes, and

~~(E)~~(v) Remediation policy and procedures.

~~(6)~~(F) Students shall have reasonable access to dental and medical reference textbooks, current scientific journals, audio visual materials and other relevant resources.

~~(h)~~(8) General Curriculum Content. Areas of didactic, laboratory, preclinical and clinical instruction shall include:

~~(1)~~(A) Indications and contraindications for all patients of:

~~(A)~~(i) periodontal soft tissue curettage;

~~(B)~~(ii) administration and reversal of local anesthetic agents;

~~(C)~~(iii) nitrous oxide-oxygen analgesia agents

~~(2)~~(B) Head and neck anatomy;

~~(3)~~(C) Physical and psychological evaluation procedures;

~~(4)~~(D) Review of body systems related to course topics;

~~(5)~~(E) Theory and psychological aspects of pain and anxiety control;

~~(6)~~(F) Selection of pain control modalities;

~~(7)~~(G) Pharmacological considerations such as action of anesthetics and vasoconstrictors, local anesthetic reversal agents and nitrous oxide-oxygen analgesia ~~agents~~;

~~(8)~~(H) Recovery from and post-procedure evaluation of periodontal soft tissue curettage, local anesthesia and nitrous oxide/oxygen analgesia;

~~(9)~~(I) Complications and management of periodontal soft tissue curettage, local anesthesia &and nitrous oxide-oxygen analgesia emergencies;

~~(10)~~(J) Armamentarium required and current technology available for local anesthesia, nitrous oxide-oxygen analgesia and periodontal soft tissue curettage;

~~(11)~~(K) Technique of administration of maxillary and mandibular local infiltrations, field blocks and nerve blocks, nitrous oxide-oxygen analgesia and performance of periodontal soft tissue curettage;

~~(12)~~(L) Proper infection control techniques according to the provisions of Title 16, Division 10, Chapter 1, Article 4, Section 1005 of the California Code of Regulations~~CCR Title 16, Division 11, Chapter 1, Article 1, Section 1005;~~

~~(13)~~(M) Patient documentation that meets the standard of care, including, but not limited to, computation of maximum recommended dosages for local anesthetics and total lung capacity for nitrous oxide-oxygen analgesia;

~~(14)~~(N) Medical and legal considerations including patient consent, standard of care, and patient privacy;

~~(15)~~(O) Student course evaluation mechanism.

~~(i)~~(9) Specific Curriculum Content.

~~(1)~~(A) Local anesthetic agents curriculum must include at least thirty (30) hours of instruction, including at least fifteen (15) hours of didactic, and preclinical and/or laboratory instruction and at least fifteen (15) hours of clinical instruction. Preclinical instruction shall include a minimum of two (2) experiences per injection, which may be on another student. Clinical instruction shall that includes at least ~~three~~four (~~3~~4) clinical experiences per injection on ~~three~~four different patients, of which only one may be on another student. Curriculum must include maxillary and mandibular anesthesia techniques for local infiltration, field block and nerve block to include anterior superior alveolar (ASA) nerve block (infraorbital), middle superior alveolar nerve block (MSA), anterior middle superior alveolar nerve block (AMSA), posterior superior alveolar nerve block (PSA), greater palatine nerve block, nasopalatine (P-ASA) nerve block, suprapariosteal, inferior alveolar nerve block (to include Gow-Gates technique), lingual nerve block, buccal nerve block, mental nerve block, incisive nerve block and intraseptal injections. One of these clinical experiences per injection will be used as a clinical competency~~One clinical experience per injection shall be used to determine clinical competency in the course~~. The competency evaluation for each injection and technique must be achieved at a minimum of 75%.

~~(2)~~(B) Nitrous oxide-oxygen analgesia curriculum must include at least eight (8) hours of instruction, including at least four (4) hours of didactic, and preclinical and/or laboratory instruction and at least four (4) hours of clinical instruction. This includes at least two (2) preclinical experiences on patients, both of which may be on another student, and at least three (3) clinical experiences on patients, of which only one may be on another student and one of which will be used to determine~~as a clinical competency in the course~~. Each clinical experience shall include the performance of a dental hygiene procedure while administering at least twenty (20) minutes of nitrous oxide-oxygen analgesia. The competency evaluation must be achieved at a minimum of 75%.

~~(3)~~(C) Periodontal soft tissue curettage curriculum must include at least six (6) hours of instruction, including at least three (3) hours of didactic, ~~laboratory~~ and ~~or~~ preclinical instruction and at least three (3) hours of clinical instruction. Education may include soft tissue laser use of a laser approved for soft tissue curettage. This includes at least three (3) clinical experiences on patients, of which only one may be on another student and one of which will be used to determine~~as a clinical competency in the course~~. The competency evaluation for this procedure must be achieved at a minimum of 75%.

~~(i)~~(10) Certificate of Completion. A course provider shall issue a certificate of completion (Certification in Administration of Local Anesthesia, Nitrous Oxide-Oxygen Analgesia, and Periodontal Soft Tissue Curettage, Form SLN-02 (04/13)) hereby incorporated by reference, only after a student has achieved clinical competency of the three procedures.

### **§1109. Disapproval.**

#### **(c) Appeals.**

~~(a)~~(1) ~~The Committee may deny or withdraw or restrict its approval of a course. If the Committee denies or withdraws approval of a course, the reasons for withdrawal or denial will be provided in writing within ninety (90) days.~~

~~(2)~~ Any course provider ~~or applicant~~ whose approval is ~~denied or withdrawn or restricted~~ shall be granted an informal conference before the Executive Officer or his or her designee prior to the effective date of such action. The ~~applicant or course~~ provider shall be given at least ten days' notice of the time and place of such informal conference and the specific grounds for the proposed action.

~~(b)~~(3) The ~~applicant or course~~ provider may contest the ~~denial or withdrawal or restriction~~ of approval by either:

~~(1)~~(A) Appearing at the informal conference. The Executive Officer shall notify the course provider of the final decision of the Executive Officer within ten days of the informal conference. Based on the outcome of the informal conference, the course provider may then request a hearing to contest the Executive Officer's final decision. A course provider shall request a hearing by written notice to the Committee within 30 calendar days of the postmark date of the letter of the Executive Officer's final decision after informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Or;

~~(2)~~(B) Notifying the Committee in writing the course provider's election to forego the informal conference and to proceed with a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Such notification shall be made to the Committee before the date of the informal conference.

Note Authority cited: Sections 1905, 1906, ~~and 1909~~, and 1944 Business and Professions Code. Reference: Sections 1905, ~~and 1909~~, and 1917, and 1944 Business and Professions Code.



**Application for Approval of Course in**  
**Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage**  
 Business & Professions Code §1909, ~~Title~~-16 CCR §1107-~~and §1108~~.

**Non-Refundable Fee: \$300 (Must accompany application)**

Receipt	_____	RC	_____
Date filed	_____	\$	_____
Approved	_____	Denied	_____
RP#	_____		

Course Provider \_\_\_\_\_

Phone Number \_\_\_\_\_

Email Address \_\_\_\_\_

Name and Title of Course Director \_\_\_\_\_

Affiliated Dental Hygiene or Dental Program \_\_\_\_\_

Mailing Address of Course Provider\* \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

Clinical Facility Address (if different from above) \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

\*Course provider mailing address is public. If you wish to provide a P.O. Box, you must also provide a physical address and be sure to specify that the physical address is not to be used as your address of record.

**Requirements for Course**

~~All questions must be answered "Yes" for a course to be approved.~~ A course must be approved prior to operation. Each approved course must submit a biennial report. Course records shall be subject to inspection by the Committee at any time. The Committee may withdraw approval at any time that it determines that a course does not meet the requirements of the law. Course providers must inform the Committee of any changes to course content, faculty and physical facilities within 10 days.

1. Will the course provide instruction in administration of local anesthetic agents infiltration and conductive, limited to the oral cavity, administration of nitrous oxide-oxygen used as an analgesic utilizing fail-safe type machines containing no other general anesthetic agents, and periodontal soft tissue curettage? Include a copy of your curriculum.

☐ Yes

☐ No

2. Will the course be established at or affiliated with a California dental or dental hygiene school? Include your written affiliation and if applicable, the extramural site agreement.

☐ Yes

☐ No



### 3. Course Faculty Information

Name	License Type	License #	License Expiration	Date of Educational Methodology

Course director and all faculty must possess a valid, active California license for at least two years. Attach copies of each license and proof of education in educational methodology and faculty calibration plan.

4. Will there be a lecture classroom, patient clinic area, radiology area and laboratory for use by students? Attach a facility site map indicating each of these areas.

☐ Yes ☐ No

5. Will all students have access to equipment necessary to develop dental hygiene skills in the duties being taught? Attach a list.

☐ Yes ☐ No

6. Will all students have access to the hazardous waste management plan for disposal of needles, cartridges, medical waste, storage of nitrous oxide and oxygen tanks and the course's clinic and radiation hazardous communication plan? Attach a copy of both the hazardous waste management and hazardous communication plan.

☐ Yes ☐ No

7. Will all students receive a copy of the bloodborne and infectious diseases exposure control plan, including the emergency needlestick information? Attach a copy as provided to students.

☐ Yes ☐ No

8. Will the course clearly state curriculum subject matter, specific instruction hours in the individual areas of didactic, pre-clinical and clinical instruction, and include written course and specific instructional learning outcomes that will be accomplished within the framework of the course, including theoretical aspects of each subject as well as practical application in accordance with California Code of Regulations §1107 and §1108 and a copy be provided to students? Attach a copy of curriculum, including student evaluation mechanism and remediation policy and procedures.

☐ Yes ☐ No

9. Will the course be of sufficient duration for the student to develop competence in administration of local anesthesia, administration of nitrous oxide-oxygen analgesia, and periodontal soft tissue curettage? Attach a course schedule.

☐ Yes ☐ No

10. Will instruction in periodontal soft tissue curettage total at least 6 hours including at least 3 hours of didactic, laboratory and/or pre-clinical instruction and at least 3 hours of clinical instruction that includes a minimum of 3 (three) clinical experiences on three different patients of which only one may be on a student?

☐ Yes ☐ No

11. Will instruction in the administration of local anesthetic agents total at least 30 hours, including at least 15 hours of didactic hours of laboratory and/or pre-clinical and at least 15 hours of clinical instruction that includes a minimum of 3 clinical experiences on three different patients of which only one may be on a student?

☐ Yes ☐ No

12. Will instruction in the administration of nitrous oxide-oxygen total at least 8 hours including at least 4 hours of didactic, laboratory and or pre-clinical instruction and 4 hours of clinical instruction that includes a minimum of 3 clinical experiences on 3 different patients of which only one may be a student?

☐ Yes ☐ No

13. Specify the number of total hours within the course that will be taught in the categories listed below:

Didactic	_____	Pre-clinical	_____
Laboratory	_____	Clinical	_____

14. Will continuing education (CE) be offered for this course? If yes, provide your California continuing education provider number below.

\_\_\_\_\_

☐ Yes ☐ No

## Recordkeeping

15. Will you retain for at least 5 years copies of curriculum, sample test questions and lab and clinic rubrics, copies of faculty credentials and individual student records and evaluations pursuant to California Code of Regulations §1108 (f).

☐ Yes ☐ No

16. Will each student be issued a certificate of successful completion after achievement of a minimum of 75% in each clinical competency and has been deemed competent in each of the 3 (three) procedures?

☐ Yes ☐ No

## Acknowledgement

17. Have you reviewed Business & Professions Code §1909 and California Code of Regulations §1005, §1107 and §1108?

☐ Yes ☐ No

18. Do you agree to abide by the requirements set forth in Business & Professions Code §1909, and California Code of Regulations § 1107, and §1108? Do you acknowledge that failure to do so may result in loss of course approval?

☐ Yes ☐ No

The Committee may approve or deny approval of any course. If the Committee denies approval of a course, the reasons for denial will be provided in writing within 90 days.



**Certification**

*I certify under the penalty of perjury under the laws of the State of California that the statements made in the application are true and correct, and that all courses offered will meet the requirements set forth by the Committee.*

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Signature of Course Director or designee

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Date

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Printed Name of Course Director or designee

## **INFORMATION COLLECTION AND ACCESS**

The information requested herein is mandatory and is maintained by the Dental Hygiene Committee of California, 2005 Evergreen Street, Suite 1050, Sacramento, CA 95815, Executive Officer, 916-263-1978, in accordance with Business & Professions Code, §1900 et seq. The information requested will be used to determine eligibility. Failure to provide all or any part of the requested information will result in the rejection of the application as incomplete. Each individual has the right to review the personal information maintained by the agency unless the records are exempt from disclosure. Applicants are advised that the names(s) and address(es) submitted may, under limited circumstances, be made public.



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 13**

Discussion and Possible Action on Proposed Dental  
Hygiene Regulations Title 16, California Code of  
Regulations Articles 1, 2, 6 and 8 of the California Code  
of Regulations



## MEMORANDUM

<b>DATE</b>	September 6, 2013
<b>TO</b>	DHCC Committee Members
<b>FROM</b>	Donna Kantner, DHCC Staff
<b>SUBJECT</b>	<b>Agenda Item 13</b> - Discussion and Possible Action to Add Proposed Dental Hygiene Regulations Title 16, California Code of Regulations Articles 1, 2, 6 and 8

### Background

At its December 5-6, 2010 meeting, the Committee approved proposed regulatory language, and directed staff to make non-substantive changes and move through the regulatory process.

Due to staffing shortages, other workload and regulatory priorities, and the massive volume of the regulations, this item was brought back to the Committee for prioritization December 12, 2011, and the Committee voted to split the regulations into three phases. In drafting an Initial Statement of Reasons (ISR) required for notice of any regulatory action, staff noticed that portions of the text used outdated language and other portions were simply unclear, which violates one of the six standards of regulations – clarity. Additionally, some sections were duplicative of statute and as written, the regulations would violate two of the Office of Administrative Law's (OAL) six standards for all regulations: clarity and non-duplication.

At its May 3<sup>rd</sup> meeting, the Committee was informed that the text was being revised to correct these problems and the regulatory language for the initial phase would be reviewed by Legal counsel for the Committee's consideration at the September 2013 meeting. Following is the regulatory language for consideration.

### Committee Action Requested

☐ Discuss and take action to approve the proposed regulatory language and direct staff to take all necessary steps to initiate the formal rulemaking process and set the proposed regulations for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package.

[All New Text]

**TITLE 16**  
**California Code of Regulations**  
**Professional and Vocational Regulations**  
**Division 11**  
**Dental Hygiene Committee of California**

**ARTICLE 1. DEFINITIONS**

**§1100. Definitions.**

For purposes of this division:

- (a) "Administration of local anesthesia" means the administration of local anesthetic agents by infiltration injection or conductive injection.
- (b) "Administration of nitrous oxide and oxygen" means the administration of nitrous oxide and oxygen when used as an analgesic during dental treatment.
- (c) "Assessment" means the systematic collection, analysis, and documentation of the oral and general health status and patient needs through a variety of methods, including choice of radiographs, diagnostic tools, and instruments.
- (d) "Basic supportive dental procedures" means fundamental duties or functions as referenced in California Code of Regulations Section 1067(l).
- (e) "Code" means the Business and Professions Code.
- (f) "Committee office" means the Committee office located in Sacramento, California.
- (g) "Executive Officer" means the Executive Officer appointed by the Committee.
- (h) "Dental Act" means the Dental Practice Act.
- (i) "Dental assistant" means an unlicensed person as referenced in California Code of Regulations (CCR) Section 1067(b).
- (j) "Dental hygiene care plan" means an organized presentation or list of interventions to promote health or prevent disease of the patient's oral condition; plan is designed by the dental hygienist based on assessment data, dental hygiene diagnosis, and consists of services within the scope of dental hygiene practice.
- (k) "Dental hygiene preventive services" means those services provided by the dental hygienist that prevent oral disease or pathology, promote oral health and improve the patient's quality of life.
- (l) "Dental hygiene therapeutic interventions" means specific procedure or set of procedures designed to intervene in the disease process to produce a therapeutic benefit.
- (m) "Dental hygiene treatment plan" means an organized presentation or list of interventions to promote health or prevent disease of the patient's oral condition designed by the registered dental hygienist in alternative practice based on assessment data and consists of services within the scope of practice of the registered dental hygienist in alternative practice.
- (n) "Ethics" for the purposes of the examination required by Section 1917(d) of the Code, means an act or acts in accordance with the California Dental Hygienists'

Association (CDHA) or the American Dental Hygienists Association (ADHA) Code of Ethics.

(o) "Gross trauma" means a burn, deep laceration, long laceration and/or puncture to soft tissue, hard tissue, and/or bone

(p) "Licentiate" or "Licensee" means any individual licensed or registered by the Committee.

(q) "Periodontal debridement" means the process by which hard and soft deposits are removed from the supragingival and subgingival surfaces of the teeth, including the disruption of bacterial cell walls of nonadherent plaque.

(r) "Periodontal evaluation record" means that part of the dental hygiene assessment pertaining to the clinical observations of the gingiva, periodontal pocket probe depths, measurement of the location of the free gingival margin/recession, calculation of attachment loss, measurement of keratinized/attached gingiva, detection of marginal and deep bleeding on probing, detection of suppuration, detection of furcation involvement, detection of fremitus and mobility, and assessment of plaque and calculus accumulations.

(s) "Polishing the coronal surfaces of teeth", or "coronal polishing" means a procedure limited to the removal of plaque on and stain from exposed tooth surfaces, utilizing an appropriate rotary instrument with rubber cup or brush and a polishing agent.

(t) "Refer" means through assessment, diagnosis, or treatment, it is determined that services are needed beyond the practitioner's competence or area of expertise. The patient understands and consents to the referral and some form of evaluation will be accomplished through cooperation with professionals to whom the patient has been referred.

(u) "Root planing" means the process of instrumentation which removes all residual calculus and toxic materials from the root to produce a clean, smooth tooth surface.

(v) "Scaling" means the removal of calculus and dental biofilm from the supragingival and subgingival exposed tooth surfaces.

(w) "Soft tissue curettage" means the removal of the inflamed soft tissue lateral to the pocket wall, which is not subgingival curettage referring to the procedure that is performed apical to the epithelial attachment, severing the connective tissue attachment down to the osseous crest.

(x) "Treatment facility" for purposes of section 1902 of the Code means any place where oral health services are provided.

Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1902, 1905, 1908, 1909, 1910, 1911 and 1917 Business and Professions Code.

## **ARTICLE 2: ADMINISTRATION**

### **§ 1101. Delegation to Committee's Executive Officer.**

(a) Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act, (Section 11500 et seq. of the Government Code), the Committee delegates and confers upon the Executive Officer, or his or her designee, all functions necessary to the dispatch of business of the Committee in connection with investigative and administrative proceedings under the jurisdiction of the Committee,

including issuing an order for medical or mental examination under Section 820 of the Code, and the ability to approve stipulated settlement agreements for the revocation, surrender or interim suspension of a license.

(b) The power and discretion conferred by law upon the Committee to initiate review and prosecute accusations and statements of issues pursuant to Sections 11500 through 11528 of the Government Code are hereby delegated to and conferred upon the Committee's Executive Officer or in the absence thereof a designee.

Note: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1905 and 1950, Business and Professions Code; and Sections 11500-11528, Government Code.

## **ARTICLE 6. EXAMINATIONS**

### **§1121. Dental Hygiene Written Examinations**

Prior to issuance of a license, an applicant for licensure as an RDH, RDHAP or RDHEF shall successfully take and complete a supplemental written examination in California Law and Ethics.

(a) Each examination shall be specific for the RDH, RDHAP or RDHEF license, and

(b) shall test the applicant's knowledge of California law as it relates to the specific dental hygiene practice and the applicant's ability to recognize and apply ethical principles.

(c) An applicant shall be deemed to have passed the examination with a minimum score of seventy-five percent (75%).

NOTE: Authority cited: Section 1905, Business and Professions Code. Reference: Sections 1917, 1918, and 1922 Business and Professions Code.

### **§1122. General Procedures for the Dental Hygiene Committee of California Written Examinations.**

(a) An applicant shall be able to read and interpret instructions and examination materials.

(b) An applicant may be dismissed from the entire examination for engaging in conduct listed in Section 123 of the Code.

Note: Authority cited: Sections 123, 496, 1905, and 1917, Business and Professions Code. Reference: Sections 123, 496, 1905, and 1917, Business and Professions Code.

### **§1124. General Procedures for the Dental Hygiene Committee of California Clinical Examination.**

(a) Each applicant shall furnish patients, instruments, and materials needed to take and complete the clinical examination.

(b) A patient provided by an applicant must be at least eighteen (18) years of age and shall be in a health condition acceptable for dental hygiene treatment. If conditions indicate a need to consult the patient's physician or for the patient to be pre-medicated,

the applicant must obtain the necessary written medical clearance and/or evidence of premedication before the patient will be accepted. The examiners may, in their discretion, reject a patient who in the opinion of at least two examiners has a condition that interferes with evaluation or that may be hazardous to the patient, other patients, applicants or examiners. A hazardous condition includes, but is not limited to, acute symptomatic hepatitis, active herpetic lesions, acute periodontal or periapical abscesses, or necrotizing ulcerative gingivitis. Whenever a patient is rejected, the reason for such rejection shall be noted on the examination record and shall be signed by both rejecting examiners.

(c) It is the applicant's responsibility to provide an interpreter, if necessary, to complete the medical history and consent form for non-English speaking patients. An interpreter will be allowed in the grading area only if requested by an examiner.

(d) No person shall be admitted to an examination clinic unless he or she is wearing an identification badge.

(e) An applicant may be dismissed from the entire examination for engaging in conduct listed in Section 123 of the Code.

Note: Authority cited: Sections 123, 1905, and 1917, Business and Professions Code. Reference: Sections 123, 1905, and 1917 Business and Professions Code.

#### **§1126. Conduct of Dental Hygiene Committee of California Clinical Examinations.**

Examinations shall be anonymous. An anonymous examination is one conducted in accordance with procedures, including but not limited to those set forth below, which ensure and preserve anonymity of applicants.

(a) The Committee shall randomly assign each applicant a number for identification purposes throughout the entire examination.

(b) Grading examiners shall not view applicants during the performance of the examination assignments. A grading examiner shall be a California licensed RDH, RDHAP, or RDHEF for a minimum of five years.

(c) There shall be no communications between grading examiners and clinic supervisors except for oral communications conducted in the presence of Committee staff. There shall be no communication between grading examiners and applicants except written communications.

NOTE: Authority cited: Sections 1905 and 1917 Business and Professions Code. Reference: Sections 1905 and 1917, Business and Professions Code.

#### **§1127. Dental Hygiene Committee of California Clinical Examination Review Procedures; Appeals.**

(a) An applicant who has failed an examination shall be provided with notice, upon written request, of those areas in which he or she is deficient.

(b) An unsuccessful applicant who has been informed of the areas of deficiency in his or her performance on the examination and who has determined that one or more of the following errors was made during the course of his or her examination and grading may

appeal to the Committee within sixty (60) days following receipt of his or her examination results:

- (1) Significant procedural error in the examination process;
- (2) Evidence of adverse discrimination;
- (3) Evidence of substantial disadvantage to the applicant.

(c) An appeal shall be made by means of a written letter specifying the grounds upon which the appeal is based. The Executive Officer shall respond to the appeal in writing and may request a personal appearance by the applicant. The Committee shall thereafter take such action as it deems appropriate.

Note: Authority cited: Sections 1905 and 1917, Business and Professions Code. Reference: Sections 1905 and 1917, Business and Professions Code.

## **ARTICLE 8. MINIMUM STANDARDS FOR INFECTION CONTROL**

### **§1133. Minimum Standards for Infection Control**

Licensees shall comply with the Minimum Standards for Infection Control as set forth in Section 1005 of the California Code of Regulations.

Note: Authority cited: Section 1905, Business and Professions Code. Reference: Section 1905, Business and Professions Code.





**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 14**

Update on Legislation



## MEMORANDUM

<b>DATE</b>	September 6, 2013
<b>TO</b>	DHCC Committee Members
<b>FROM</b>	Donna Kantner, DHCC Staff
<b>SUBJECT</b>	<b>Agenda Item 14</b> - Update on the Following Legislation

### **Background**

When the two-year Legislative Session began in January of this year, staff began tracking, monitoring and analyzing legislation for any potential impact to licensees, dental hygiene consumers, or the operations of the DHCC.

At its May 3<sup>rd</sup> meeting, of the numerous bills that staff had tracked and analyzed, the Committee discussed several which could have an impact on the profession of dental hygiene or the DHCC. The Committee took a position on some of these bills, and letters were sent to their authors.

Following is a chart of bills that have been monitored since the beginning of the Session, and their current status. Six have become two-year bills due to their failure to pass out of their house of origin by the deadline of May 31. The remaining active bills must be passed and sent to the Governor by the date of the Legislature's adjournment, September 13 this year, or they will die. The Governor has 30 days to sign or veto a bill, once he receives it. If he does neither, it becomes law without his signature.

### **Committee Action Requested**

☐ No action needed. Information only.

**DENTAL HYGIENE COMMITTEE OF CALIFORNIA  
TRACKED LEGISLATION  
SEPTEMBER 2013 COMMITTEE MEETING**

Bill No.	Author	Subject	Date of Introduction:	Last Amended:	Location:	Status:	Committee Position:	Notes:
AB 18	Pan	Health Care Coverage: Pediatric Oral Care Benefits	12/3/2012	6/24/2013	Assembly Appropriations Committee	7/3/13 - In Committee. Set first hearing. Hearing cancelled at author's request.	None	Dead. Failed to pass out of its house of origin.
AB 50	Pan	Health Care Coverage: Medi-Cal: Pregnancy related and postpartum services	12/21/2012	8/15/2013	Assembly Appropriations Committee	8/26/13 - In committee: Placed on APPR. suspense file. Hearing set 8/30	None	Gut-and- amended to pregnancy & postpartum care
AB 186	Maienschein	Professions and Vocations: Military Spouses: Licenses	1/28/2013	6/24/2013	Senate BP&ED	7/1/13 - In committee. Set 1st hearing. Testimony taken. Further hearing to be set.	Oppose unless amended	Letter sent May 21
AB 213	Logue	Healing arts: Licensure and Certification Requirements	1/31/2013		Assembly Appropriations Committee	5/24/13 - In committee. Set, second hearing. Held under submission.	None	Dead. Failed to pass out of its house of origin.
AB 258	Chavez	State Agencies: Veterans	2/7/2013	4/23/2013	Governor's Desk	8/26/13 -Enrolled and sent to the Governor for signature.	None	
AB 291	Nestande	California Sunset Review Commission	2/11/2013		Assembly Accountability & Administrative Review Committee	4/15/13 - In Committee. First hearing set. Hearing cancelled at author's request.	None	2-Year Bill
AB 318	Logue	Medi-Cal: Teledentistry	2/12/2013	3/19/2013	Assembly Health Committee	4/9/13 - In Committee. First hearing set. Hearing cancelled at author's request.	None	2-Year Bill
AB 512	Rendon	Healing Arts: Licensure Exemption	2/20/2013		Signed into law	8/16/13 Signed by Governor. Extends Sponsored Free Health Events statute to 2018.	Support (May 2013)	Letter sent May 21
AB 771	Jones	Public Health: Wellness Programs	2/21/2013	3/19/2013	Assembly Health Committee	3/19/13 - To Assembly Health. 3/19/13 - From Assembly Health with Author's Amendments.	None	2-Year Bill
AB 1174	Bocanegra	Dental Professionals: Teledentistry Under Medi-Cal	2/22/2013	4/9/2013	Assembly Health Committee	4/30/13 - In Assembly Health: Not heard.	Support (May 2013)	2-Year Bill
AB 1231	Perez	Regional Centers: Telehealth	2/22/2013	6/27/2013	Senate Appropriations Committee	8/19/13 - In Committee. Placed on APPR suspense file. Hearing date 8/30	None	
SB 28	Hernandez/ Steinberg	California Health Benefit Exchange	12/3/2012	8/7/2013	Assembly Appropriations Committee	8/21/13 - Set, first hearing. Referred to APPR. suspense file. Hearing date 8/30	Watch (May 2013)	
SB 176	Galgiani	Administrative procedures	2/6/2013	8/7/2013	Assembly Appropriations Committee	8/13/13 - From Committee. Do pass and re-refer to Committee on Approps. Hearing date 8/30	Support if amended (May 2013)	Amendments on 5/28 & 6/18 addressed concerns
SB 456	Padilla	Health Care Coverage	2/21/2013		Senate Rules Committee	3/11/13 - To Senate Committee on Rules.	None	2-Year Bill
SB 532	De Leon	Professions and Vocations: Military Spouses	2/21/2013		Senate Rules Committee	3/11/13 - To Senate Committee on Rules.	None	2-Year Bill
SB 562	Galgiani	Dentists: Mobile or Portable Dental Units	2/22/2013	6/18/2013	Assembly Third Reading File	8/5/13 - Read 2nd time. To and from consent Calendar. Ordered to 3rd reading.	None	

**DENTAL HYGIENE COMMITTEE OF CALIFORNIA  
TRACKED LEGISLATION  
SEPTEMBER 2013 COMMITTEE MEETING**

Bill No.	Author	Subject	Date of Introduction:	Last Amended:	Location:	Status:	Committee Position:	Notes:
SB 809	DeSaulnier	Controlled Substances: Reporting	2/22/2013	8/5/2013	Assembly Appropriations Committee	8/21 - Set 1st hearing. Referred to APPR suspense file. Hearing date 8/30 8/13/13 - From committee: Do pass and re-refer to Com. on Apropriations.	None	Adds a \$6 annual fee to licensees who prescribe, order, administer, furnish, or dispense drugs
SB 821	Senate BP&ED Committee	Healing Arts	3/20/2013	6/4/2013	Assembly Appropriations Committee	8/28/13 - In Senate. Read 3rd time. Ordered to Special Consent calendar	Support (May 2013)	DCA's Omnibus bill



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 15**

**CLOSED SESSION**



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 16**

**Future Agenda Items**



**Friday, September 6, 2013**

**Dental Hygiene Committee of California**

**Full Committee**

**Agenda Item 17**

Adjournment of the September 6, 2013  
Full Committee Meeting