



## **DENTAL HYGIENE COMMITTEE MEETING MINUTES**

**Evergreen Hearing Room  
2005 Evergreen Street, 1<sup>st</sup> Floor  
Sacramento, CA 95815  
Saturday, December 6, 2014**

### **Roll Call/Establishment of Quorum**

President Michelle Hurlbutt called the meeting to order at 9:05 a.m. Roll call was taken and a quorum established.

#### DHCC members present:

Susan Good, Public Member  
Sherrie-Ann Gordon, Public Member  
Michelle Hurlbutt, President, Registered Dental Hygienist (RDH) Educator  
Timothy Martinez, DMD  
Nicolette Moultrie, Vice President, RDH  
Garry Shay, Public Member  
Evangeline Ward, RDH

#### DHCC members absent:

Noel Kelsch, Secretary, Registered Dental Hygienist in Alternative Practice (RDHAP)

#### DHCC Staff present:

Lori Hubble, Executive Officer (EO)  
Anthony Lum, Assistant Executive Officer (AEO)  
Guadalupe Castillo, Legislative and Regulatory Analyst  
Donna Kantner, Retired Annuitant  
Claire Yazigi, Department of Consumer Affairs (DCA) Legal Counsel

#### Public present:

Kristy Menage Bernie, UC San Francisco  
Lori De Caro, RDH  
Karen Fischer, Executive Officer, Dental Board of California  
Mariann Fujimoto, RDH  
JoAnn Galliano, California Dental Hygienists' Association (CDHA), Chabot College  
Vickie Kimbrough, Southwestern College  
Kim Laudenslager, Central Regional Dental Testing Service (CRDTS)  
Susan Lopez, CDHA  
Susan McLearn, CDHA, Sacramento Valley Dental Hygienists' Association  
Lisa Okamoto, Past President, CDHA

Sharon Osborn Popp, Western Regional Examining Board (WREB)  
Kelly Reich, WREB  
Laurel Sampson, Concorde Career College  
Karine Strickland, President, CDHA

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

There was no public comment for items not on the agenda.

**FULL 2 – Approval of the May 3, 2014 Full Committee Meeting Minutes**

Sherrie Gordon asked the minutes to reflect at the top of page 10 that the Committee's final position on AB 2058 be changed to "watch". M/S/P (Shay/Moultrie) to approve the minutes as amended.

**FULL 3 – President's Report**

President Hurlbutt reported that since May 2014, she had attended the June 2014 exam orientation, various meetings regarding AB 1174 (Ch. 662, Statutes of 2014), and represented the DHCC at Dental Board meetings. She announced her appointments to the Task Force on Alternative Pathways for Licensure: Phyllis Sprague, Vicki Kimbrough-Walls, JoAnn Galliano and Michelle Hurlbutt. She recognized audience members Rebecca May from the Department of Consumer Affairs' (DCA) Executive Office, Corrine Strickland of the California Dental Hygienists' Association (CDHA), Gayle Mathe of the California Dental Association (CDA), Executive Officer Karen Fischer of the Dental Board, WREB and CRDTS representatives, and thanked staff for their hard work.

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

Executive Officer Lori Hubble reported that two vacancies remain at the Dental Hygiene Committee, an Office Technician and a half-time Investigator. She thanked staff for all their hard work. She noted that former DHCC Member Susan Johnson had resigned to take a position at the Bureau of Security and Investigative Services. She reported that DHCC had published its 3<sup>rd</sup> newsletter and the booklet of statutes was distributed to members. She reported that our regulations are moving along well, and examination results were mailed within five days of the October examinations. She noted that the DHCC received an update on the new BreZE system yesterday which will provide even better services to the public, that DHCC's fingerprint process was audited and adheres to policies for handling fingerprints, that the Central Regional Dental Testing Service (CRDTS) clinical exam is now accepted and members Nicolette Moultrie and Michelle Hurlbutt are CRDTS examiners.

Ms. Hubble stated that she is looking at further developing DHCC's strategic plan in 2015, which will require physical meetings. She indicated that this is President Hurlbutt's final meeting as President after serving in that role for two years, although she will continue as a member of the Committee, and presented a plaque in recognition of her service and leadership as a gift from the Dental Hygiene Committee members.

**FULL 5 – Discussion and Possible Action on the Dental Board of California's (DBC) Sunset Review Report, Section 11, regarding DHCC's relationship with DBC in promulgating regulations**

Legislative and Regulatory Analyst Guadalupe Castillo reported that the DBC submitted their Sunset Review report this year, and one of the issues listed concerned regulations, and another was the DHCC's wish to become an independent board. She noted that currently the DHCC is only required to consult with DBC on infection control and scope of practice issues and regulations, which is different in comparison of the Physician Assistant Board and Medical Board. She stated that in their statutory language, it requires collaboration from both programs on all regulations. President Hurlbutt noted that the DHCC never said we wished to "sever all ties" with the DBC, and she is saddened at this misconception. M/S/P to Direct the Executive Officer to continue to monitor the issues, track legislation, attend all meetings and hearings, and any other necessary actions.

**FULL 6 – Presentation from the Western Regional Examining Board regarding: Update on Organizational Structure, Update on Dental Hygiene Exam, and a Summary of Dental Hygiene Exam Psychometrics for 2014**

Representatives from the Western Regional Examining Board (WREB) provided information regarding the participating and member states and WREB's organizational structure. WREB's Director of Development for Dental Hygiene, Kelly Reich, reported that upcoming changes to the dental hygiene examination include a decrease in fees to \$650, preliminary results onsite, and immediate onsite retakes for another \$650 fee, adding that these fees do not include the school use fees of \$125 to \$195. She reported that the process of care exam will not be required or administered in 2015. WREB psychometrician Sharon Osborn-Popp explained that WREB looks at exam performance, examiner performance and exam sites to ensure validity and fairness. She noted that the first attempt pass rate is near 91%, and the second attempt pass rate is 79%, with the third attempt at 69%. She stated that remediation is required after three attempts. Ms. Gordon asked about the diversity of WREB. Director Reich responded that each state chooses their representative member and WREB does not dictate the choice.

**FULL 7 – Budget Report**

AEO Anthony Lum provided a financial update, noting that the fund condition is fluid and can change depending on actual expenditures and disbursements. He reported that the License Renewal Fee increase for all licensure categories and Fictitious Name Permits went into effect January 1, 2014. Vice President Moultrie asked if there were no longer a licensure exam, where would those monies be directed in the budget. Mr. Lum said they would likely be directed toward enforcement.

**FULL 8 – Update on Regulations: a) Courses in Administration of Local Anesthesia, Nitrous Oxide-Oxygen Analgesia, and Periodontal Soft Tissue Curettage, CCR, Title 16, Division 11, Section 1107; b) Remedial Education, CCR, Title 16, Division 11, Section 1108; and c) Educational Programs, CCR, Title 16, Division 11, Sections §§1103, 1105, 1105.1, 1105.2, 1105.3, 1105.4 and 1106**

Donna Kantner provided an update on the three rulemaking files currently in process. President Hurlbutt questioned the length of time that some of the files take to move through DCA's review process. Ms. Kantner explained that the file must be reviewed by DCA Legal, Legislative and Regulatory Review Unit, Budgets, and the Executive Office before it can be forwarded to Agency,

Department of Finance (DOF), and the Office of Administrative Law (OAL). She noted that it seemed to take a lengthy time for Budgets to review the Economic and Fiscal Impact form and Attachment(s), adding that Agency's and DOF's review has been rapid lately, only a week or two at most. She reported that the Remedial Education file may go to OAL by the end of the year, who has 30 working days for review.

**FULL 9 – Discussion and Possible Action to Amend Proposed Regulations Relative to Approval of Educational Programs, CCR, Title 16, Division 11, Section 1104, 1104.1 and 1104.2**

Ms. Kantner reported that when this file was submitted to DCA for review, the Legislative and Regulatory Review Unit advised that the form accompanying these regulations be revised to contain the specific fee. She noted that the fee and citation in the form were the only changes to the regulatory text. M/S/P(Gordon/Good) to approve the proposed amendments to the Instructions and direct staff to take all necessary steps to complete the rulemaking process, including posting the proposed amendments for a 15-day public notice, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package to complete the rulemaking process.

**FULL 10 – Election of Officers**

President Hurlbutt noted that elections are normally held at this time each year. Member Gordon nominated Nicolette Moultrie for President. Members voted unanimously to elect Ms. Moultrie President. Ms. Moultrie nominated Noel Kelsch for Vice President. There was no public comment and the Committee voted unanimously to elect Ms. Kelsch Vice President. Ms. Moultrie nominated Susan Good for Secretary. There was no public comment, and the Committee voted unanimously to elect Ms. Good Secretary. There was no public comment on this item.

Officer Election Results:

President – Nicolette Moultrie, RDH  
Vice President – Noel Kelsch, RDHAP  
Secretary – Susan Good, Public Member

**FULL 11 – Proposed 2015 DHCC Meeting Schedule**

Executive Officer Hubble presented the proposed meeting dates, noting that the spring dates are in conjunction with CDA's and CDHA's Spring Session in Southern California, and the fall dates coincide with Dental Board's meeting dates and might be held in the same place so that members could attend both. Members felt that a midweek meeting is difficult, Member Good asked if Saturday-Sunday, May 2-3 would be viable. M/S/P (Moultrie/Gordon) to meet May 2-3, 2015 in Orange County, and check with Member Kelsch. M/S/Withdrawn (Good/Moultrie) to meet in Fresno in December. After discussion, M/S/P(Ward/Moultrie) to meet in Sacramento December 4-5, 2015, with Members Good and Shay dissenting. M/S/P (Shay/Good) that staff make every effort to facilitate meeting in Fresno in 2016, and directed that staff report back. Member Ward agreed, suggesting spring, since December can be very foggy there.

**FULL 12 – Licensing and Examination Subcommittee Report**

Acting Chair Ward reported that the Licensing and Examination Subcommittee approved the May 2, 2014 minutes, accepted clinical and written exam statistics as presented, accepted the licensure statistics as corrected, reviewed a survey on dental hygiene continued competency developed by Kristie Menage Bernie, RDH for her Capstone Research Project at UC San Francisco and provided feedback and suggestions. She reported there was no public comment on items not on the agenda, and no future agenda items were requested. She reported that the Subcommittee recommends that the Committee accept the 2015 Clinical Examination schedule as presented, except with the change of dates from October 10<sup>th</sup> and 11<sup>th</sup> to October 24<sup>th</sup> and 25<sup>th</sup> at San Joaquin Valley College, and also recommends that the Committee adopt the DHCC RDH Clinical Examination observer policy as presented.

M/S/P(Subcommittee)to accept the 2015 proposed Clinical Exam dates, and M/S/P(Subcommittee) to adopt the observer policy as presented. Both votes were unanimous.

### **FULL 13 – Legislative and Regulatory Subcommittee Report**

Chair Good reported that the Legislative and Regulatory Subcommittee approved the May 2, 2014 minutes, accepted an update on legislation, and recommended the Committee approve the proposed regulatory language and direct staff to take all necessary steps to initiate the formal rulemaking process and set proposed regulations relative to dental hygiene definitions for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package to complete the rulemaking process. M/S/F(Subcommittee)(Unanimous) to adopt the report and recommendations.

Gayle Mathe, CDA, spoke to concerns with the definitions, noting that there are two letters from outside counsel, 1 to the Dental Board and 1 to the DHCC, questioning the legality of these regulations being pursued without the Dental Board's input. She felt that the two regulatory boards need to coordinate.

JoAnn Galliano, CDHA, said that there has been a long process in looking at these definitions, and they are used in educational programs, are accepted by the American Dental Educators Association, and have been used for many years. Ms. Mathe responded that the definitions are used for education, not to be taken out of context. President Hurlbutt noted that there is a public hearing process. Legal Counsel Yazigi noted the comments and suggested submitting the regulations to the Dental Board pursuant to Section 1905.2 of the Business and Professions Code, who may then approve, modify or reject them. Member Shay noted that the Dental Board does not have veto power. Counsel Yazigi noted that all comments must be submitted to OAL and that OAL is the ultimate determiner. Ms. Galliano suggested taking out the controversial ones and send the remainder through, since the package has already expired once.

Karen Fischer, Executive Officer of the Dental Board, noted that Legal Counsel's recommendation is a good one, and shows that the DHCC is moving forward in good faith. She added that CDA and the Dental Board do not always agree, so send the entire package and if there is any question of what is scope of practice, it can be discussed. She said that since the Board meets four times annually, there would be more opportunity for public comment, and believed it was a great idea procedurally. Counsel Yazigi noted that the Board has 90 days to review and that DHCC cannot send over only certain portions of the regulation, and that adding in light of the discussion, she felt it necessary to forward to DBC. Member Shay agreed that the DBC has special rights of notice

according to Section 1905.2 M/S/W (Shay/Gordon) to direct staff to submit the language to the Dental Board, give them 90 days to approve, reject or modify, and if modified or rejected, provide the reasons within 30 days. He continued that if there are no modifications, the package will move forward. President Hurlbutt was opposed to sending definitions outside the scope of practice to the DBC, suggesting two packages. Kristie Menage Bernie was concerned, since the regulations have already gone through this process once, saying the Committee was backtracking. Lisa Okomoto, CDHA President, also spoke against further delay. Vice President Moultrie asked if public comment is received and text is modified, will the language have to return to the DBC again. Member Shay felt the Committee should move forward and let OAL know that the DBC was specifically notified and had opportunity to comment. President Hurlbutt noted the continued confusion when setting regulations. Ms. Fischer noted that the record will show that there was no discussion or consensus, no good faith effort to demonstrate open communication. She stated that the DBC did not see the package at a formal meeting, feeling that it would not be an undue delay to allow the DBC to comment. She stated her desire to work together and make every effort to move the package along. Member Shay noted that the DBC is allowed 90 days to comment by law. Ms. Kantner stated that the public comment period must be a minimum of 45 days, it could be longer, but not less, adding that the hearing could be scheduled for after the DBC provided comments. M/S/P (Shay/Gordon)(Unanimous) that the Subcommittee recommends that the full Committee approve the proposed dental hygiene regulations relative to definitions and direct staff to take all necessary steps to initiate the formal rulemaking process, set the proposed regulations for a 90 day public hearing, send the proposal to the DBC per Business and Professions Code Section 1905.2, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package and complete the rulemaking process. M/S/P(Subcommittee) (Unanimous) to accept the Subcommittee's recommendation to move forward with the regulations package relative to administration and examinations.

Chair Good reported that the Subcommittee considered the proposed bill language drafted by CDHA to address issues raised in the Committee's sunset review and DCA Legal Counsel's suggested changes to the language. The Subcommittee voted to recommend that the Committee agree in concept with the proposed language to address issues raised in the Committee's Sunset Review, add DHCC's legal counsel's comments into the bill, and direct staff to monitor. Ms. Good reported that the Subcommittee voted to recommend that the Committee consider a tentative March teleconference meeting date, if necessary, to review the revised language. M/S/P(Subcommittee) (Unanimous).

Chair Good reported that a future agenda item was suggested by Vice President Moultrie relative to using a multi-criteria screening process to admit students into dental hygiene educational programs rather than a lottery system. Ms. Ward said she preferred the lottery system, as the point system can rule out qualified candidates.

M/S/P (Subcommittee)(Unanimous) to accept the Legislative and Regulatory Subcommittee's report.

Chair Shay reported that the Subcommittee approved its December 2013 and May 2014 minutes, and received enforcement statistics and DCA Performance Measures from Enforcement Analyst Nancy Gaytan. He noted that he had previously commented on the lateness of cases filed, but now all are within the standards.

M/S/P(Subcommittee)(Unanimous) to accept and file the Subcommittee report.

**FULL 15 – Education Subcommittee Report**

Chair Moultrie reported that the Subcommittee accepted its May 2014 minutes and added, “After a collaborative discussion and suggestions for amendments to the text from subcommittee and audience members,” at the beginning of this paragraph dealing with Agenda Item EDU 4, as well as an attachment providing language drafted as a result of the discussion.

Chair Moultrie reported that the Subcommittee received an update on SB 850 and noted that DHCC will follow the progress of the bill and report if any dental hygiene programs in community colleges are approved for the pilot project to issue a baccalaureate degree.

Chair Moultrie reported that the Subcommittee received an update on AB 1174, adding that Section 1910.5 of the bill allows the DHCC to approve programs to teach the new duties in advance of regulations.

M/S/P(Subcommittee) (Unanimous) to accept and file the Education Subcommittee’s report.

**FULL 16 – Closed Session**

There was no closed session at this meeting.

**FULL 17 – Future Agenda Items**

Vicki Kimbrough-Walls asked for an item regarding remediation, saying that Southwestern was the only institution who offers this program and it is unclear how disciplinary cases are to achieve clinical competence in their remediation.

**FULL 18 – Adjournment**

The meeting adjourned at 12.35 p.m.