



Dental Hygiene Committee Meeting Minutes *Sunday, May 7, 2017*

Atrium Hotel at Orange County Airport
18700 MacArthur Blvd.
Irvine, CA 92612

DHCC Members Present:

Noel Kelsch, President, Registered Dental Hygienist in Alternative Practice (RDHAP)
Nicolette Moultrie, Acting Secretary, Registered Dental Hygienist (RDH)
Michelle Hurlbutt, RDH Educator
Sandra Klein, Public Member
Timothy Martinez, Public Health Dentist
Edcelyn Pujol, Public Member
Garry Shay, Public Member

DHCC Members Absent and Excused:

Susan Good, Vice President, Public Member
Evangeline Ward, Secretary, RDH

DHCC Staff Present:

Anthony Lum, Interim Executive Officer
Estelle Champlain, Legislative and Regulatory Analyst
Nancy Gaytan, Enforcement Analyst
Adina Pineschi-Petty, RDH and Doctor of Dental Surgery (DDS), Education Specialist
Michael Santiago, Department of Consumer Affairs (DCA) Legal Counsel for the DHCC

Public Present:

Luisa Bransford, Fresno City College
Pat Connolly-Atkins, American Board of Dental Examiners (ADEX)
Natalie Ferrigno, West Los Angeles College
Mariann Fujimoto, RDH
JoAnn Galliano, RDH, Education Consultant
Mary Johnston, ADEX
Vickie Kimbrough, Purple Pen Seminars and CDHA
Nicole Le, Assistant Chief of Human Resources, Department of Consumer Affairs (DCA)
Mary McCune, California Dental Association (CDA)
Joanne Pacheco, Fresno City College
Kelly Reich, WREB
Sabrina Santucho, Concorde Career College, San Bernardino
Maureen Titus, CDHA

1. Roll Call and Establishment of a Quorum

Noel Kelsch, President of the Dental Hygiene Committee of California (DHCC), called the meeting to order at 9:00 a.m. She announced that Susan Good and Evangeline Ward had been excused. Acting DHCC Secretary, Nicolette Moultrie, took roll call and a quorum was established with seven members present.

2. Public Comments for Items Not on the Agenda

There were no comments from the public.

3. Discussion and Possible Action on the Revised Duty Statement for the Executive Officer

Nicole Le, Assistant Chief of Human Resources, Department of Consumer Affairs (DCA) presented the revised duty statement for the DHCC's Executive Officer. She asked that the Committee review and amend, approve, or disapprove each task on the duty statement.

President Kelsch suggested that the Committee postpone a decision on this matter until a later date. She explained that since the revised duty statement was several pages long, the time needed to thoroughly review the document would be significant. Since the Committee did not receive the document in advance, it may be prudent for Committee members to individually review their copies outside the present meeting time and then return to the matter during a public meeting in the near future.

Motion: Garry Shay moved to refer the duty statement for the Executive Officer to the Selection Committee so the Selection Committee could refine the document and make any changes they saw fit then present the refined document to the Full Committee at a future meeting for a vote.

Second: Michelle Hurlbutt

President Kelsch asked if any member of the public or the Committee would like to comment. There were no comments.

Vote: The motion to refer the duty statement for the Executive Officer to the Selection Committee so the Selection Committee could refine the document and make any changes they saw fit then present the refined document to the Full Committee at a future meeting for a vote passed 7:0.

Name	Aye	Nay	Absent
Susan Good			X
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Sandra Klein	X		
Nicolette Moultrie	X		
Edcelyn Pujol	X		
Garry Shay	X		
Evangeline Ward			X

4. American Board of Dental Examiners (ADEX) Examination Presentation

President Kelsch said that a letter was sent to all of the dental hygiene education programs stating that the DHCC would soon accept ADEX testing for licensure. She clarified that this letter did not originate from the DHCC and that the DHCC does not accept ADEX testing for licensure and does not currently have plans to do so.

Nonetheless, she added that the DHCC appreciates ADEX's representatives coming to the present meeting and that the DHCC is interested in learning more about the ADEX process.

Pat Connolly-Atkins and Mary Johnston presented information on the ADEX process. They emphasized ADEX's broad jurisdiction and that if the DHCC were to join there would be options for the DHCC to be involved at a level of the DHCC's choosing.

5. BreEZe Computer System Update

Anthony Lum, Interim Executive Officer of the DHCC, reported that most of the feedback from consumers regarding their experience using BreEZe has been positive. The few issues that have arisen were corrected in a timely manner.

President Kelsch asked if any member of the public or the Committee would like to comment. There were no comments.

6. Budget Report

Mr. Lum reported that the DHCC's budget is in good order. He explained that projections show that the DHCC will have maintained 21% below budget by the final month of the 2016-2017 fiscal year. He stated that part of the excess funds would be used to purchase a vehicle for the DHCC's Special Investigator to use on the job.

President Kelsch asked if any member of the public or the Committee would like to comment. There were no comments.

7. Discussion and Possible Action on Proposed Sunset Review Dates

Mr. Lum reported that the DHCC's Sunset Review would be due to the California Legislature by December 1, 2017. He noted that he had not yet received the Legislature's questions for the report but that as soon as those questions arrived he would begin making the report.

He requested that the DHCC hold an additional meeting in late September 2017 or early October 2017 to review the draft of the report. This would allow him time to make any changes necessary to present a final draft for approval at the DHCC's November 2017 meeting before submitting it to the Legislature by December 1, 2017.

President Kelsch suggested appointing a Sunset Review Subcommittee to assist staff in creating the report. The DHCC members discussed it and concluded that a two-person subcommittee would be a wise choice. President Kelsch appointed Michelle Hurlbutt and Nicolette Moultrie.

8. Update on Pending Regulatory Packages

Estelle Champlain, Legislative and Regulatory Analyst for the DHCC, presented a status report on the following regulatory packages:

California Code of Regulations (CCR) Title 16, Division 11, § 1105.2 Change Without Regulatory Effect – Completed and approved by the Office of Administrative Law on March 27, 2017.

CCR Title 16, Division 11, § 1107 Local Anesthesia, Nitrous Oxide and Oxygen, and Periodontal Soft Tissue Curettage Course – The rulemaking file will be recalled per the Legislative and Regulatory Subcommittee's request.

CCR Title 16, Division 11, §§ 1150, 1151, & 1153 Sponsored Free Health Care Events – The rulemaking file was recalled to clarify language for volunteers’ name badges. The Legislative and Regulatory Subcommittee approved the clarifying language, so this rulemaking file will be resubmitted to the Department of Consumer Affairs (DCA) for their approval.

Proposed CCR Title 16, Division 11, § 1109.4 Retired License – The DHCC approved language for the regulation and forms at the December 2016 meeting. Since then, the Notice and Initial Statement of Reasons have been written, but the rulemaking file was incomplete without adopted minutes from the December 2016 meeting. Once the Full Committee adopts those minutes, the rulemaking file can be submitted for DCA’s review.

President Kelsch asked if any member of the public or the Committee would like to comment. There were no comments.

9. Legislative and Regulatory Subcommittee Report

Michelle Hurlbutt presented the report. She stated that the Subcommittee accepted revised minutes for the December 2016 meeting. She also reported that the Subcommittee recommended that the Full Committee adopt the following positions on current bills in the California Legislature:

Assembly Bill (AB) 15	Support if amended
AB 224	Watch
AB 387	Oppose
AB 703	Support
AB 706	Watch
AB 753	Watch
AB 767	Oppose
AB 1277	Support

Senate Bill (SB) 300	Watch
SB 379	Support
SB 508	Watch
SB 572	Oppose
SB 707	Support

Dr. Hurlbutt reported that the Subcommittee discussed possible amendments to Business and Professions Code (BPC) § 1950.5 Unprofessional Conduct, to add mandated reporting requirements specific to the profession. The Subcommittee recommended that the Full Committee pursue amending BPC § 1950.5 Unprofessional Conduct, to add mandated

reporting requirements, but that staff continue to refine the proposed language and return it to the Committee at a future meeting.

The Subcommittee accepted staff's recommended language to clarify the name badge requirement for volunteers found in CCR Title 16, Division 11, § 1153 Sponsored Free Health Care Events. The Subcommittee recommended that the Full Committee vote to move this rulemaking file forward with the amended language.

The Subcommittee recommended that the Full Committee pursue a Section 100: Change Without Regulatory Effect to add a chart to CCR Title 16, Division 11, § 1107(b)(9)(A-B) Courses in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia, and Periodontal Soft Tissue Curettage. Adding the chart would make the regulation more easily understood by the regulated audience.

The Subcommittee recommended that the Full Committee recall CCR Title 16, Division 11, § 1107 Local Anesthesia, Nitrous Oxide and Oxygen, and Periodontal Soft Tissue Curettage Course so that the regulation can be reviewed for possible additional revisions.

The Subcommittee recommended that the Full Committee approve proposed regulatory language to amend CCR Title 16, Division 11, § 1104 Review of Educational Programs, and that the Full Committee direct staff to take all necessary steps to initiate the formal rulemaking process, set the proposed regulations for a 45-day public hearing, and authorize the Interim Executive Officer to make any needed non-substantive changes to the rulemaking file.

The Subcommittee's suggested future agenda items include discussion concerning the following bills currently before the California Legislature: AB 710, AB 1732, SB 392, and SB 501.

Motion: Michelle Hurlbutt moved that the Full Committee accept all of the Legislative and Regulatory Subcommittee's recommendations.

Second: Noel Kelsch

President Kelsch asked if any member of the public or the Committee would like to comment. There were no comments.

Vote: The moved that the Full Committee accept all of the Legislative and Regulatory Subcommittee's recommendations passed 7:0.

Name	Aye	Nay	Absent
Susan Good			X
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Sandra Klein	X		
Nicolette Moultrie	X		
Edcelyn Pujol	X		
Garry Shay	X		
Evangeline Ward			X

10. Licensing and Examination Subcommittee's Report

Nicolette Moultrie, Chairperson of the Licensing and Examination Subcommittee, presented the Subcommittee's report. She stated that the Subcommittee voted to accept the December 2016 meeting minutes, they received information on licensure and written examination statistics, and discussion about the definition on trauma in the context of a clinical examination as well as opportunities and notices for examination retakes were topics suggested for future agendas.

Also, the Subcommittee suggested that the California RDH graduate's pass rates should be delineated from the other states' graduate's pass rates on clinical examination reports submitted to the DHCC so that the DHCC could evaluate how well California's RDH Education Programs were preparing students for their exams.

Motion: The Licensing and Examination Subcommittee recommended that the Full Committee accept the Subcommittee's report.

Second: Michelle Hurlbutt

Chair Moultrie asked if any member of the public or the Committee would like to comment. There were no comments.

Vote: The motion that the Full Committee accept the Licensing and Examination Subcommittee's report passed 7:0.

Name	Aye	Nay	Absent
Susan Good			X
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Sandra Klein	X		
Nicolette Moultrie	X		
Edcelyn Pujol	X		
Garry Shay	X		
Evangeline Ward			X

11. Enforcement Subcommittee's Report

Garry Shay, Chairperson of the Enforcement Subcommittee, presented the Subcommittee's report. He stated that the Subcommittee voted to approve the December 2016 Subcommittee minutes, they received information from staff regarding the enforcement statistics and performance measures, and there were no future agenda items proposed.

Motion: Garry Shay moved that the Full Committee accept the Enforcement Subcommittee's report.

Chair Shay asked if any member of the public or the Committee would like to comment. There were no comments.

Vote: The motion that the Full Committee accept the Enforcement Subcommittee's report passed 7:0.

Name	Aye	Nay	Absent
Susan Good			X
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Sandra Klein	X		
Nicolette Moultrie	X		
Edcelyn Pujol	X		
Garry Shay	X		
Evangeline Ward			X

12. Education Subcommittee's Report

Michelle Hurlbutt, Chairperson of the Education Subcommittee presented the report. She stated that the Subcommittee voted to adopt the Subcommittee minutes from December 2016.

The Subcommittee received information from staff regarding the results of analyses to registered dental hygiene education program faculty biosketches. She reported that the Subcommittee discussed requirements for faculty and that she was prepared to make a recommendation to the Full Committee that the faculty members whose circumstances prevented them from being able to produce proof of having successfully completed courses in local anesthesia, nitrous oxide-oxygen analgesia, and soft tissue curettage be allowed to certify by affidavit that they had taken those courses and these faculty members would also have to show proof of compliance with the requirements of CCR Title 16, Division 11, § 1105.1(d)(1-2).

Chair Hurlbutt asked if there were any questions or comments from the Subcommittee or the public regarding the recommendation that the DHCC accept affidavits from faculty whose circumstances preclude their being able to produce proof of course passage and requiring that these individuals comply with § 1105.1(d)(1-2).

Ms. Moultrie stated that she is a program director at a dental hygiene education program. Two of her faculty members are among the faculty under discussion. She stated that during 2016 she had conferred with the past executive officer of the DHCC and had been advised that the faculty members must (re)take the courses or lose their teaching positions. Ms.

Moultrie stated that one of the individuals chose to retire while the other retook the courses. The faculty member who chose to retake the courses was moved to a different assignment within the program so that she would not teach the courses until she provided proof of having retaken and passed them herself. Ms. Moultrie expressed that these steps to comply were taken at great expense and at a great inconvenience to the faculty member and the educational program. She stated that she did not think it would be fair for the Committee to offer an affidavit option to other faculty members when the two individuals in her own program had been faced with a much stricter ultimatum by the previous executive officer.

Chair Hurlbutt replied that the Subcommittee did not have this information during its deliberations the prior day when they made their recommendation in favor of an affidavit.

Ms. Moultrie stated that she had the additional concern that if the DHCC were to allow affidavits for proof of completion of a required course for educators, then non-educator practicing dental hygienists may wish to bring legal action if affidavits were not accepted for proof of completion of their courses. Mr Lum replied that the affidavits would be specific to the educational setting. Both Ms. Moultrie and President Kelsch expressed doubt on whether that would be practical, citing that a dental hygienist does not give up the right to practice when he or she becomes an educator.

President Kelsch noted that when a person completes a course, it is usually that person's responsibility to retain acceptable forms of proof. She questioned whether each case had been fully investigated to ascertain that there (1) the individual in question believed he or she had successfully completed the course, and (2) there was no surviving proof of having him or her having done so. Ms. Hurlbutt replied that the Subcommittee had been led to believe that this had already been accomplished.

Ms. Moultrie added that in her capacity as a program director, while trying to determine what to do about her two faculty members who could not prove completion of extended functions course completion, she researched the catalogs in her education program's records and found that soft tissue curettage and administration of local anesthetic were taught during the time in question, but administration of nitrous oxide-oxygen was not. She further stated that her two faculty members admitted that they had not taken a course in administration of nitrous oxide-oxygen and that this information had been shared with the former executive officer in 2016.

President Kelsch asked Dr. Pineshi-Petty, Education Specialist for the DHCC, to look through her files to verify the number of faculty members in question. Dr. Pineschi-Petty stated there were eight.

President Kelsch noted that since there had been a change in staff leadership with the former executive officer retiring in December 2016 and the interim executive officer taking on the work, there were bound to be some issues that were not fully communicated. She advised that the DHCC try to work through these issues.

Ms. Moultrie pointed out that since her faculty member who retook the course submitted paperwork to the DHCC's office in January 2017, this means that the DHCC should have been aware of what was happening regardless of the change in leadership. Mr. Lum stated that he did not know about this correspondence.

President Kelsch stated that the core of the issue was that there appeared to be dental hygienists practicing beyond the scope of their licenses.

Motion: Garry Shay moved that staff work with a Subcommittee of two members, designated by the Chairperson of the Education Subcommittee, then place this item (CCR Title 16, Division 11, § 1105.1(d)(1-2), Education Program Faculty Requirements) on the next agenda so that the Full Committee could consider the matter after more facts had been discovered and evaluated.

Second: Nicolette Moultrie

Chair Hurlbutt asked if any member of the public or the Committee would like to comment.

Public Comment: JoAnn Galliano, Education Consultant for the DHCC, requested guidance on how to deal with this issue in the meantime. She stated she needed to know whether the DHCC intended for these faculty members to continue their work supervising in clinics.

Chair Hurlbutt replied that the DHCC had already sent letters to the education programs stating that no faculty member could not supervise any course for which that faculty member was missing proof of qualifications.

Public Comment: Vickie Kimbrough stated that as a former program director, her opinion was that allowing a faculty member to supervise the extended functions for which that faculty member has proof of qualification, yet not another extended function, would be logistical problem because it would alter the student to instructor ratio while the faculty members were switching off to fill the requirement.

Chair Hurlbutt agreed that this would present a problem for the educational programs but that at this time there was no other option presented that would maintain consumer safety.

There were no comments.

Vote: The motion that staff to work with a Subcommittee of two members, designated by the Chairperson of the Education Subcommittee, then place this item (CCR Title 16, Division 11, § 1105.1(d)(1-2), Education Program Faculty Requirements) on the next agenda so that the Full Committee could consider the matter after more facts have been discovered and evaluated passed 7:0.

Name	Aye	Nay	Absent
Susan Good			X
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Sandra Klein	X		
Nicolette Moultrie	X		
Edcelyn Pujol	X		
Garry Shay	X		
Evangeline Ward			X

Motion: Chair Hurlbutt reported that the Subcommittee recommended that the Full Committee direct staff to pursue a Section 100: Change Without Regulatory Effect to renumber the subsections in CCR Title 16, Division 11, § 1105.1 Educational Program Faculty Requirements, to increase clarity.

Chair Hurlbutt asked if any member of the public or the Committee would like to comment.

There were no comments.

Vote: The motion to direct staff to pursue a Section 100: Change Without Regulatory Effect to renumber the subsections in CCR Title 16, Division 11, § 1105.1 Educational Program Faculty Requirements, to increase clarity passed 7:0.

Name	Aye	Nay	Absent
Susan Good			X
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Sandra Klein	X		
Nicolette Moultrie	X		
Edcelyn Pujol	X		
Garry Shay	X		
Evangeline Ward			X

Motion: Garry Shay moved to direct staff to work with a Subcommittee of two members, designated by the Chairperson of the Education Subcommittee, to refine amendments to the regulatory language in CCR Title 16, Division 11, § 1105.1 Educational Program Faculty Requirements, to make the intent of the law more explicit and clear, and to bring the language back to the Full Committee at a future meeting.

Second: Nicolette Moultrie.

Chair Hurlbutt asked if any member of the public or the Committee would like to comment.

There were no comments.

Vote: The motion to direct staff to work with a Subcommittee of two members, designated by the Chairperson of the Education Subcommittee, to refine amendments to the regulatory language in CCR Title 16, Division 11, § 1105.1 Educational Program Faculty Requirements, to make the intent of the law more explicit and clear, and to bring the language back to the Full Committee at a future meeting passed 7:0.

Name	Aye	Nay	Absent
Susan Good			X
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Sandra Klein	X		
Nicolette Moultrie	X		
Edcelyn Pujol	X		
Garry Shay	X		
Evangeline Ward			X

President Kelsch stated that she would like to emphasize that staff is instructed to pursue each instance of adherence to the regulations fully and equally. No educational program or individual should be treated in a more or less favorable manner than others – the regulations are in place for consumer protection and everyone must abide by the regulations.

Chair Hurlbutt asked Dr. Pineschi-Petty if there were known cases of educational programs that continue to have dental hygienist faculty instructing courses without a bachelor's degree. Dr. Pinesch-Petty responded that there were.

Chair Hurlbutt asked what was being done about it. Mr. Lum replied that letters had been sent during March 2017 to these programs asking the program administrators to reply by May 1, 2017, with a plan of remediation. Ms. Hurlbutt inquired whether the programs had responded and if so, what was their response. Mr. Lum stated that they had responded but he had not yet read their letters.

Ms. Moultrie asked why these programs have been allowed an extension when others have had to comply with a deadline that already passed.

Motion: Garry Shay moved to adopt the Education Subcommittee report as amended.

Second: Nicolette Moultrie.

Chair Hurlbutt asked if any member of the public or the Committee would like to comment.

There were no comments.

Vote: The motion to adopt the Education Subcommittee report as amended passed 7:0.

Name	Aye	Nay	Absent
Susan Good			X
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Sandra Klein	X		
Nicolette Moultrie	X		
Edcelyn Pujol	X		
Garry Shay	X		
Evangeline Ward			X

There were no further comments.

13. Future Agenda Items

Ms. Moultrie requested follow up on progress between the DBC and DHCC toward promulgating Interim Therapeutic Restoration laws and regulations.

President Kelsch requested to have the California graduates' pass rates delineated from the other pass rates on clinical examination reports to the DHCC.

Public Comment: Joann Galliano asked that the DHCC make a policy statement on the DHCC's official position on enforcement.

14. Adjournment

President Kelsch recessed the Full Committee at 10:19 a.m.