



Legislative & Regulatory Subcommittee Minutes

Friday, November 16, 2018

Location:

Radisson Hotel Fresno - Conference Center
1055 Van Ness Avenue
Fresno CA 93721

DHCC Members Present:

Garry Shay, Chairperson, Public Member
Noel Kelsch, Registered Dental Hygienist in Alternative Practice (RDHAP)
Timothy Martinez, Public Health Dentist

DHCC Members Absent

Sandra Klein, Public Member

DHCC Staff Present:

Anthony Lum, Executive Officer
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Educational, Legislative, and Regulatory Specialist
Daniel Rangel, DHCC Special Investigator
Jason Hurtado, Department of Consumer Affairs (DCA) Legal Counsel for the DHCC

Public Present:

Vickie Kimbrough, Taft College, Purple Pen
Jean Kulbeth, Fresno City College
Karen Fischer, Executive Officer, Dental Board of California (DBC)
Joanne Pacheco, Fresno City College
JoAnn Galliano, MEd, RDH, DHCC Educational Consultant and Subject Matter Expert (SME)
Brenda Serpa, SJVC – Visalia
Leslie Nazaroff, San Joaquin Valley College (SJVC) – Ontario
Kelly Reich, Western Regional Examining Board (WREB)
Maureen Titus, California Dental Hygienist's Association (CDHA)
Sabrina Santucho, Concorde Career College (CCC) – San Bernardino
Arezou Goshtasbi, CCC – Garden Grove
Laurel Sampson, CCC – San Diego
Brianna Pittman-Spencer, California Dental Association (CDA)
Kim Laudenslager – Central Regional Dental Testing Service (CRDTS)
Sandra Henriquez, CDHA
Tracy Goldman, CDHA
Lisa Okamoto, CDHA
Rhoda Gonzales, CDHA
Thomas Stewart, DDS, President, DBC
Edward Cramp, Duane Morris, LLP

1. Roll Call and Establishment of a Quorum

Garry Shay, Chairperson of the Legislative and Regulatory Subcommittee, called the meeting to order at **10:19 a.m.** Roll call was taken, and a quorum established with three members present.

Chair Shay stated that he would not be present at the Committee meeting on Saturday, November 17, 2018. Chair Shay stated he asked Dr. Martinez to share the Legislative and Regulatory Subcommittee report to the full Committee.

2. Public Comments for Items Not on the Agenda

Chair Shay requested comments from the public or the Subcommittee.

No comments received.

3. Chairperson's Report

None

4. Approval of the April 20, 2018 Legislative and Regulatory Subcommittee Minutes

Chair Shay presented for approval the April 20, 2018 Legislative and Regulatory Subcommittee Minutes and requested a movement to adopt.

Moved: Noel Kelsch

Second: Timothy Martinez

Chair Shay requested comments from the public or the Subcommittee.

No comments received.

Vote: Motion to adopt the April 20, 2018 Legislative and Regulatory Subcommittee Meeting Minutes. Passed 6:0:3.

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein			X (absent)
Timothy Martinez	X		
Garry Shay	X		

5. Report on 2018 Legislative Bills – Results (Bills Reported at the April 2018 Meeting – Informational Only)

Anthony Lum, Executive Officer of the DHCC, presented the results of the bills reported at the April 2018 Meeting:

2017-18 Legislative Bills	DHCC Position
<p>AB 767 (Quirk-Silva), Master Business License GO-Biz Information Technology.</p> <p>(Gutted and Amended to another issue of no concern to DHCC)</p>	Watch
<p>AB 1659 (Low), Healing Arts Boards: Inactive Licenses.</p> <p>Prohibits holder of an Inactive license from representing that they have an active license. Also authorizes a board to establish a lower Inactive License Renewal Fee if it chooses.</p> <p>(Chaptered 249, Statutes of 2018)</p>	<p>Send Letter of Concern</p> <p>Letter not sent</p>
<p>AB 2078 (Daly), Sex Offenses: professional services.</p> <p>Last Action: 8/16/18 (died in Committee)</p>	Watch
<p>AB 2138 (Chiu), Licensing Boards: denial of application: revocation or suspension of licensure: criminal conviction.</p> <p>Reduces barriers to licensure for individuals with prior criminal convictions by limiting a regulatory board's discretion to deny a new license application to cases where the applicant was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board, with offenses older than seven years no longer eligible for license denial, with several enumerated exemptions.</p> <p>(Chaptered 995, Statutes of 2018)</p>	<p>Oppose</p> <p>Letter of Opposition Sent to Author</p>
<p>AB 2264 (Brough), Professions and Vocations Fees.</p> <p>Last Action: 3/1/18 (died in Committee)</p>	Oppose, unless amended
<p>AB 2409 (Kiley), Professions and Vocations: occupational regulations.</p> <p>Last Action: 4/17/18 (died in Committee)</p>	Listed on April 2018 meeting agenda, but information left out of meeting materials

<p>AB 2483 (Voepel), Department of Consumer Affairs: Office of Supervision of Occupational Boards Indemnification of public officers and employees: antitrust awards.</p> <p>(Gutted and amended to issue of no concern to DHCC)</p>	<p>Watch</p>
<p>AB 2643 (Irwin), Dentistry: General Anesthesia: Health Care Coverage.</p> <p>Removes facility-based restrictions on health plan and insurer coverage of dental anesthesia, thereby requiring current dental anesthesia coverage to also apply in outpatient settings. (Current law requires coverage in hospitals and surgery centers when it is medically necessary, for children under age seven, and for those with developmental disabilities.)</p> <p>It also modifies the informed consent form used for general anesthesia in the case of a minor undergoing the procedure.</p> <p>Last Action: 5/25/18 (held in Committee)</p>	<p>Watch</p>
<p>SB 244 (Lara), Privacy: Agencies: personal information.</p> <p>Limits the collection and disclosure of information obtained by a local or state agency for purposes of issuing a local identification card, driver's license, or the administration of public services, as specified.</p> <p>(Chaptered 885, Statutes of 2018)</p>	<p>No Action/watch</p>
<p>SB 707 (Canella), Medi-Cal: Denti-Cal Advisory Group.</p> <p>Vetoed by the Governor 9/26/18</p> <p>(Reason: Not every Medi-Cal issue needs a stakeholder process to deliberate and advise the DHCS)</p>	<p>Support, if amended to include DBC and DHCC member</p>
<p>SB 762 (Hernandez), Healing Arts Licensee: License Activation Fee: Waiver Optometry: administration of immunizations.</p> <p>(Chaptered 330, Statutes of 2018)</p> <p>Bill subject matter was revised to only pertain to Optometry</p>	<p>Watch</p>
<p>SB 984 (Skinner), State Boards and Commissions: Representation: women.</p> <p>This bill requires the composition of each appointed state board and commission to have a specified number of women directors and requires the office of the governor to collect and release aggregated demographic data provided by state board and commission applicants, nominees, and appointees.</p>	<p>Watch</p>

<p>Last Action: 8/16/18 (held in Committee)</p>	
<p>SB 1137 (Vidak), Veterans: Professional Licensing Benefits</p> <p>Requires the Department of Veterans Affairs and the Department of Consumer Affairs to, in consultation with each other, take appropriate steps to increase awareness regarding professional licensing benefits available to veterans and their spouses, as specified.</p> <p>(Chaptered 414, Statutes of 2018)</p>	<p>Watch</p>
<p>SB 1148 (Pan), Medi-Cal: Restorative dental services</p> <p>This bill permits a Denti-Cal provider for the treatment of dental caries to provide, and receive Denti-Cal reimbursement for, silver diamine fluoride (SDF) when used as a caries arresting agent for specified populations of Medi-Cal beneficiaries, if specified conditions are met.</p> <p>Vetoed by the Governor on 9/27/18</p> <p>(Reason: bill requires significant, ongoing general fund commitments and should be considered as part of the budget process)</p>	<p>Oppose, unless amended</p> <p>Letter of Opposition was sent to Author</p>
<p>SB 1465 (Hill), Professions and Vocations: Examinations-Contractors: civil actions: reporting</p> <p>Amended to remove examination issue and pertain to only contractors.</p> <p>(Chaptered 514, Statutes of 2018)</p>	<p>Watch</p>
<p>SB 1482 (Hill), Dental Hygienists (DHCC Sunset Review Bill)</p> <p>The Bill authorizes the following:</p> <ol style="list-style-type: none"> 1. Creates the Dental Hygiene Board of California (DHBC). 2. Reconstructs the appointing authority of the board from 9 Governor appointees to 7 Governor appointees and 2 public member appointees; 1 from the Senate, 1 from the Assembly after 2019 or when the next 2 public members end their terms. 3. Requires RDH applicant to have completed the clinical exam within 2 years of applying for RDH licensure. 4. Eliminates the option to complete the state clinical examination toward RDH licensure. 5. Requires the DHBC to renew approval of dental hygiene educational programs who certifies that the program continues to meet the requirements proscribed by the DHBC. 	<p>Support</p> <p>Letter of Support Sent to Author</p>

<ol style="list-style-type: none"> 6. Authorizes to conduct periodic surveys, evaluations, and announced and unannounced site visits to existing and new RDH, RDHAP, and RDHEF educational programs for DHCC and CODA compliance. 7. Authorizes to place existing or new dental hygiene educational programs on probation, issue citation and fines and orders of abatement for any approved educational program. 8. Prohibits the fee for the DHBC to conduct compliance site visits on dental hygiene educational programs not to exceed the actual cost incurred by the DHBC. 9. Prohibits the fee for a Retired License from exceeding ½ of the current License Renewal Fee. 10. Authorizes the acceptance of hard fingerprint cards for out-of-state applicants for licensure or licensees residing out-of-state who do not currently have electronic fingerprints on file. 11. Requires random audits of at least 5% of licensee population each year for Continuing Education (CE) compliance. 12. Extends the board's operations until 2023. <p>(Chaptered 858, Statutes of 2018)</p>	
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AB 2138 Notes:

EO Lum stated AB 2138 passed even though many DCA Boards opposed the Bill. This bill limits the DHCC to research criminal convictions to seven years. It will produce difficulty to show patterns of behavior.

Legal Counsel (LC) Hurtado acknowledged Chair Shay's concern for AB 2138 from the April meeting. He stated that this will likely result in the Committee promulgating regulations and cause the Committee to take under consideration the rehabilitation of the applicant. Proposed regulations should be available for the Committee by the April 2019 meeting or a teleconference may be necessary in the summer to adopt any new regulations.

SB1482 Notes:

EO Lum: Reported SB 1482 passed and established the "Dental Hygiene Board of California".

Comments:

Chair Shay requested comments from the public or the Subcommittee.

No comments received.

6. Discussion, Possible Action, and Recommendation to the Full Committee on the Following Proposed Regulatory Packages:
- a) 16 CCR § 1105.4 Appeals Process (Educational Programs)
 - b) 16 CCR § 1109 Radiograph Decision Making and Interim Therapeutic Restorations
 - c) 16 CCR § 1115 Retired License
 - d) 16 CCR § 1116 Mobile Dental Hygiene Clinic

EO Lum presented the following:

6a. 16 CCR § 1105.4 Appeals Process (Educational Programs)

EO Lum: Explained that the current process for withdrawal of DHEPs. He stated that the process should go through the EO first to determine the need for withdrawal and then to the Committee for the final decision. This would allow better vetting, communication, and notification to the involved parties.

Chair Shay requested a motion to adopt.

Motion: Noel Kelsch

Second: Timothy Martinez

Chair Shay requested comments from the public or the Subcommittee.

No comments received.

6a. Vote: Recommendation to the Full Committee on Proposed Regulatory Package 16 CCR § 1105.4 Appeals Process (Educational Programs). Passed 3:0.

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein			X (absent)
Timothy Martinez	X		
Garry Shay	X		

6b. 16 CCR §1109 Radiograph Decision Making and Interim Therapeutic Restorations

EO Lum stated that staff would like to postpone presentation until the next meeting.

Chair Shay requested a motion to postpone recommendation to the Full Committee proposed regulation 16 CCR §1109 until the next meeting.

Discussion took place regarding why the postponement was requested. EO Lum stated there is proposed language, however, it has been recommended by legal to vet language thoroughly. Legal stated the language appeared to be more statutory instead of regulatory and would like additional time to vet and give it a better chance to pass through the regulatory process. It was decided that any concerns to be forwarded to EO Lum to be considered while redrafting the language and decided that there be a teleconference with the Members in February.

Motion to postpone discussion on proposed regulatory package 16 CCR §1109 Radiograph Decision Making and Interim Therapeutic Restoration and convene a meeting in February 2019 to address proposed regulation 16 CCR §1109.

Moved: Noel Kelsch

Second: Timothy Martinez

Discussion: None

6b. Vote: Motion to Postpone Recommendation to the Full Committee on Proposed Regulatory Package 16 CCR §1109 Radiograph Decision Making and Interim Therapeutic Restoration and Convene a Meeting in February 2019 to Address Proposed Regulation 16 CCR §1109. Passed 3:0.

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein			X (absent)
Timothy Martinez	X		
Garry Shay	X		

6c. Recommendation to the Full Committee on Proposed Regulatory Package 16 CCR § 1115 Retired License.

EO Lum: Stated statutory language was passed a couple years ago and staff has drafted regulatory language for a retired license category and the parameters around the issuance of a retired license.

Chair Shay: Requested a motion to adopt.

Motion to recommend to the Full Committee the proposed regulatory package language for 16 CCR § 1115 Retired License.

Motion: Noel Kelsch
Second: Timothy Martinez

Discussion

Discussion regarding the seven-year time limit took place. It was decided that seven years is consistent with section 2138.

No further discussion.

6c. Vote: Motion to Recommend to the Full Committee the Proposed Regulatory Package Language for 16 CCR § 1115 Retired License. Passed 3:0.

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein			X (absent)
Timothy Martinez	X		
Garry Shay	X		

6d. Recommendation to the Full Committee on Proposed Regulatory Package 16 CCR § 1116 Mobile Dental Hygiene Clinic.

EO Lum reported staff has drafted regulatory language for mobile dental hygiene clinics and the parameters around the issuance of a license for a mobile dental hygiene clinic

Chair Shay: Requested a motion to adopt.

Motion to recommend to the Full Committee the proposed regulatory package language for 16 CCR § 1116 Mobile Dental Hygiene Clinic.

Motion: Noel Kelsch
Second: Timothy Martinez

Discussion

Discussion took place clarifying language to ensure language was consistent among the sections.

No further discussion.

Chair Shay requested a motion to adopt with the proposed amendment to correct “Licensed Dental Hygienist in Charge” to “Licensed Dental Hygienist in Alternative Practice (RDHAP) in Charge”.

Motion to recommend to the Full Committee the amended proposed regulatory package language for 16 CCR § 1116 Mobile Dental Hygiene Clinic.

Motion: Noel Kelsch
Second: Timothy Martinez

Discussion: None

6d. Vote: Motion to Recommend to the Full Committee the Proposed Regulatory Package Language 16 CCR § 1116 Mobile Dental Hygiene Clinic as Amended. Passed 3:0.

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein			X (absent)
Timothy Martinez	X		
Garry Shay	X		

7. Discussion and Possible Action, and Recommendation to the Full Committee for 2019 Legislative Proposals: Omnibus Bill

EO Lum reported the Omnibus Bill is an annual bill which allows the DHCC to “clean-up” any non-substantive changes in our statutes. EO Lum requested input from the Committee if they have identified any non-substantive changes that would need to be placed in the Omnibus Bill.

Chair Shay requested comments from the Subcommittee or public.

Discussion took place with references to “Hygiene board” and clarified that it should instead read

“Dental Hygiene Board”. It was requested this to be changed as this would be a noncontroversial change.

Motion to include the amendment of “Dental” to be added to “Hygiene Board” to be added to the Omnibus Bill.

Motion: Noel Kelsch
Second: Timothy Martinez

Public Comments:

Lisa Okamoto spoke in support of changing “Hygiene Board” to “Dental Hygiene Board”.

No further comments.

Vote: Motion to include the amendment of “Dental” to be added to “Hygiene Board” to be added to the Omnibus Bill. Passed 3:0.

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein			X (absent)
Timothy Martinez	X		
Garry Shay	X		

8. Future Agenda Items

Chair Shay requested future agenda items

No comments received.

9. Adjournment

Chair Shay adjourned the Legislative and Regulatory Subcommittee meeting at **10:53 a.m.**