



Dental Hygiene Board of California Teleconference Meeting Minutes

Saturday, November 21, 2020

Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public nor teleconference location was provided.

Members of the public observed and participated by using the link that was provided in the agenda.

DHBC Members Present:

President – Dr. Timothy Martinez, Public Health Dentist Member
Vice President – Nicolette Moultrie, Registered Dental Hygienist (RDH) Member
Secretary – Garry Shay, Public Member
RDH Educator Member – Dr. Carmen Dones
Registered Dental Hygienist in Alternative Practice (RDHAP) Member – Noel Kelsch
RDH Member – Evangeline Ward
Public Member – Denise Davis
Public Member – Susan Good

DHBC Members Absent:

Public Member – VACANT

DHBC Staff Present:

Anthony Lum, Executive Officer
Elizabeth Elias, Assistant Executive Officer
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Educational, Legislative, and Regulatory Specialist
Daniel Rangel, Special Investigator
William Maguire, Department of Consumer Affairs (DCA) Legal Counsel for the DHBC
Danielle Rogers, DCA Regulatory Unit Legal Counsel for the DHBC

1. Roll Call and Establishment of a Quorum

Dr. Timothy Martinez, President of the Dental Hygiene Board of California (DHBC, Board), reviewed teleconference meeting guidelines and called the meeting to order at **10:04 a.m.** Secretary Garry Shay completed the roll call and a quorum was established with seven members present.

2. Public Comment for Items Not on the Agenda.

No Comments.

3. President's Report (Informational Only).

Dr. Martinez welcomed two new board members, Dr. Carmen Dones to the RDH Educator position and Denise Davis to the Public Member position and thanked Dr. Michelle Hurlbutt for her years of dedication, service, and being instrumental in shaping the Board over all her years of service as a Board Member.

Dr. Martinez stated that dental hygiene professionals have continued to serve their patients while maintaining safety measures to inhibit the spread of the virus and urged all in attendance to follow the recommended and accepted actions to inhibit the spread of the virus by social distancing, wearing a mask when in public, especially when you can't social distance, to avoid touching your facial area with your hands, and frequently wash your hands or use hand sanitizers when possible.

There was no Board member comment.

Public comment: Nancy Cheung Thanked the members of the Board for allowing the temporary acceptance of the mannequin-based clinical exams for RDH students to obtain their California license.

4. Update from the Department of Consumer Affairs (DCA) Executive Staff on DCA Staffing and Activities (Informational Only).

Carrie Holmes, DCA Deputy Director, Board and Bureau Relations welcomed Dr. Carmen Dones and Denise Davis, and thanked Dr. Michelle Hurlbutt for her years of service to the Board.

Ms. Holmes advised the Board on the impact that the Coronavirus Pandemic (COVID-19) has had on the Boards and Bureaus of the DCA and that the DCA continues to partner with the Business, Consumer Services, and Housing Agency on statewide efforts related to awareness and enforcement of public health measures.

Ms. Holmes advised that DCA Boards and Bureaus have worked to limit expenditures and hiring to only those necessary to support core functions and emergency response activities and advised the Board that DCA is required to take a 5% permanent budget reduction and will be working with the Boards to identify plans that will best fit the Board's operational needs.

Ms. Holmes updated the Board on the support that the Board and Bureau Relations department is providing to the Board's executive team such as training in best practices on topics including appointments, managing remote staff, and providing compliant meeting materials.

There was no Board member or public comment.

5. Discussion and Possible Action to Approve the August 29, 2020 Full Board WebEx Teleconference Meeting Minutes.

Motion: Nicolette Moultrie moved to approve the August 29, 2020 Full Board WebEx Teleconference Meeting Minutes.

Second: Garry Shay.

Member discussion: None.

Public comment: None.

Vote: Motion to approve the August 29, 2020 Full Board WebEx Teleconference Meeting Minutes. Passed 5:0:3.

Name	Aye	Nay	Abstain
Denise Davis			X
Carmen Dones			X
Susan Good	X		
Noel Kelsch			X (Not present)
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

6. Executive Officer’s Report (Informational Only).

COVID-19:

Executive Officer (EO) Anthony Lum reported that staff continues to adapt well to teleworking with a rotational schedule to be in the office for coverage while the Board’s public counter is open and stated that program functions haven’t been disrupted and are working to accommodate staff with equipment to work from home on those days they’re not assigned to the office. EO Lum thanked DCA for keeping staff informed of COVID issues and the actions they are taking to keep everyone safe.

APPROVED WAIVERS

Continuing Education (CE) Waiver

EO Lum reported that on October 22, 2020, the DCA Director approved a new CE waiver (DCA 20-69) that allows licensees whose licenses expire or expired at the end of March 31, 2020 through December 31, 2020 to temporarily waive CE requirements to renew their licenses and be made up within a certain period. For any licensee who had a CE deficiency to renew their license at the time of expiration, they'll have six months from the effective date of the waiver to complete the deficient CE hours unless the waiver is amended and extended again. The current end date to make up deficient CE hours is April 21, 2021, unless amended and extended. This waiver supersedes the prior three authorized CE waivers issued which were withdrawn. EO Lum reminded licensees that this is an approved waiver for the CE requirement only and that if there are deficiencies at the time of renewal, the deficiencies must be made up and that this waiver is not a waiver to renew the license or bypass any License Renewal Fees.

Wet Laboratories for Prerequisite Biomedical Science Courses:

EO Lum reported that the Wet Laboratory Waiver was approved to temporarily waive the wet laboratory requirement for prerequisite biomedical science coursework for prospective dental hygiene students. The waiver (DCA 20-35) was effective as of July 13, 2020 and originally expired on September 11, 2020 unless amended and extended. Subsequently, the DCA Director authorized the extension of the Wet Lab Waiver through Waiver number DCA 20-56 that extends the waiver's expiration date until December 31, 2020. EO Lum stated that the administration will review the waiver again in December to decide whether the environment warrants another extension of the Wet Laboratory waiver, as the Board has been receiving questions on its possible extension since students are currently enrolling in coursework for Spring 2021.

PERSONNEL

EO Lum welcomed new Board members, Carmen Dones and Denise Davis as well as the Board's new licensing analyst, Alex Lee.

EO Lum informed the Board that Daniel Rangel (Special Investigator), and Destiny Wells (Enforcement Analyst) are leaving for promotional positions, thanked them for their hard work and numerous contributions to the Board, and informed the Board that he will be working to fill these vacancies as quickly as possible.

BUDGET

EO Lum provided the latest Budget Expenditure Report and Fund Condition Report and stated that the fund condition is gradually decreasing due to normal operating expenses and that there haven't been any substantial fee increases to raise revenue. This may be an issue to be addressed soon.

EO Lum reported that he was informed on Monday by the Department of Finance (DOF) that the Board and all state agencies are required to create a permanent 5% Budget Reduction Plan to be implemented as of July 1, 2021 as the state is facing substantially increased costs associated with both COVID-19 response efforts and unprecedented wildfire activity. He stated that these economic impacts are expected to last for several years according to the administration and require immediate actions to reduce costs while maximizing the efficiency of state operations. He stated that staff will be working with DCA Budgets on a comprehensive plan to identify areas within our program budget to meet the 5% reduction requirement.

CLINICAL EXAMINATION UPDATE

EO Lum reported that the Board requested an update on the mannequin clinical examinations for this meeting, but with only two and one half months since the request, there wasn't enough data to report and additional time is needed to provide the Board ample statistics. EO Lum reported that the DCA Office of Professional Examination Services (OPES) submitted a memo to the Board that affirms this and maintains their original position from the August 29, 2020 Board meeting that the mannequin clinical exam is a non-viable alternative to the patient-based clinical examinations in measuring the skills required for competent dental hygiene practice. EO Lum stated that if there is additional data available to present to the Board in Spring 2021, he will invite OPES and exam administrators to present their findings.

ADMINISTRATION

Office Move Update

EO Lum reported that the office space where the Board will be moving into is undergoing tenant improvements prior to move in, which is scheduled for mid-December. He reported that staff will be able to utilize the furnishings currently in the new office space which is cost effective as it avoids having to purchase new furnishings.

RDHAP Taskforce

EO Lum reported that on October 15, 2020, an RDHAP taskforce met to discuss issues that affect the Board's oversight of the RDHAP licensure category and that the two main issues that were discussed were the required dental relationship (a relationship with at least one licensed dentist for referral, consultation and emergency services) and the inspection of mobile dental units and portable dental

hygiene equipment. EO Lum reported that the meeting was the first for the taskforce and plans to conduct another after the New Year to further discuss RDHAP licensing issues and thanked the participants (Noel Kelsch, RDHAP Board Member, Darla Dale, RDHAP and CDHA President, Dr. Paul Glassman, and Maureen Titus, RDHAP) involved in the taskforce meeting.

Continuing Education (CE) Audits

EO Lum reported that the Board in the process of conducting CE Audits on a regular, ongoing basis and are currently focused on the audits for license renewals that occurred prior to the pandemic (pre-2020). The audits conducted to date show a 40% failure rate meaning that licensees are not completing their required CE hours or are completing them from an unapproved CE provider for required courses which does not count for credit toward the CE requirement for license renewal.

Legislative Author for DHBC Bill

EO Lum reported that he is in the process of locating an author for the Board's proposed legislation, but it's been difficult to communicate with legislative staff due to the pandemic work schedules.

2020 OMNIBUS BILL

EO Lum reported to the Board that the non-substantive changes proposed in the Omnibus Bill were approved and will be effective as of January 1, 2021.

Board Member Discussion:

Board member discussion took place regarding the effects of the department-wide 5% reduction.

Public Comment:

Susan McLearn inquired about the status as to Basic Life Support (BLS) CE requirements during the pandemic.

7. Election of 2021 DHBC Officers

Motion: Noel Kelsch moved to nominate the following as 2021 Officers (which remains the same slate of officers from 2020):

President – Dr. Timothy Martinez
Vice President – Nicolette Moultrie
Secretary – Garry Shay

Second: Susan Good

There was no Board member or public comment.

Vote: Motion to approve as 2021 Officers: President – Dr. Timothy Martinez, Vice President – Nicolette Moultrie, and Secretary – Garry Shay. Passed 8:0:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		(arrived 10:28 a.m.)
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

8. Discussion and Possible Action on Proposed 2021 & 2022 DHBC Board Meeting Dates

EO Lum presented proposed Board meeting dates for 2021 and 2022.

Motion: Carmen Dones moved for the Board to accept the following proposed meeting dates:

For 2021: Saturday, March 20, 2021, Saturday, July 17, 2021, & Saturday, November 20, 2021

For 2022: Saturday, March 19, 2022, Saturday, July 23, 2022, & Saturday, November 19, 2022

Second: Evangeline Ward.

Member discussion: Discussion took place regarding the proposed 2021 & 2022 DHBC Board Meeting dates.

Public comment: Michelle Hurlbutt stated that the March 19, 2022 meeting date conflicts with the American Dental Education Association meeting in Canada.

Vote: Motion for the Board to accept the following proposed meeting dates:

For 2021: Saturday, March 20, 2021, Saturday, July 17, 2021, & Saturday, November 20, 2021

For 2022: Saturday, March 19, 2022, Saturday, July 23, 2022, & Saturday, November 19, 2022. Passed 8:0:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

9. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 California Code of Regulations (CCR) Sections 1135, 1136, and 1137: Substantial Relationship Criteria and Criteria for Evaluating Rehabilitation.

Dr. Adina Pineschi-Petty reported that on September 28, 2020, the Board was notified by the Office of Administrative Law (OAL) that they have been meeting with the Department of Consumer Affairs (DCA) in an effort to come up with clear language that is common to the DCA boards implementing AB 2138 and has agreed to certain language. OAL is allowing DCA boards to amend text to conform to this language as non-substantive changes so as to be consistent with the statute and with each other. However, one amendment proposed by OAL was a substantive change, required a 15-day notice period, and was noticed to the public on October 14, 2020.

Additionally, Dr. Pineschi-Petty reported that on October 14, 2020, the Board received comments on the Board's proposed regulations implementing Assembly Bill (AB) 2138. Staff has prepared the following document which summarizes the comments and proposes a response for the Board's approval.

Dr. Pineschi-Petty requested for the Board to consider and approve the response drafted to address comments received on October 14, 2020 and additionally, in response to amended language proposed by OAL, to review and approve the amended proposed regulatory language relative to substantial relationship criteria and criteria for evaluating rehabilitation, and in addition, direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to

make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice.

Motion: Nicolette Moultrie moved for the Board to approve the response drafted to address comments received on October 14, 2020, approve the amended proposed regulatory language relative to substantial relationship criteria and criteria for evaluating rehabilitation, and direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice.

Second: Garry Shay.

Member discussion: None.

Public comment: None.

Vote: Motion for the Board to approve the response drafted to address comments received on October 14, 2020, approve the amended proposed regulatory language relative to substantial relationship criteria and criteria for evaluating rehabilitation, and direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice. Passed 8:0:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

10. Discussion and Possible Action on the Following Proposed Regulatory Package 16 CCR Section 1107: RDH Course in Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN).

Dr. Adina Pineschi-Petty reported that at the Board's November 17, 2018 meeting, the Board approved the proposed amendments to California Code of Regulations (CCR), Title 16, section 1107: RDH Course in Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN).

Dr. Pineschi-Petty informed the Board that the Board received comments in response to the proposed rulemaking file and requested the Board to consider and approve the responses drafted to address public comments received on the Board's proposed amended regulation for 16 CCR 1107 and, if no changes are made to the proposed amended language, direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed text to 16 CCR section 1107.

Motion: Garry Shay moved for the Board to approve the responses drafted to address public comments received on the Board's proposed amended regulation for 16 CCR 1107 and direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed text to 16 CCR section 1107.

Second: Susan Good.

Member discussion: Discussion took place regarding proposed amended regulatory package: 16 CCR Section 1107: RDH Course in Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Analgesia (SLN).

Public comment: None.

Vote: Motion for the Board to approve the responses drafted to address public comments received on the Board's proposed amended regulation for 16 CCR 1107 and direct staff to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed text to 16 CCR section 1107. Passed 7:0:1.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones			X
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		

Name	Aye	Nay	Abstain
Garry Shay	X		
Evangeline Ward	X		

11. Discussion and Possible Action on the Following Proposed Regulatory Package 16 CCR Section 1109: Requirements for Courses of Instruction in Radiographic Decision Making (RDM) and Interim Therapeutic Restoration (ITR) for the Registered Dental Hygienists, Registered Dental Hygienists in Alternative Practice, and Registered Dental Hygienists in Extended Functions.

Dr. Adina A. Pineschi-Petty reported that at the Board’s January 29, 2019 teleconference meeting, the Board discussed, amended, and voted unanimously to approve regulatory language and application forms for courses in RDM and ITR. Also, the Board voted to set the fee amount for educational providers seeking approval of RDM and ITR courses at \$300. Additionally, the Board delegated authority to the Board’s Executive Officer to make any technical, non-substantive changes, if necessary.

Dr. Pineschi-Petty reported that on September 9, 2020, the Board received public comments on the Board’s proposed regulations implementing BPC 1910.5. and that staff recommends to the Board to consider and approve the responses drafted to address public comments received on September 9, 2020 on the Board’s proposed regulations implementing BPC 1910.5 as well as to consider and possibly approve the amended proposed regulatory language relative to courses in RDM and ITR, and in addition, direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text with these changes for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice.

Motion: Evangeline Ward moved for the Board to approve the responses drafted to address public comments received on September 9, 2020 on the Board’s proposed regulations implementing BPC 1910.5., approve the amended proposed regulatory language relative to courses in RDM and ITR, and direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text with these changes for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice.

Second: Garry Shay.

Member discussion: None.

Public comment: None

Vote: Motion for the Board to approve the responses drafted to address public comments received on September 9, 2020 on the Board’s proposed regulations implementing BPC 1910.5., approve the amended proposed regulatory language relative to courses in RDM and ITR, and direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text with these changes for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice. Passed 8:0:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

12. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1115. Retired Licensure.

Dr. Adina A. Pineschi-Petty reported that at the May 29, 2020 Full Board WebEx Teleconference, the Board approved proposed language relative to the implementation of retired licensure for RDHs, RDHAPs, and RDHEFs, and directed staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorized the Executive Officer to make any non-substantive changes to the rulemaking package.

In response to comments made from the review by the Business, Consumer Services, and Housing Agency, Dr. Pineschi-Petty requested for the Board to review and approve the amended proposed regulatory language and amended forms and direct staff to take all steps necessary to complete the formal rulemaking process.

Motion: Garry Shay moved for the Board to approve the amended proposed regulatory language, and amended forms, to include an amendment on form DHBC

RLC-01 removing “original license(s)” and replacing with “current license, if available” and adding a tick-box to the form to report if the current license is not available or lost, and direct staff to take all steps necessary to complete the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1115.

Second: Susan Good.

Member discussion: Discussion took place regarding proposed regulatory package: 16 CCR Section 1115. Retired Licensure.

Public comment:

Maureen Titus requested the Board consider adding the ability of retired licensees to be able to work for free/volunteer in a Public Health situation and if so, would need continuing education hours as a condition to volunteer.

Susan McLearn agreed with Ms. Titus and requested clarification as to how holders of a retired license will address themselves on business cards.

Vote: Motion for the Board to approve the amended proposed regulatory language, and amended forms, to include an amendment on form DHBC RLC-01 removing “original license(s)” and replacing with “current license, if available” and adding a tick-box to the form to report if the current license is not available or lost, and direct staff to take all steps necessary to complete the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1115. Passed 8:0:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good	X		

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

13. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1123. Dental Hygiene Clinical Examinations; Passing Rates.

Dr. Pineschi-Petty reported that since the Board has been accepting alternative clinical exams due to COVID-19 restrictions, staff is requesting the Board to review the proposed language for passing rates for dental hygiene clinical examinations, determine whether additional information or language is required, complete the draft of proposed regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process

Motion: Nicolette Moultrie moved for the Board to approve the proposed language in the attached document and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1123.

Second: Carmen Dones.

Member discussion: Discussion took place regarding proposed regulatory package: 16 CCR Section 1123. Dental Hygiene Clinical Examinations; Passing Rates.

Public comment: None.

Vote: Motion for the Board to approve the proposed language in the attached document and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period

and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1123. Passed 8:0:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

14. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1138.1. Unprofessional Conduct.

Dr. Adina Pineschi-Petty reported that currently there is no existing provision in regulation for inclusion of additional areas considered to be unprofessional conduct including, but not limited to providing false statements to the Board, failure to provide requested documentation to the Board, failure to cooperate with Board investigations, or failure to report any conviction or disciplinary action against the licensee. Therefore, board staff has developed the attached draft regulatory language to implement California Code of Regulations (CCR), Title 16, Division 11 section 1138.1.

Dr. Pineschi-Petty requested the Board to review the proposed language, determine whether additional information or language is required, complete the draft of proposed regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process.

Motion: Carmen Dones moved for the Board to approve the proposed language and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the

proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1138.1.

Second: Susan Good.

Member discussion: None.

Public comment: None.

Vote: Motion for the Board to approve the proposed language and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1138.1. Passed 8:0:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

15. Discussion and Possible Action on Proposed Statutory Language Amendments to BPC Section 1917.1: Clinical Work Hour Accumulation.

EO Anthony Lum reported that at the August 29, 2020 meeting, proposed amended statutory language was brought to the Board for consideration to allow Licensure By Credential (LBC) applicants to credit excess clinical hours worked over the minimum 750 hour requirement within the preceding three years of the application to be applied to a deficient year due to a life changing event such as pregnancy, illness, temporary disability caused by an accident or other reason, active military assignment, or caring for a dependent family member. The Board rejected the original proposal, suggested that the section of law be revised, and directed staff to

work on the language and resubmit amended draft language for consideration at the November 2020 Board meeting.

EO Lum stated that in an effort to restructure the section of law and reviewing the history of the provisions of the LBC pathway to licensure, BPC section 1917.1 subdivision (3) was revised to eliminate the 5-year work experience requirement and the 3-year work experience plus two-year contract requirement with a public health agency for the remaining two years for a total of five years of experience provision because 3-year option was rarely used and difficult to identify and locate public health agencies to contract with. In staff's opinion, three years of work experience totaling at least 3,000 clinical hours in three of the preceding five years from the application date as the revised proposed language states, would be enough to demonstrate adequate work experience to obtain a dental hygiene license through the LBC pathway.

EO Lum requested the Board to review and determine whether additional information or language is required, and direct staff to seek sponsored legislation for 2021 if approved.

Motion: Noel Kelsch moved for the Board to table the proposed amended language for BPC section 1917.1 until the Spring 2021 Board Meeting.

Second: Carmen Dones.

Member discussion: Discussion took place regarding proposed amendments to statutory language for BPC section 1917.1: Clinical Work Hour Accumulation. Board members stated that the sole focus to qualify under the current LBC pathway was through clinical hour accumulation, but there are other avenues that should be considered when qualifying through this pathway and not simply focus on clinical hours.

Public comment: Public comments supported continued research into the appropriate work hour accumulation.

Vote: Motion for the Board to table the proposed amended language for BPC section 1917.1 until the Spring 2021 Board Meeting. Passed 6:2:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good		X	
Noel Kelsch	X		
Timothy Martinez	X		

Name	Aye	Nay	Abstain
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward		X	

16. Discussion and Possible Action on Proposed Statutory Language Amendments to Business and Professions Code (BPC) Section 1926.1: Operation of Mobile Dental Hygiene Clinic; Requirements.

Dr. Adina Pineschi-Petty reported that at the Board’s August 29, 2020 WebEx teleconference, the Board approved the presented amended language for BPC 1926.1 and directed staff to seek sponsored legislation for 2021. However, after the meeting, the Board received a comment from the California Dental Association requesting to add the phrase “in the settings listed in section 1926” to clarify that operation of mobile dental hygiene clinics would only occur in designated areas where RDHAPs can provide dental hygiene services as defined in BPC section 1926.

Dr. Pineschi-Petty requested for the Board to consider the proposed amended statutory language, determine whether additional information or language is required, and direct staff to complete the draft of proposed statutory language and seek sponsored legislation for 2021.

Motion: Noel Kelsch moved for the Board to approve the proposed amended language for BPC section 1926.1 and direct staff to seek sponsored legislation for 2021.

Second: Denise Davis.

Member discussion: None.

Public comment: None.

Vote: Motion for the Board to approve the proposed amended language for BPC section 1926.1 and direct staff to seek sponsored legislation for 2021. Passed 8:0:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good	X		

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

17. Discussion and Possible Action on Proposed Statutory Language Amendments to BPC Section 1926.3: Registered Dental Hygienist in Alternative Practice; Registration; Time Period.

Dr. Adina Pineschi-Petty reported that the Board has been working to identify deficiencies in the law where additional oversight is needed. In existing law, Registered Dental Hygienists in Alternative Practice (RDHAP) are allowed to operate physical dental hygiene facilities in certain locations in the state; however, the Board has no oversight of these facilities other than requiring the licensee to register the location with the Board. These facilities treat many of the most underserved and vulnerable people in the population and the Board needs to ensure that they are operated safely and in accordance with all applicable laws and regulations. After consultation with the California Department of Consumer Affairs legal department, it was determined that the Board did not have statutory authority for the oversight of physical dental hygiene facilities and to seek statutory authority.

Dr. Pineschi-Petty requested for the Board to consider the proposed amended statutory language, determine whether additional information or language is required, and direct staff to complete the draft of proposed statutory language and seek sponsored legislation for 2021.

Motion: Noel Kelsch moved for the Board to approve the proposed amended language for BPC section 1926.3 and direct staff to seek sponsored legislation for 2021.

Second: Denise Davis.

Member discussion: None

Public comment: None

Vote: Motion for the Board to approve the proposed amended language for BPC section 1926.3 and direct staff to seek sponsored legislation for 2021. Passed 8:0:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

18. Discussion and Possible Action on Proposed Statutory Language Amendments to Business and Professions Code (BPC) Section 1941: Changes to Accreditation Status.

Dr. Adina Pineschi-Petty reported that at the August 29, 2020 Full Board WebEx Teleconference meeting, the Board approved changes in statutory language for BPC section 1941 requiring newly proposed RDHAP and RDHEF educational programs to complete a feasibility study demonstrating a need for new educational programs prior to pursuing approval of the programs. This proposal presented congruency in the language requirement between the licensure categories of RDH, RDHAP, and RDHEF.

Additionally, the Board received notification that on February 20, 2020, the United States Department of Education (USDE) sent a letter to State Leaders notifying that as the USDE holds all accrediting agencies to the same standards, the distinctions between regional and national accrediting agencies are unfounded, that the USDE will no longer use the terms "regional" or "national" to refer to an accrediting agency, and that the USDE will distinguish only between institutional and programmatic accrediting agencies.

Dr. Pineschi-Petty stated that as a result, of the change in accreditation designations by the USDE, staff recommends to the Board to re-review the language in the attached starting point document, determine whether additional information or language is required, complete the draft of proposed statutory language, and direct staff to seek sponsored legislation for 2021.

Motion: Nicolette Moultrie moved for the Board to approve the all of the proposed amended language except for keeping "regional" before "accrediting" in subdivision (c) for BPC section 1941 and direct staff to seek sponsored legislation for 2021.

Second: Noel Kelsch.

Member discussion: None

Public comment: None

Vote: Motion for the Board to approve the all of the proposed amended language except for keeping “regional” before “accrediting” in subdivision (c) for BPC section 1941 and direct staff to seek sponsored legislation for 2021. Passed 8:0:0.

Name	Aye	Nay	Abstain
Denise Davis	X		
Carmen Dones	X		
Susan Good	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

19. Discussion and Possible Action on Proposed New Statute: Business and Professions Code (BPC) Section 1941.6: Patient/Student Record Retention.

Dr. Adina Pineschi-Petty reported that the Board has received questions as to the duration patient records and, in DHEPs, patient and student records should be maintained after last contact with the patient and student. After research and referencing the United States Code of Federal Regulations, the Healthcare Insurance, Portability and Accountability Act (HIPAA), and Title 5 of the California Code of Regulations, it was determined that RDH patient records should be maintained for a minimum of six years after last patient contact and DHEPs shall retain clinical patient records for a minimum of six years after last patient contact and DHEP student records for a minimum of six years after student graduation or exit from the program.

Dr. Pineschi-Petty requested for the Board to review the language, provide edits as needed, and approve a final draft of proposed statutory language so staff may seek sponsored legislation for 2021.

Motion: Evangeline Ward moved for the Board to approve the proposed amended language for BPC section 1941.6 and direct staff to seek sponsored legislation for 2021.

Second: Carmen Dones.

Member discussion: Discussion took place regarding proposed amendments to statutory language for BPC section 1941.6: Patient/Student Record Retention.

Public comment: Public comments requested language be clarified prior to seeking legislative changes.

Vote: Motion for the Board to approve the proposed amended language for BPC section 1941.6 and direct staff to seek sponsored legislation for 2021. Failed 1:6:1.

Name	Aye	Nay	Abstain
Denise Davis			X
Carmen Dones		X	
Susan Good	X		
Noel Kelsch		X	
Timothy Martinez		X	
Nicolette Moultrie		X	
Garry Shay		X	
Evangeline Ward		X	

20. Discussion and Possible Action, and Recommendation to the Full Board on Inactive Status Licensure.

EO Lum reported that during the November 22, 2019 Licensing and Examination Subcommittee meeting discussion took place regarding a reasonable amount of time a licensee may remain on inactive status before possible remediation requirements are necessary to update and restore an active dental hygiene license in the interest of consumer protection. The Licensing and Examination Subcommittee requested staff to research the length of time for licensees to remain on an inactive status before possible remediation requirements are necessary to restore an active dental hygiene license at five years.

EO Lum reported that of the 25 licensing boards researched, 23 do not have further requirements like remediation for reinstatement of an inactive license. At the current time, staff does not recommend imposition of dental hygiene remediation requirements for reinstatement of an inactive license. As many other licensing programs do not have any type of remediation requirements, including the Dental Board of California, by imposing remediation requirements it could be viewed as

prohibitive and a barrier to provide dental hygiene services. Also, in reactivating an RDH license, in addition to the completion of the current license renewal amount of continuing education hours, in most cases, the licensee will be working under the supervision of a licensed dentist and on his/her patients, so there would be supervisory oversight should the RDH decide to return to active practice.

There was no Board or public comment.

21. Educational Update (Informational Only).

Dr. Adina Pineschi-Petty updated the Board on the current status of dental hygiene educational programs (DHEPs). Due to COVID-19, scheduled site visits to five DHEPs were placed on hold until they can safely take place. Dr. Pineschi-Petty updated the Board on three schools that were previously visited and reported that two are now in full compliance while the third is working towards full compliance.

No Board or public comment.

22. Enforcement Statistics Report

Special Investigator Daniel Rangel updated the Board on current enforcement statistics.

Member Discussion: Discussion took place regarding increase in complaints in unprofessional conduct and consumer complaints. Board members requested that the type of consumer complaints be broken out moving forward so they are aware of the number of complaints received by the consumer.

Public comment: None

23. Licensing and Examination Statistics Report

Assistant Executive Officer Elizabeth Elias updated the Board on current licensing and examination statistics.

No Board or public comment.

24. Future Agenda Items.

1. Revisit Agenda Item 12 – 16 CCR Section 1115: Retired License.
 - a. Research other Boards for possible active and inactive retired statuses.
2. Revisit Agenda Item 15 - BPC Section 1917.1: Clinical Work Hour Accumulation.
3. Revisit Agenda Item 19 - BPC section 1941.6: Patient/Student Record Retention.
4. Extension of acceptance of clinical mannequin exams.

25. Closed Session

No closed session held for this meeting.

26. Adjournment

Meeting was adjourned at **3:19 p.m.**