

Notice is hereby given that a public meeting of the Dental Hygiene Board of California (DHBC) will be held as follows:

DHBC Public Teleconference Meeting Agenda

**Saturday, February 4, 2023
10:00 a.m. - Adjournment**

Pursuant to the provisions of Government Code section 11133, neither a public nor teleconference location is provided. Members of the public may observe or participate using the link below. Due to potential technical difficulties, please consider submitting written comments via email at least five business days prior to the meeting to dhbcinfo@dca.ca.gov for consideration.

Instructions for Meeting Participation

The DHBC will conduct the meeting via WebEx computer program. The preferred audio connection is via telephone conference and not the microphone and speakers on your computer. The phone number and access code will be provided as part of your connection to the meeting. Please see the instructions attached hereto to observe and participate in the meeting using WebEx from a Microsoft Windows-based PC.

For all those who wish to participate or observe the meeting, please log on to the website below. If the hyperlink does not work when clicked on, you may need to place the cursor on the hyperlink, then right click. When the popup window opens, click on Open Hyperlink to activate it, and join the meeting.

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=mba47a6ddb04aecf8bfa8383de6c4b58e>

Webinar number: 2486 889 3153

Webinar password: DHBC020420223

Audio conference: US Toll Number: +1-415-655-0001

Access code: 248 688 93153

Passcode: 34220204

Members of the Board

President – Dr. Carmen Dones, RDH Educator Member

Secretary – Denise Davis, Public Member

RDHAP Member – VACANT

RDH Member – Sonia “Pat” Hansen

RDH Member – VACANT

Dentist Member - VACANT

Public Member – Sherman King

Public Member – Erin Yee

Public Member – VACANT

**The DHBC welcomes and encourages public participation in its meetings.
Please see public comment specifics at the end of this agenda.**

The DHBC may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice.

Open Session Agenda

1. Roll Call & Establishment of Quorum.
2. Public Comment for Items Not on the Agenda.
[The DHBC may not discuss or act on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code sections 11125 & 11125.7).]
3. Discussion and Possible Action to Approve the November 19, 2022, Full Board WebEx Teleconference Meeting Minutes.
4. Discussion and Possible Action to Approve Modified Text for 16 CCR Section 1104.3: Reviews, Site Visits, Citation and Fine, and Probationary Status for Dental Hygiene Educational Programs.
5. Election of New Board Vice President.
6. Discussion and Possible Action to Approve Submission of Second Exempt Position Request for Executive Officer Upgrade Exempt Level Status and Salary.
7. Future Agenda Items.

<<Recess to Reconvene the Full Board for Closed Session>>

8. *Closed Session – Full Board*

Pursuant to Government Code Section 11126(c)(3), the Board will Deliberate on Disciplinary Actions and Decisions to be Reached in Administrative Procedure Act Proceedings.

<<Return to Open Session>>

9. Adjournment.

Due to technological limitations, adjournment will not be broadcast via WebEx. Adjournment will immediately follow Closed Session, and there will be no other items of business discussed.

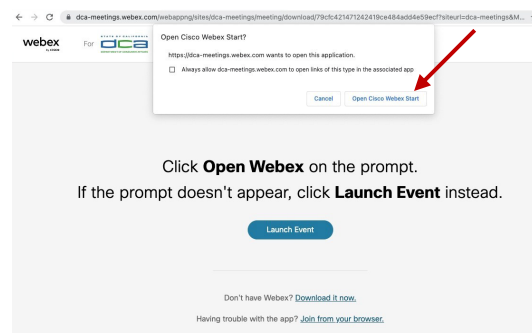
Public comments will be taken on the agenda items at the time the specified item is raised. Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).

A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the DHBC at 916-263-1978, via email at dhbcinfo@dca.ca.gov, or by sending a written request to 2005 Evergreen Street, Suite 1350, Sacramento, CA 95815. Providing your request at least five business days prior to the meeting will help to ensure availability of the requested accommodation.

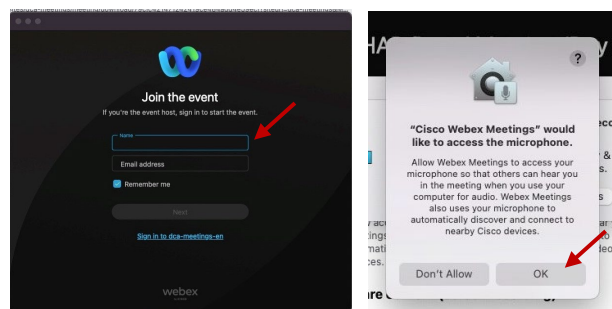
If joining using the meeting link

1 Click on the meeting link. This can be found in the meeting notice you received.

2 If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click "Open Cisco Webex Start" or "Open Webex", whichever option is presented. DO NOT click "Join from your browser", as you will not be able to participate during the meeting.



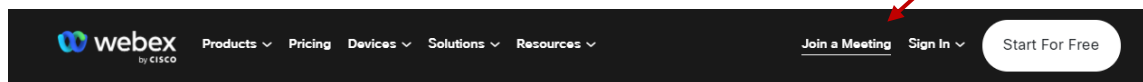
3 Enter your name and email address. Click "Join as a guest". Accept any request for permission to use your microphone and/or camera.



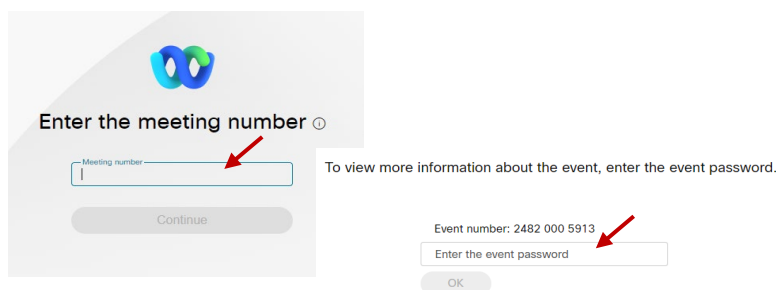
OR

If joining from Webex.com

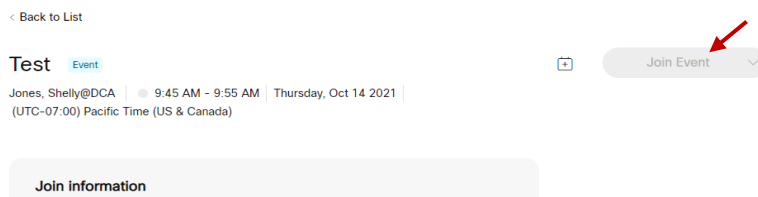
1 Click on "Join a Meeting" at the top of the Webex window.



2 Enter the meeting/event number and click "Continue". Enter the event password and click "OK". This can be found in the meeting notice you received.



3 The meeting information will be displayed. Click "Join Event".



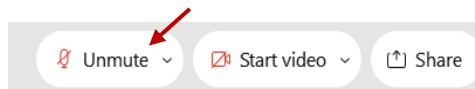
OR

Connect via telephone*:

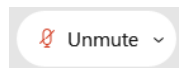
You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

Microphone

Microphone control (mute/unmute button) is located on the command row.

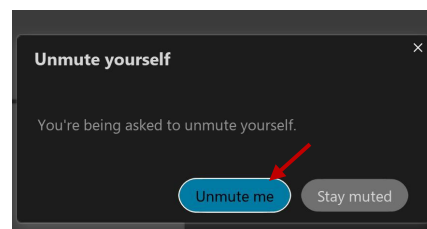


Green microphone = Unmuted: People in the meeting can hear you.



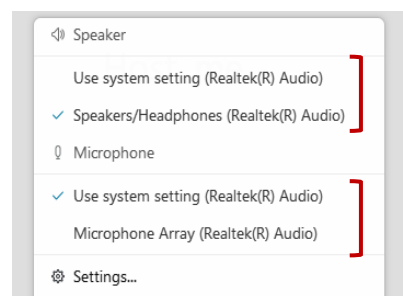
Red microphone = Muted: No one in the meeting can hear you.

Note: Only panelists can mute/unmute their own microphones. Attendees will remain muted unless the moderator enables their microphone at which time the attendee will be provided the ability to unmute their microphone by clicking on "Unmute Me".



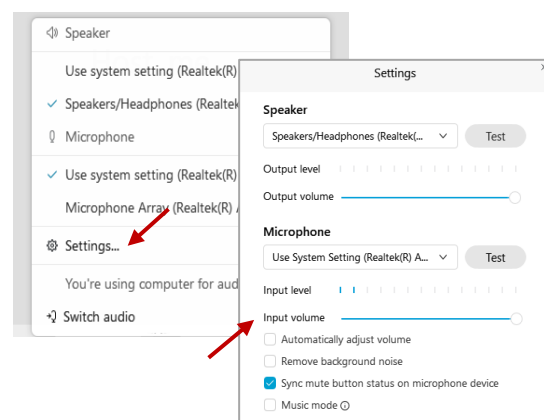
If you cannot hear or be heard

- 1 Click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window, select a different:
 - Microphone option if participants can't hear you.
 - Speaker option if you can't hear participants.



If your microphone volume is too low or too high

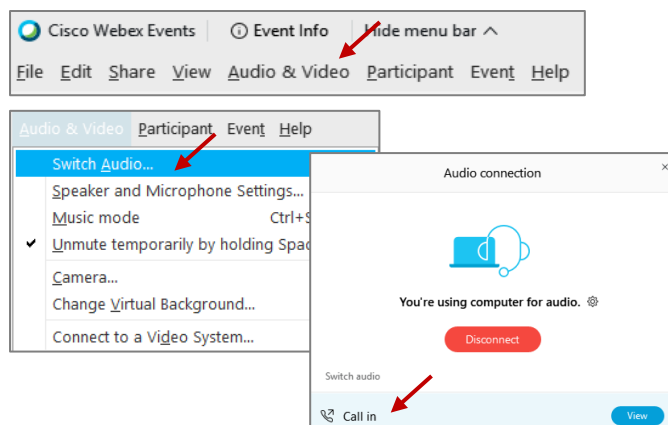
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
 - Click on "Settings...":
 - Drag the "Input Volume" located under microphone settings to adjust your volume.



Audio Connectivity Issues

If you are connected by computer or tablet and you have audio issues or no microphone/speakers, you can link your phone through Webex. Your phone will then become your audio source during the meeting.

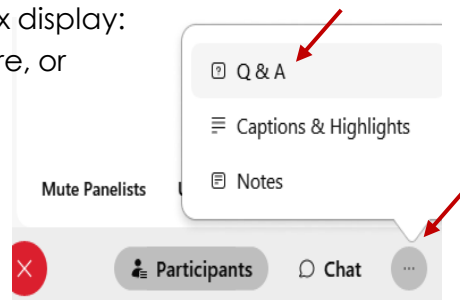
- 1 Click on "Audio & Video" from the menu bar.
- 2 Select "Switch Audio" from the drop-down menu.
- 3 Select the "Call In" option and following the directions.



The question-and-answer feature (Q&A) is utilized for questions or comments. Upon direction of the meeting facilitator, the moderator will open the Q&A panel for meeting participants to submit questions or comments. *NOTE: This feature is not accessible to those joining the meeting via telephone.*

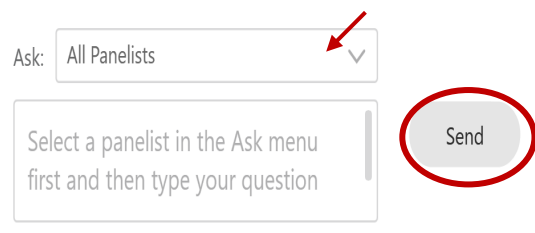
1 Access the Q&A panel at the bottom right of the Webex display:

- Click on the icon that looks like a “?” inside of a square, or
- Click on the 3 dots and select “Q&A”.



2 In the text box:

- Select “All Panelists” in the dropdown menu,
- Type your question/comment into the text box, and
- Click “Send”.



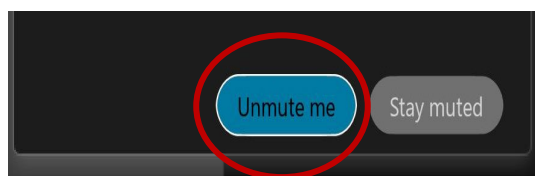
OR

If connected via telephone:

- Utilize the raise hand feature by pressing *6 to raise your hand.
- Repeat this process to lower your hand.

3 The moderator will call you by name and indicate a request has been sent to unmute your microphone. Upon hearing this prompt:

- Click the **Unmute me** button on the pop-up box that appears.

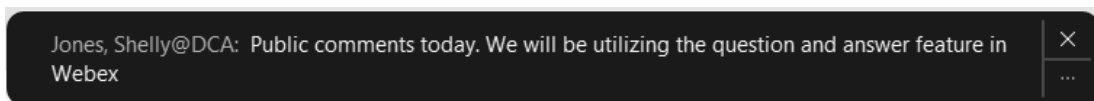


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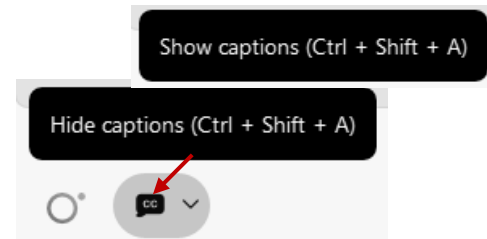
If connected via telephone:

- Press *3 to unmute your microphone.

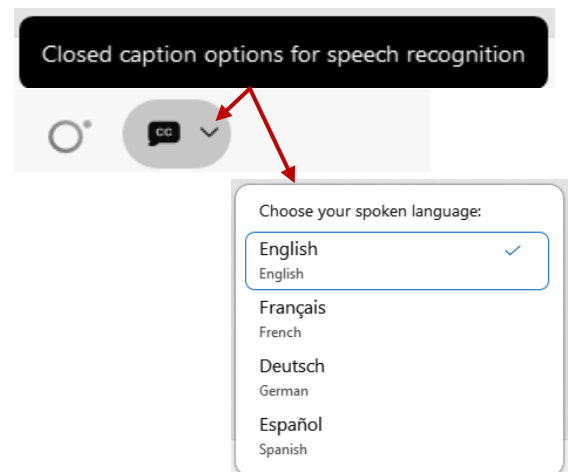
Webex provides real-time closed captioning displayed in a dialog box on your screen. The captioning box can be moved by clicking on the box and dragging it to another location on your screen.



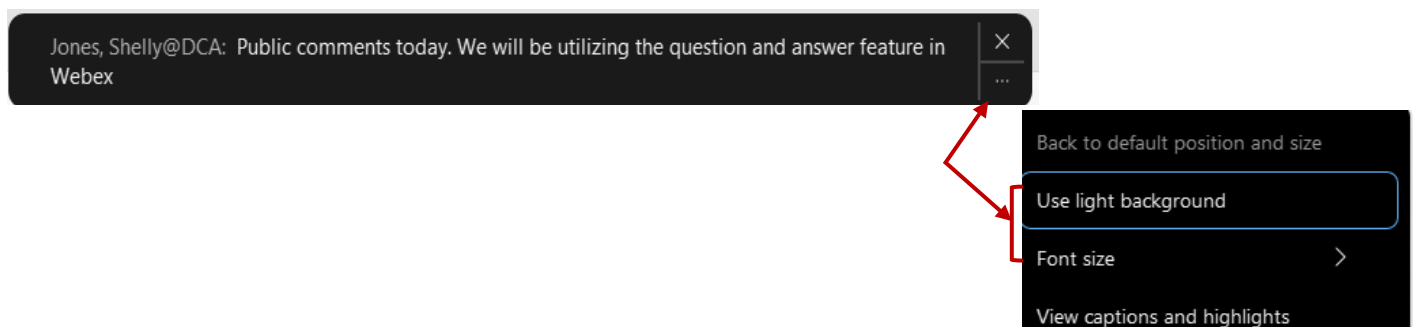
The closed captioning can be hidden from view by clicking on the closed captioning icon. You can repeat this action to unhide the dialog box.



You can select the language to be displayed by clicking the drop-down arrow next to the closed captioning icon.



You can view the closed captioning dialog box with a light or dark background or change the font size by clicking the 3 dots on the right side of the dialog box.





Member	Present	Absent
Denise Davis		
Carmen Dones		
Sonia "Pat" Hansen		
Sherman King		
Erin Yee		

Saturday, February 4, 2023

Dental Hygiene Board of California

Agenda Item 1

Roll Call & Establishment of Quorum

Board Secretary to call the Roll.



Saturday, February 4, 2023

Dental Hygiene Board of California

Agenda Item 2

Public Comment for Items Not on the Agenda.

[The Board may not discuss or act on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code Sections 11125 & 11125.7(a))]

Dental Hygiene Board of California Meeting Minutes

DRAFT

Saturday, November 19, 2022

Pursuant to the provisions of Government Code section 11133, neither a public nor teleconference location was provided. Members of the public observed and participated using the WebEx link provided in the agenda.

DHBC Members Present:

President – Dr. Carmen Dones, Registered Dental Hygienist (RDH) Educator Member
Secretary – Denise Davis, Public Member
RDH Member – Sonia “Pat” Hansen
RDH Member – Nicolette Moultrie
Public Health Dentist Member – Dr. Timothy Martinez

DHBC Member Absent:

Vice President – Noel Kelsch, Registered Dental Hygienist in Alternative Practice (RDHAP) Member
Public Member – Susan Good
Public Member – Sherman King
Public Member – Erin Yee

DHBC Staff Present:

Anthony Lum, Executive Officer
Albert Law, Special Investigator
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Education, Legislative, and Regulatory Specialist
Michael Kanotz, Department of Consumer Affairs (DCA) Legal Counsel for the DHBC
Danielle Rogers, DCA Regulatory Unit Legal Counsel for the DHBC

PLEASE NOTE - EXPLANATION OF AGENDA SEQUENCE:

For the Saturday, November 19, 2022, meeting, the Board was under a time constraint to maintain quorum. As such, the agenda items that require Board action were taken out of sequence and moved up in the agenda order including Closed Session at the President’s discretion. Informational only items were moved down, as agenda items for information only do not require a quorum.

1. Agenda Item 1: Roll Call and Establishment of a Quorum.

Dr. Carmen Dones, President of the Dental Hygiene Board of California (DHBC, Board), reviewed meeting guidelines and called the meeting to order at **9:00 a.m.** Board Member Denise Davis completed the roll call, and a quorum was established with five members present. Board members Susan Good, Noel Kelsch, Sherman King and Erin Yee were absent and excused.

2. Agenda Item 2: Public Comment for Items Not on the Agenda.

Lisa Kamibayashi, West Los Angeles College (WLAC) Program Director, requested for the Board to add as a future agenda item, a discussion on expanding Registered Dental Hygienist (RDH) Duties to include Registered Dental Assisting (RDA) duties.

3. Agenda Item 3: President's Report (Informational Only).

President Dones welcomed all in attendance. She stated 2022 continues to be a year of transition for the Board as termed out board members are gradually ending their tenure. She reported Susan Good, Nikki Moultrie, and Dr. Timothy Martinez will be off the Board at the end of the year and thanked them for their contributions over the years, as all three were past Presidents, and the Board wouldn't be where it is without them. She stated certificates of appreciation will be sent in recognition of their service.

President Dones reported on her activities since her last report and stated that she and Executive Officer (EO) Lum continue to meet on a regular basis to communicate and stay informed on issues affecting the Board.

Board member comment: None.

Public comment: None.

4. Agenda Item 5a: Discussion and Possible Action to Approve the October 7, 2022, DHBC Licensing and Examination Committee Meeting Minutes.

Motion: Dr. Timothy Martinez moved to approve the October 7, 2022, DHBC Licensing and Examination Committee Meeting Minutes.

Second: Denise Davis.

Member discussion: None.

Public comment: None.

Vote: Motion for the Board to approve the October 7, 2022, DHBC Licensing and Examination Committee Meeting Minutes. Passed 4:0:5.

Name	Aye	Nay	Abstain/Absent
Denise Davis	X		
Carmen Dones	X		
Susan Good			X (Absent)
Sonia "Pat" Hansen	X		

Name	Aye	Nay	Abstain/Absent
Noel Kelsch			X (Absent)
Sherman King			X (Absent)
Timothy Martinez	X		
Nicolette Moultrie			X (Abstain)
Erin Yee			X (Absent)

5. Agenda Item 5b: Discussion and Possible Action to Approve the October 8, 2022, Full Board Meeting Minutes.

Motion: Carmen Dones moved to approve the October 8, 2022, Full Board Meeting Minutes.

Second: Dr. Timothy Martinez.

Member discussion: None.

Public comment: None.

Vote: Motion for the Board to approve the October 8, 2022, Full Board Meeting Minutes. Passed 3:0:6.

Name	Aye	Nay	Abstain/Absent
Denise Davis			X (Abstain)
Carmen Dones	X		
Susan Good			X (Absent)
Sonia "Pat" Hansen	X		
Noel Kelsch			X (Absent)
Sherman King			X (Absent)
Timothy Martinez	X		
Nicolette Moultrie			X (Abstain)
Erin Yee			X (Absent)

6. Agenda Item 7: Update from the Dental Board of California (DBC).

Tracy Montez, newly appointed Executive Officer (EO) of the Dental Board of California (DBC), reported that the DBC has been operating at a 25-30% staff vacancy rate, but has had several hires over the past four months to bring them to a 15% vacancy rate. This has

allowed the DBC to catch-up on their licensing backlog and regulatory packages. Additionally, she reported the DBC has a few legislative proposals in process, including one in collaboration with the Board.

EO Montez reported on DBC elections with Dr. Alan Felsenfeld returning as President, Joanne Pacheco as Vice-President, and Dr. Lilia Larin as Secretary, as well as Tracy Reed Espinoza as Chair and Cara Miyasaki as Vice-Chair of the Dental Assisting Council.

EO Montez stated she looks forward to working with the Board and EO Lum in the future.

Member discussion: None.

Public comment: None.

7. Agenda Item 8: Dental Hygiene Board of California Election of Officers.

EO Lum presented the open Board positions and stated staff recommended maintaining the current officers to complete the Sunset Review process in 2023.

Motion: Nicolette Moultrie moved to approve the continuance of the 2022 slate of Board officers for 2023 for continuity to complete the Board's Sunset Review process. Please approve Dr. Carmen Dones – President; Noel Kelsch – Vice President; and Denise Davis – Secretary.

Second: Denise Davis.

Member discussion: None.

Public comment: None.

Vote: Motion for the Board to approve the continuance of the 2022 slate of Board officers for 2023 for continuity to complete the Board's Sunset Review process. Please approve Dr. Carmen Dones – President; Noel Kelsch – Vice President; and Denise Davis – Secretary. Passed 5:0:4.

Name	Aye	Nay	Abstain/Absent
Denise Davis	X		
Carmen Dones	X		
Susan Good			X (Absent)
Sonia "Pat" Hansen	X		
Noel Kelsch			X (Absent)
Sherman King			X (Absent)

Name	Aye	Nay	Abstain/Absent
Timothy Martinez	X		
Nicolette Moultrie	X		
Erin Yee			X (Absent)

8. Agenda Item 9: Future Dental Hygiene Board of California Meetings for 2023 and 2024.

EO Lum presented suggested dates for future DHBC Meetings for 2023 and 2024 to include: Saturday, March 18, 2023; Saturday, July 22, 2023; Saturday, September 23, 2023 (Strategic Planning Session); Saturday, November 18, 2023; Saturday, March 23, 2024; Saturday, July 20, 2024; and Saturday, November 16, 2024.

Motion: Nicolette Moultrie moved to approve the meeting dates as recommended by Board staff for 2023 and 2024.

Second: Dr. Timothy Martinez.

Member discussion: None.

Public comment: None.

Vote: Motion for the Board to approve the meeting dates as recommended by Board staff for 2023 and 2024. Passed 5:0:4.

Name	Aye	Nay	Abstain/Absent
Denise Davis	X		
Carmen Dones	X		
Susan Good			X (Absent)
Sonia "Pat" Hansen	X		
Noel Kelsch			X (Absent)
Sherman King			X (Absent)
Timothy Martinez	X		
Nicolette Moultrie	X		
Erin Yee			X (Absent)

9. Agenda Item 21: Discussion and Possible Action on 2023 Senate Committee on Business, Professions, and Economic Development Omnibus Bill Recommendations.

EO Lum stated each year, the Senate Committee on Business, Professions, and Economic Development sponsors an Omnibus Bill to address any non-substantive changes in existing statute to help clarify, define, or correct the information that's in the language. Committee staff has contacted us for any Omnibus Bill recommendations to be submitted to them by the mid-January deadline for inclusion in the bill. However, after discussions with the DCA's Legislative Office, they suggested that since the Board is going through Sunset Review, they recommended to add those two nonsubstantive changes to the Board's Sunset Bill to capture all changes to our statutes in one legislative proposal.

Motion: Nicolette Moultrie moved for the Board to include the Omnibus Bill's suggested language into the Sunset Review to incorporate the recommended changes to the Legislature in a single report.

Second: Dr. Timothy Martinez.

Member discussion: None.

Public comment: None.

Vote: Motion for the Board to include the Omnibus Bill's suggested language into the Sunset Review to incorporate the recommended changes to the Legislature in a single report. Passed 5:0:4.

Name	Aye	Nay	Abstain/Absent
Denise Davis	X		
Carmen Dones	X		
Susan Good			X (Absent)
Sonia "Pat" Hansen	X		
Noel Kelsch			X (Absent)
Sherman King			X (Absent)
Timothy Martinez	X		
Nicolette Moultrie	X		
Erin Yee			X (Absent)

10. Agenda Item 11: Discussion and Possible Action on Draft DHBC 2023 Sunset Review Report.

EO Lum stated that Sunset Review is the process where the Legislature has an opportunity to review a board program to determine whether to continue it. Board programs must complete the process every 4-5 years as a method to inform the Legislature about the program, update on prior issues and their progress, whether there are any new issues to address, and an opportunity to request additional resources for program needs. He explained that for each Sunset Review, staff assemble a very complex and detailed draft report containing information and statistics from the past four years and addressing questions from the Legislature for Board review. EO Lum added that the Board met on October 8, 2022, for a first review of the report and that staff, with the assistance of Board Member Good, completed the revisions as directed from the October 2022 Board meeting. He presented the revised draft report for the Board's second review today and stated that the due date for the report to be submitted to the Legislature is January 1, 2023.

Motion: Nicolette Moultrie moved for the Board to approve and finalize the draft DHBC Sunset Review Report with the addition of the previously approved clinical exam elimination language from the October 8, 2022, Board meeting and incorporate the 2023 Omnibus Bill proposals for submission to the Legislature by the January 1, 2023, deadline.

Second: Dr. Timothy Martinez.

Member discussion: Board Member Moultrie thanked staff & Board Member Good for their hard work to complete the draft Sunset Report.

Public comment:

Public attendee "Sade" expressed her concern regarding dental health professional shortage areas for brick-and-mortar RDHAP practices should the designated areas undergo geographical changes to their boundaries.

Public attendee "Jennifer" echoed "Sade's" concerns.

Public attendee Elena Francisco referred to section 12-3E of the Sunset Report and requested for the Board to protect RDHAP practices.

Public attendee Allison Wagstaff, California Dental Hygienists' Association's (CDHA) Government Relations Council, echoed other commenters' concerns. She shared that RDHAPs invest a lot of time and money opening their brick-and-mortar practices, patients depend on these practices, and stated the Board needs to protect those patients' access to care.

Public attendee Gail Gilman echoed other commenters' concerns.

Vote: Motion for the Board to approve and finalize the draft DHBC Sunset Review Report with the addition of the previously approved clinical exam elimination

language from the October 8, 2022, Board meeting and incorporate the 2023 Omnibus Bill proposals for submission to the Legislature by the January 1, 2023, deadline. Passed 5:0:4.

Name	Aye	Nay	Abstain/Absent
Denise Davis	X		
Carmen Dones	X		
Susan Good			X (Absent)
Sonia "Pat" Hansen	X		
Noel Kelsch			X (Absent)
Sherman King			X (Absent)
Timothy Martinez	X		
Nicolette Moultrie	X		
Erin Yee			X (Absent)

11. Agenda Item 12: Discussion and Possible Action to Approve the Change of Ownership of the Concorde Career College Dental Hygiene Educational Programs: Garden Grove, San Bernardino, and San Diego Campuses.

EO Lum stated on September 13, 2022, the dental hygiene educational programs of Concorde Career College (CCC) informed the DHBC that CCC currently is majority-owned by Liberty Investment IIC, LLC, (Liberty), and that on May 3, 2022, CCC and Liberty entered into a Stock Purchase Agreement by which Universal Technical Institute, Inc. (UTI) will acquire 100% ownership of CCC. The letter further stated the anticipated change in CCC's stock ownership will not affect the direct ownership of the Schools and Board-approved programs by CCC or its subsidiaries.

Additionally, EO Lum provided documentation from the Commission on Dental Accreditation (CODA) accepting the change in ownership for CCC.

Motion: Nicolette Moultrie moved for the Board to conditionally continue approval of the Concorde Career Colleges until they submit finalized documentation of the ownership sale transaction and obtain confirmation of its continued accreditation from CODA (Commission on Dental Accreditation) and ACCSC (Accrediting Commission of Career Schools and Colleges.)

Second: Dr. Timothy Martinez.

Member discussion: None.

Public comment: None.

Vote: Motion for the Board to conditionally continue approval of the Concorde Career Colleges until they submit finalized documentation of the ownership sale transaction and obtain confirmation of its continued accreditation from CODA (Commission on Dental Accreditation) and ACCSC (Accrediting Commission of Career Schools and Colleges.). Passed 5:0:4.

Name	Aye	Nay	Abstain/Absent
Denise Davis	X		
Carmen Dones	X		
Susan Good			X (Absent)
Sonia "Pat" Hansen	X		
Noel Kelsch			X (Absent)
Sherman King			X (Absent)
Timothy Martinez	X		
Nicolette Moultrie	X		
Erin Yee			X (Absent)

12. Agenda Item 14: Discussion and Possible Action to Initiate a Rulemaking and Adopt Title 16, California Code of Regulations (CCR) Section 1114: Temporary Licensure.

Dr. Adina Petty reported that Assembly Bill (AB) 107 (Salas, Chapter 693, Statutes of 2021) enacted Business and Professions Code (BPC) section 115.6 which requires the Board, on and after January 1, 2023, and after appropriate investigation, to issue temporary licenses to military spouse applicants if the applicant meets specified requirements. Applicants must provide evidence satisfactory to the Board the applicant is married to, or in a domestic partnership or other legal union with, an active-duty member of the United States (U.S.) Armed Forces who is assigned to a duty station in this state under official active-duty military orders.

She stated staff recommends the Board to review the proposed language and associated attached form, determine whether additional information or language is required, complete the draft of the proposed regulatory language and associated form, and direct staff to submit the language to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all

steps necessary to complete the rulemaking and adopt the proposed regulations at Section 1114 as noticed.

Motion: Nicolette Moultrie moved for the Board to approve the proposed language and associated form for section 1114, and direct staff to submit the language to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 1114 as noticed.

Second: Dr. Timothy Martinez.

Member discussion: None.

Public comment: Public attendee JoAnn Galliano questioned the inclusion of the RDHAP and Registered Dental Hygienist in Extended Functions (RDHEF) into the regulation because there are no equivalent RDHAP and RDHEF licensure outside of California. Dr. Petty explained the reason for inclusion into the regulation is due to the way the statute authorizing temporary licensure is written that those categories must be included.

Vote: Motion for the Board to approve the proposed language and associated form for section 1114, and direct staff to submit the language to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 1114 as noticed. Passed 5:0:4.

Name	Aye	Nay	Abstain/Absent
Denise Davis	X		
Carmen Dones	X		
Susan Good			X (Absent)
Sonia "Pat" Hansen	X		
Noel Kelsch			X (Absent)
Sherman King			X (Absent)
Timothy Martinez	X		

Name	Aye	Nay	Abstain/Absent
Nicolette Moultrie	X		
Erin Yee			X (Absent)

13. Agenda Item 15: Discussion and Possible Action to Initiate a Rulemaking and Adopt Title 16, California Code of Regulations (CCR) Section 1116: Mobile Dental Hygiene Clinics; Issuance of Approval.

Dr. Adina Petty reported that Senate Bill (SB) 1202 (Leno, Chapter 331, Statutes of 2012) created Business and Professions Code (BPC) sections 1926.1 and 1926.2. Among other provisions, SB 1202 authorizes Registered Dental Hygienists in Alternative Practice (RDHAP) to operate mobile dental hygiene clinics (MDHC). In addition, SB 1202 created BPC sections 1944(g) and (h) which state: “(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150)”; and “(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred and fifty dollars (\$250).” She stated the Board initiated the proposed rulemaking package for MDHCs as proposed California Code of Regulations (CCR) Title 16 (16), section 1116 in November of 2018. However, in October of 2019, DHBC’s legal counsel advised the Board of the lack of statutory authority for inspections of MDHCs, an integral component of the regulations to provide oversight of MDHCs to ensure patient safety.

Dr. Petty reported to address the lack of MDHC oversight, SB 534 (Jones, Chapter 491, Statutes of 2021) granted statutory authority to the Board to conduct announced and unannounced reviews and inspections of MDHCs to ensure continued compliance with all laws and regulations applicable to MDHCs.

She stated staff recommends the Board review the proposed language and associated form in the attached document, determine whether additional information or language is required, complete the draft of the proposed regulatory language and associated form, re-establish by resolution the fee for the initial MDHC permit at \$100, as well as the fee for MDHC biennial permit renewal at \$160 to cover application processing and permit issuance, and direct staff to submit the language to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. Staff recommends the Board authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 1116 as noticed.

Motion: Nicolette Moultrie moved for the Board to approve the proposed language and associated form for section 1116, re-establish by resolution the fee for the initial MDHC permit at \$100, as well as the fee for MDHC biennial permit renewal at \$160, and direct staff to submit the language to the Director of the Department of Consumer Affairs and the

Business, Consumer Services, and Housing Agency for review. Authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 1116 as noticed.

Second: Dr. Timothy Martinez.

Member discussion: None.

Public comment: Public attendee Elena Francisco expressed that she is happy to see the regulation moving forward as it will improve access to care.

Vote: Motion for the Board to approve the proposed language and associated form for section 1116, re-establish by resolution the fee for the initial MDHC permit at \$100, as well as the fee for MDHC biennial permit renewal at \$160, and direct staff to submit the language to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. Authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 1116 as noticed. Passed 5:0:4.

Name	Aye	Nay	Abstain/Absent
Denise Davis	X		
Carmen Dones	X		
Susan Good			X (Absent)
Sonia "Pat" Hansen	X		
Noel Kelsch			X (Absent)
Sherman King			X (Absent)
Timothy Martinez	X		
Nicolette Moultrie	X		
Erin Yee			X (Absent)

14. Agenda Item 16: Discussion and Possible Action to Initiate a Rulemaking and Adopt 16 CCR Section 1116.5: Registered Dental Hygienist in Alternative Practice, Physical Facility Registration.

Dr. Adina Petty reported that Senate Bill (SB) 1202 (Leno, Chapter 331, Statutes of 2012) created Business and Professions Code (BPC) sections 1926.3 and 1926.4. Among other provisions, SB 1202 required Registered Dental Hygienists in Alternative Practice (RDHAP) to register their place or places of practice with the executive officer and to receive permission from the Board, subject to a biennial renewal fee, to have an additional place of practice. In addition, SB 1202 created BPC sections 1944(i) and (j) which state: “(i) The fee for an additional office permit shall not exceed two hundred fifty dollars (\$250);” and “(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).”

She stated that additionally, SB 534 (Jones, Chapter 491, Statutes of 2021) granted statutory authority to the Board to conduct announced and unannounced reviews and inspections of a physical facilities registered to an RDHAP to ensure continued compliance with all laws and regulations applicable to physical facilities.

Motion: Nicolette Moultrie moved for the Board to approve the proposed language and associated form for section 1116.5, establish by resolution the fee for an additional physical facility permit at \$100, as well as the fee for additional physical facility biennial permit renewal at \$160, and direct staff to submit the language to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. Authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 1116.5 as noticed.

Second: Sonia “Pat” Hansen.

Member discussion: None.

Public comment:

Public attendee “Sade” expressed confusion on the fee structure. Dr. Petty explained the fee is only for any additional RDHAP practices and not the initial practice.

Public attendee Elena Francisco requested for the Board to review forms the Board requests when RDHAPs close their practices.

Vote: Motion for the Board to approve the proposed language and associated form for section 1116, re-establish by resolution the fee for the initial MDHC permit at \$100, as well as the fee for MDHC biennial permit renewal at \$160, and direct staff to submit the language to the Director of the Department of Consumer Affairs and the

Business, Consumer Services, and Housing Agency for review. Authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 1116 as noticed. Passed 5:0:4.

Name	Aye	Nay	Abstain/Absent
Denise Davis	X		
Carmen Dones	X		
Susan Good			X (Absent)
Sonia "Pat" Hansen	X		
Noel Kelsch			X (Absent)
Sherman King			X (Absent)
Timothy Martinez	X		
Nicolette Moultrie	X		
Erin Yee			X (Absent)

15. Agenda Item 23: Closed Session (10:56 a.m.)

The Board met in Closed Session to deliberate on disciplinary matters pursuant to Government Code section 11126, subdivision (c)(3) and to conduct the Board's Executive Officer's annual performance evaluation.

16. Returned from Closed Session 12:45 p.m.

The Board reconvened with four members present (Carmen Dones, Sonia "Pat" Hansen, Dr. Timothy Martinez, and Nicolette Moultrie). Denise Davis was absent and excused.

17. Agenda Item 4: Update from the Department of Consumer Affairs (DCA) Executive Staff.

Shelly Jones, Department of Consumer Affairs (DCA) Board and Bureau Relations Program Manager, updated the Board on the following:

1. New DCA Staff

The Governor recently appointed leaders to DCA's Board and Bureau Relations Team. Melissa Gear is serving as DCA's new Deputy Director of Board and Bureau Relations and beginning November 14th, Yvonne Dorantes will serve as the new Assistant Deputy Director of Board and Bureau Relations.

2. DCA Diversity, Equity, and Inclusion Steering Committee

Director Kimberly Kirchmeyer established the Department's first diversity, equity, and inclusion steering committee (DEI committee) to guide the Department in its equity strategy, initiatives, and action plans.

3. Strategic Planning

In accordance with Governor Gavin Newsom's executive order, strategic plans in effect July 2023 and beyond, must be developed or updated to more effectively advance equity and drive outcomes that increase opportunity for all. In response, DCA is revising its strategic planning processes to incorporate more inclusive public engagement, data analysis, and embedding diversity, equity, and inclusion (DEI) into the strategic planning process.

4. Our Promise Campaign

DCA is taking part in "Our Promise: California State Employees Giving at Work" which celebrates 65 years of caring for California. This year's Our Promise Vice Chair is Lourdes Castro Ramirez, Secretary of the Business, Consumer Services and Housing Agency, and our DCA Our Promise Co-Chairs are Chief Deputy Director Christine Lally and Deputy Director Melissa Gear. The campaign began on October 1 and will end on December 31. The campaign allows Californians to donate to a non-profit or non-profits of their choice.

5. In-Person Meeting Guidelines and COVID-19 Safety Measures

Though legislation has passed allowing remote meetings through June 30, 2023, we are reminding boards that choose to hold in-person meetings of the safety measures, best practices, and recommendations for holding public meetings.

6. Board Member Travel

State travel arrangements must be made through DCA's approved travel agency, CalTravelStore, or Concur. All board/bureau members and staff must use the most economical fares possible when traveling by air on official state business.. Additionally, AB 1887 prohibits state agencies, departments, boards, authorities, and commissions from traveling to states that are subject to California's travel ban. There are now 23 prohibited states.

7. Partnership with the State Controller's Office

DCA will partner with the State Controller's Office (SCO) to share information with consumers and certain licensees about the Unclaimed Property program. State law requires banks, insurance companies, corporations, and other entities to report and submit their customers' property to the SCO after a period of inactivity, generally three years.

Member discussion: None.

Public comment: None.

18. Agenda Item 6: Executive Officer's Report.

EO Lum updated the Board on the following:

1. Administration

EO Lum reported the Board has been in transition in 2022 with five long-term members being termed out. Two were replaced earlier this year and Susan Good, Dr. Timothy Martinez, and Nicolette Moultrie will be leaving the Board at the end of the year and thanked them for their contributions.

2. Budget

EO Lum reported on the Board's latest Budget Expenditures, Revenue, and Fund Conditions.

3. Personnel

EO Lum reported the Board currently has four vacant positions to fill and stated most are in Enforcement and now that the Sunset Review Report is almost complete, he will focus on hiring for these positions.

4. DHBC Statute Amendment (Business and Professions Code (BPC) section 1907) for Registered Dental Assistant (RDA) Qualifications: Dental Board Proposed Language.

EO Lum reported that the Dental Board has approved revisions in statutory language regarding RDHs attempting to obtain an RDA license at their meeting. An amendment was approved that affects one section of our law, BPC section 1907(b) which adds a reference to the Dental Board's laws for RDA licensure qualifications (BPC sections 1752.1(a)(4) and 1752.4(b)) if an RDH licensed after January 1, 2006 seeks to obtain an RDA license to perform those services. These sections detail the requirements for an RDH to obtain an RDA license prior to providing RDA services. The Dental Board plans to place this amended language into their 2024 Sunset Bill for Legislative approval and stated the statutory language will be placed on the agenda at the next Board meeting for review.

Member discussion: None.

Public comment: None.

19. Agenda Item 10: Update on Direct Supervision of Local Anesthesia Administration.

EO Lum stated the consideration for change in supervision status from direct supervision to general supervision for administration of Local Anesthesia has been an ongoing discussion. He stated that in the CDA's Sunset Support letter, the CDA opposes the change in supervision status citing safety of the consumer and lack of justification for a change. He

stated that due to these concerns, and that the primary function of the Board is to look out for the interest of the consumer, further discussions, and work to justify a change in the level of supervision should continue to take place between all interested stakeholders.

Member discussion: President Dones stated that it's important to continue this issue and requested to revisit the subject at a future Board meeting.

Public comment:

Public attendee Allison Wagstaff supports the change to general supervision for local anesthesia.

Public attendee "Sade" supports the change to general supervision for local anesthesia. and requested more discussion.

20. Agenda Item 13: Regulatory Update: Status of Dental Hygiene Board of California Regulatory Packages.

Dr. Adina Petty reported the current status as to DHBC proposed regulatory packages completed and in process for the Board. Additionally, she provided an overview of the regulatory process.

Member discussion: None.

Public comment: None.

21. Agenda Item 17: Update on 2022 Legislation.

Dr. Adina Petty reported the final status of proposed 2022 legislative packages of concern for the Board.

Member discussion: None.

Public comment: None.

22. Agenda Item 18: Dental Hygiene Educational Program Site Visits and Schedule Update.

Dr. Adina Petty reported the current status of Dental Hygiene Educational Program (DHEP) compliance at Carrington College – Sacramento, Chabot College, Diablo Valley College, West Coast University, Pasadena City College, and Loma Linda University. Additionally, she updated the Board on the upcoming DHEP site visit schedule for 2023.

Member discussion: President Dones questioned the steps to ensure DHEP compliance. Dr. Petty and EO Lum clarified the Board's role and the steps toward DHEP compliance.

Public comment: None.

23. Agenda Item 19: Enforcement Update: Statistical Report.

Board Special Investigator Albert Law reported on current enforcement statistics for the Board.

Member discussion: None.

Public comment: None.

24. Agenda Item 20: Licensing, Continuing Education Audits and Examination Update: Statistical Reports.

EO Lum reported on current licensing and examination statistics for Fiscal Year 2022/2023 through the first quarter as well as the current status of continuing education audits.

Member discussion: None.

Public comment: None.

25. Agenda Item 22: Future Agenda Items.

Member discussion: None.

Public comment: None.

26. Adjournment

Meeting was adjourned at **1:42 p.m.**

MEMORANDUM

DATE	February 4, 2023
TO	Dental Hygiene Board of California
FROM	Adina A. Pineschi-Petty DDS Education, Legislative, and Regulatory Specialist
SUBJECT	FULL 4: Discussion and Possible Action to Approve Modified Text and Continue Rulemaking to Adopt 16 CCR Section 1104.3: Reviews, Site Visits, Citation and Fine, and Probationary Status for Dental Hygiene Educational Programs.

Background:

At the July 23, 2022 Full Board meeting, the Board approved substantive changes to the proposed regulatory language for California Code of Regulations (CCR), Title 16, section 1104.3 to include specific factors to contest citations and regarding compliance with citations or orders of abatement and implement the mandates in Business and Professions Code (BPC) section 1941.5.

During review by the Office of Administrative Law (OAL), additional substantive changes were recommended. Board staff developed the attached modified text for 16 CCR section 1104.3 for the Board to review to implement the provisions of BPC section 1941.5.

Staff Recommendation:

In response to comments made from the review of the regulatory language by OAL, staff recommends the Board review the proposed modified text in the attached document, determine whether additional information or language is required, complete the draft of the proposed modified text, and direct staff to submit the proposed modified text to the Director of the DCA and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to continue the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 15-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulation at Section 1104.3 as noticed.

Proposed Motion Language:

Approve the proposed modified text for section 1104.3 and direct staff to submit the proposed modified text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to continue the rulemaking process, make any non-substantive changes to the package,

and set the matter for a hearing if requested. If no adverse comments are received during the 15-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulation at Section 1104.3 as noticed.

Pros: In order to implement the provisions of BPC section 1941.5 to allow 16 CCR section 1104.3 to move forward in the regulatory process, the proposed modified text must be approved by the Board.

Cons: If the proposed modified text for review of DHEPs is not approved, the Board will not have a clear and consistent process for citations, fines, and probation of DHEPs.

Documents Included for Reference for Section 1104.3:

1. Proposed Modified Text for 1104.3.

**TITLE 16. DENTAL HYGIENE BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

MODIFIED TEXT

Legend:

<u>Underlined</u>	Indicates proposed regulatory language.
Underlined Strikeout	Indicates proposed deletions to the proposed text.
<u><u>Double Underlined</u></u>	Indicates proposed additions to the original text.

Adopt Section 1104.3 of Title 16 of the California Code of Regulations (CCR) to read as follows:

Article 3. Educational Programs

§1104.3 Reviews, Site Visits, Citations and Fines, and Probationary Status for Dental Hygiene Educational Programs

(a) Program Reviews and Site Visits

A dental hygiene educational program for a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions (collectively DHEPs) shall provide access during business hours to the DHEP's records and premises to the Dental Hygiene Board of California (Board) or its authorized representative(s) to review the DHEP for compliance with all laws, regulations, and standards applicable to a DHEP including, but not limited to, the Business and Professions Code, the California Code of Regulations (CCR), the Commission on Dental Accreditation Standards of the American Dental Association, Occupational Safety and Health Administration, Health and Safety Code, Centers for Disease Control and Prevention, and the Health Insurance Portability and Accountability Act (HIPAA). For the purpose of this subdivision, "records" shall include, but are not limited to, course records, student records, faculty and staff records, and patient records.

(b) Citations, Fines, and Orders of Abatement

(1) The Executive Officer of the Board or their designee may issue a citation to a DHEP containing an order to pay a fine not to exceed \$5,000 and an order of abatement against a DHEP for any violation of Division 11 of Title 16 of the California Code of Regulations or any laws governing DHEPs.

- (A) A citation may be issued without the assessment of a fine when determined by the Executive Officer or their designee in accordance with the factors set forth in subdivision (b)(3).
- (B) Each citation issued pursuant to subdivision (b)(1) of this section shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the law or regulation alleged to have been violated.
- (2) If the Board or its authorized representative determines that a DHEP is in violation of any law, regulation, or standard applicable to a DHEP, the DHEP shall correct the violation(s) within the amount of time specified in the order. The DHEP shall furnish the Board written proof of compliance with the order and shall permit a site visit by the Board's authorized representative to confirm compliance.
- (3) In the issuance of any citation or fine, the following factors shall be considered:
- (A) Nature and severity of the violation;
 - (B) Length of time that has passed since the date of the violation;
 - (C) Consequences of the violation, including the potential to harm, or actual patient harm;
 - (D) History of previous violations of a similar nature;
 - (E) Evidence that the violation was willful;
 - (F) Gravity of the violation; and
 - (G) The extent to which the cited DHEP has remediated the deficiencies.
- (4) Compliance with Citation/Order of Abatement
- (A) If a cited DHEP who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond the DHEP's control after the exercise of reasonable diligence, the DHEP cited may request an extension of time from the Executive Officer or their designee in which to complete the correction. The request shall be in writing and shall be made within the time set forth for abatement.
- (B) When a citation or order of abatement is not contested or if the order is appealed and the DHEP cited does not prevail, failure to abate the violation within the time allowed or pay the fine that was imposed, if one was, shall constitute a violation and a failure to comply with the citation or order of abatement.

(C) Failure to timely comply with an order of abatement or pay a fine that is imposed ~~may~~ **shall** result in disciplinary action being taken by the Board in addition to other remedies.

(5) Contested Citations

(A) The citation shall inform the cited DHEP if they desire a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the Board within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(B) In addition to or as an alternative to requesting a hearing as provided in subdivision (b)(5)(A), the cited DHEP may, within 14 calendar days after service of the citation, submit a written request to the Board for an informal conference with the Executive Officer.

(C) The Executive Officer or their designee shall, within 30 calendar days from receipt of the written request for an informal conference pursuant to subdivision (b)(5)(B), hold an informal conference with the DHEP cited and/or their legal counsel or authorized representative, if any, unless continued for good cause.

(D) The Executive Officer or their designee may affirm, modify or dismiss the citation at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited DHEP and their legal counsel, if any, within 14 calendar days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the informal conference procedure.

(i) If the citation, including any administrative fine levied or order of abatement pursuant to subdivision (b)(1), is dismissed, the request for a hearing shall be deemed withdrawn.

(ii) If the citation, including any administrative fine levied or order of abatement, is affirmed, the cited DHEP may, in its discretion, withdraw the request for a hearing or proceed with the administrative hearing process as set forth in subdivision (b)(5)(A). An additional informal conference shall not be held on affirmed citations.

(iii) If the citation, including any administrative fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a cited DHEP wishes to contest a modified citation, the cited DHEP shall, within 30 calendar days after issuance of the modified citation, contest it by

submitting a written request for an administrative hearing, as provided for in subdivision (b)(5)(A), to the Board. An informal conference shall not be held on modified citations.

(c) Probationary Status of a DHEP

- (1) If the Board or its authorized representative determines a DHEP is in violation of any law, regulation, or standard applicable to a DHEP, the Board at a noticed Board meeting may, pursuant to Section 1941.5 of the Code, place a DHEP on probation.
- (2) In the issuance of probation, the Board will consider the factors set forth in subdivision (b)(3) of this section.
- (3) If the Board places a DHEP on probation, the DHEP is required to provide notice of their probationary status in writing to its students within fifteen (15) business days of being placed on probation. The formal notice shall include, but not be limited to, a notice that the DHEP was placed on probation by the Board, the date of the beginning of the probation, as well as a copy of the Board's order issuing probation to the DHEP which includes the terms of the probation. In addition, the DHEP shall provide notice to each potential student applicant to the DHEP before offering to enroll the applicant. The DHEP shall provide the Board with written proof of compliance with this subdivision as a condition for removal from probationary status.
- (4) A DHEP on probationary status shall correct the violation(s) within the amount of time specified in the order. The DHEP shall furnish the Board written proof of compliance with the order and shall permit a site visit by the Board's authorized representative to confirm compliance.
 - (A) If the DHEP on probation demonstrates it has corrected the violation(s) and meets all requirements for approval set forth in 16 CCR section 1104, the Board may determine, at a noticed Board meeting, that the DHEP shall be removed from probationary status.
 - (B) If the DHEP on probation fails to demonstrate to the Board by the end of its probationary period the DHEP has corrected all violation(s) and met the requirements for approval set forth in 16 CCR section 1104, the Board ~~may shall~~ withdraw approval of the DHEP.
- (5) Appeals Process for a DHEP on Probationary Status
 - (A) Any DHEP who is placed on probation may request, in writing, to appeal their probationary status by either:
 - (i) Requesting an informal conference.

(a) The probationary DHEP may, within 14 calendar days after service of notice of probation, submit a written request to the Board for an informal conference with the Executive Officer.

(b) The Executive Officer or their designee shall, within 30 calendar days from receipt of the written request for an informal conference pursuant to subdivision (c)(5)(A)(i)(a), hold an informal conference with the DHEP cited and/or their legal counsel or authorized representative, if any, unless continued for good cause.

(c) The Executive Officer shall notify the DHEP of the final decision of the Executive Officer within ten days of the informal conference. Based on the outcome of the informal conference, the DHEP may request a hearing pursuant to subdivision (c)(5)(A)(ii) to contest the Executive Officer's final decision.

(d) A DHEP shall request a hearing by written notice to the Board within 30 calendar days of the date of the letter of the Executive Officer's final decision after the informal conference. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(ii) Requesting a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Such ~~notification request~~ shall be made to the Board within 30 calendar days after service of a notice of probation, or before the date of the informal conference, if one was requested.

Note: Authority cited: Sections 125.9, 1905, 1906, and 1941.5, Business and Professions Code. Reference cited: Sections 125.9 and 1941.5, Business and Professions Code.

MEMORANDUM

DATE	February 4, 2023
TO	Dental Hygiene Board of California
FROM	Anthony Lum Executive Officer
SUBJECT	FULL 5: Nomination and Vote for New Vice President.

BACKGROUND

At its November 19, 2022, Board meeting, the Board voted to maintain the slate of officers from 2022 for 2023 to maintain consistency while proceeding through the Sunset Review process. Unfortunately, the Vice President and RDHAP member, Noel Kelsch, resigned from the Board at the end of November due to personal reasons. This agenda item is to nominate and vote for a new Vice President for 2023.

Nomination for New Vice President:

Vice President	
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Member	Aye	Nay	Other
Denise Davis			
Carmen Dones			
Sonia "Pat" Hansen			
Sherman King			
Erin Yee			

MEMORANDUM

DATE	February 4, 2023
TO	Dental Hygiene Board of California
FROM	Anthony Lum Executive Officer
SUBJECT	FULL 6: Discussion and Possible Action to Approve Second Submission of Executive Officer Exempt Position Request (EPR) to Upgrade Exempt Level Status and Salary.

ACTION

Submit second request to upgrade the Executive Officer's (EO) exempt level status equivalent to a Staff Services Manager III for professional and programmatic growth, establish management structure, maintain institutional knowledge, and elevate associated salary range commensurate of the current EO oversight responsibilities through a departmental (DCA) Exempt Position Request (EPR) after first request submitted at the end of 2021 was denied.

BACKGROUND

In fiscal year 2009/10, the Dental Hygiene Committee (now Board) began its operations for consumer protection. The Executive Officer (EO) position was established at a specific exempt level and salary appropriate at the time to oversee the entirety of committee operations. Since then, there hasn't been a change or upgrade in the EO exempt level to allow for professional and program growth.

However, over the last decade, there's been significant organizational growth, programmatic changes and added staff responsibilities assigned to the EO since the Board's inception. The additional programs, in conjunction with the expansion of existing programs and additional staff to operate them, created a greater and more complex management workload added to the EO's responsibilities. For example:

- Implementation of dental hygiene educational program (DHEP) oversight.
- Enhancement of enforcement activity such as citation and fine, probation, and expansion of investigation work.
- Licensing program expansion to include DHEP site visits and reviews, continuing education audits, and the review and inspection of mobile dental hygiene clinics.
- Triple the staff including non-supervisory management level equivalents to implement the above program changes.

Administratively, the data over the last decade shows the Board's budget has increased to \$2.5 million from \$1 million (150% increase), staff increased to 15 from 5 (200% increase), program statistics such as licensee population increased by 42% and complaints received by the Board significantly increased by 207%. Additionally,

FULL 6: Memo – Change and Upgrade the Executive Officer's Exempt Level Status

Page 1 of 3

instrumental program functions overseen by the EO have increased as well. For example:

- The number of regulations promulgated and approved has significantly increased.
- Staff worked to effectively implement a new computer system, BreEZe, to enhance accessibility for applicants and licensees to conduct their business online such as applications, license renewals, name and address changes, and verification of licensure.
- And most importantly, legislation was approved that changed the committee to a full autonomous board to conduct its business. The only program in the nation.

The general public outside of the Department of Consumer Affairs (DCA) is unaware of the breadth of knowledge, experience, and responsibility that is required for an EO to run a board effectively because they're only familiar with the Board as a licensing entity. An EO is a unique position in state service where the individual must possess the knowledge of and be responsible for multiple program areas. For the Dental Hygiene Board, this consists of legislation, regulation, enforcement, licensing, educational programs, examinations, and administrative functions of budgets, personnel, contracts, facilities, and procurement. Furthermore, the EO possesses communication skills and proper etiquette necessary to build relationships and address board members, legislators, executive staff, and any interested stakeholders that are vital to good relations. Testifying and public speaking are also competencies required for the position when speaking on behalf of the Board. These skills, knowledge, and experience can take years to acquire to perform them efficiently and effectively. Very few state programs or positions handle a workload consisting of this number of vital program components and be directly responsible for them. For an EO with this amount of responsibility, a commensurate exempt level and salary equivalent to an SSM III is justified for this second exempt position upgrade request.

With the most recent EO evaluation completed at the November 2022 Board meeting, it demonstrates the efficiency and effectiveness of the current EO and justifies the resubmission of the EPR request.

STAFF RECOMMENDATION:

Staff recommends approval of the second request to upgrade the Executive Officer's exempt level status equivalent to a Staff Services Manager III for professional and programmatic growth and associated salary range commensurate of the current EO oversight responsibilities through a DCA Exempt Position Request (EPR) and then forward the request to the Business, Consumer Services and Housing Agency, Honorable Governor Newsom's Office, and the California Department of Human Resources for approval.

PROS: By approving this upgrade request of the EO's exempt level and salary, it allows the Board to properly structure its management staff for the future and for proper program oversight, expand professional growth, and maintain Board institutional knowledge and experience especially when many experienced board members termed

out and are no longer on the Board. The Board is a specially funded agency obtaining its revenue from the fees it charges and can afford this upgrade without fee increases and will not impact the State's General Fund.

CONS: The Board would experience a gradual but absorbable overall cost increase as the EO moves higher in the salary range until the maximum is achieved.



Saturday, February 4, 2023

Dental Hygiene Board of California

Agenda Item 7

Future Agenda Items



Saturday, February 4, 2023

Dental Hygiene Board of California

Agenda Item 8

Closed Session – Full Board

**Pursuant to Government Code Section 11126(c)(3), the Board will
Deliberate on Disciplinary Actions and Decisions to be Reached
in Administrative Procedure Act Proceedings.**



Saturday, February 4, 2023

Dental Hygiene Board of California

Agenda Item 9

Adjournment.