



MEMORANDUM	
DATE	June 8, 2010
TO	DHCC Committee Members
FROM	Lori Hubble, Executive Officer Dental Hygiene Committee of California
SUBJECT	AGENDA ITEM 9 – Consumer Protection Enforcement Initiative (CPEI) Consideration of regulatory amendments for disciplinary matters and to define additional bases of unprofessional conduct (provisions contained in SB1111)

The Department of Consumer Affairs has been reviewing the text of SB 1111 to determine which of its applicable provisions may be implemented through regulation. Initial review indicates that many of the bill's provisions may be adopted as regulation. Attached is a summary document indicating those provisions of SB 1111 that may be adopted into regulation.

The Department has requested that staff put the consideration of proposed regulatory changes on a Dental Hygiene Committee of California meeting agenda. The proposed regulatory changes in the summary document have been put on the June 8, 2010, meeting agenda for the committee's consideration for authorizing the initiation of a rulemaking package to implement these provisions.

The Legal Affairs Division has been working on specific boiler plate language that will be available to serve as a template for use as the committee deems necessary. In addition, we have been informed that the legislative office is preparing a stock initial statement of reasons that each board and committee can work from.

SB 1111 (4/12/2010 version) Proposed Changes through Regulations

Business and Professions Code:

1. **§720.2(b) - Board delegation to Executive Officer regarding stipulated settlements to revoke or surrender license:** Permit the Board to delegate to the Executive Officer the authority to adopt a “stipulated settlement” if an action to revoke a license has been filed and the licensee agrees to surrender the license, without requiring the Board to vote to adopt the settlement. **Recommend: Amend 16 CCR 1403.**
2. **§720.10 - Revocation for sexual misconduct:** Require an Administrative Law Judge (ALJ) who has issued a decision finding that a licensee engaged in any act of sexual contact with a patient or who has committed or been convicted of sexual misconduct to order revocation which may not be stayed. **Recommend: Amend regulations/disciplinary guidelines.**
3. **§720.12 - Denial of application for registered sex offender:** Require the Board to deny a license to an applicant or revoke the license of a licensee who is registered as a sex offender. **Recommend: Amend the regulations pertaining to applicant requirements and disciplinary guidelines.**
4. **§712.14 - Confidentiality agreements regarding settlements:** Confidentiality agreements regarding settlements can cause delay and thwart a Board’s effort to investigate possible cases of misconduct, thereby preventing the Board from performing its most basic function – protection of the public. **Recommend: Define in regulation that participating in confidentiality agreements regarding settlements is unprofessional conduct.**
5. **§720.16(d) and (f) - Failure to provide documents and 718 (d) - Failure to comply with court order:** Require a licensee to comply with a request for medical records or a court order issued in enforcement of a subpoena for medical records. **Recommend: Define in regulation that failure to provide documents and noncompliance with a court order is unprofessional conduct.**
6. **§720.32 - Psychological or medical evaluation of applicant:** Authorize the Board to order an applicant for licensure to be examined by a physician or psychologist if it appears that the applicant may be unable to safely practice the licensed profession due to a physical or mental illness; authorize the Board to deny the application if the applicant refuses to comply with the order; and prohibit the Board from issuing a license until it receives evidence of the applicant’s ability to safely practice. **Recommend: Amend regulations pertaining to applicant requirements that a psychological or medical evaluation may be required.**
7. **§726(a) & (b) - Sexual misconduct:** Currently defined in B&P Code §726. **Recommend: Define in regulation that sexual misconduct is unprofessional conduct.**
8. **§737 - Failure to provide information or cooperate in an investigation:** Make it unprofessional conduct for a licensee to fail to furnish information in a timely manner or cooperate in a disciplinary investigation. **Recommend: Define in regulation that failure to provide information or cooperate in an investigation is unprofessional conduct.**
9. **§802.1 - Failure to report an arrest, conviction, etc.:** Require a licensee to report to the Board any felony indictment or charge or any felony or misdemeanor conviction. **Recommend: Define in regulation that failure to report an arrest, conviction, etc. is unprofessional conduct.**