

FULL BOARD MEETING
Tuesday, August 26, 2014



Courtyard by Marriott Cal Expo
1782 Tribute Road
Sacramento, CA 95815



BOARD MEETING AGENDA

August 25-26, 2014

Courtyard by Marriott Cal Expo
1782 Tribute Road
Sacramento, CA 95815
916-929-7900 or 916-263-2300

Members of the Board

Fran Burton, MSW, Public Member, President
Bruce Whitcher, DDS, Vice President
Judith Forsythe, RDA, Secretary

Steven Afriat, Public Member
Stephen Casagrande, DDS
Yvette Chappell-Ingram, Public Member
Katie Dawson, RDH
Luis Dominicis, DDS
Kathleen King, Public Member

Ross Lai, DDS
Huong Le, DDS, MA
Meredith McKenzie, Public Member
Steven Morrow, DDS, MS
Thomas Stewart, DDS
Debra Woo, DDS

During this two-day meeting, the Dental Board of California will consider and may take action on any of the agenda items. It is anticipated that the items of business before the Board on the first day of this meeting will be fully completed on that date. However, should items not be completed, it is possible that it could be carried over and be heard beginning at 8:00 a.m. on the following day. Anyone wishing to be present when the Board takes action on any item on this agenda must be prepared to attend the two-day meeting in its entirety.

Public comments will be taken on agenda items at the time the specific item is raised. The Board 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. Time limitations for discussion and comment will be determined by the President. For verification of the meeting, call (916) 263-2300 or access the Board's website at www.dbc.ca.gov. This Board meeting is open to the public and is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Karen M. Fischer, MPA, Executive Officer, at 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815, or by phone at (916) 263-2300. Providing your request at least five business days before the meeting will help to ensure availability of the requested accommodation.

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.

Tuesday, August 26, 2014

8:00 A.M. OPEN SESSION - FULL BOARD

12. Call to Order/Roll Call/Establishment of Quorum

CLOSED SESSION – FULL BOARD

A. Deliberate and Take Action on Disciplinary Matters

The Board will meet in closed session as authorized by Government Code §11126(c)(3).

B. Receive Advice from Counsel on Litigation:

- I. Louis J. Malcmacher et al v the Department of Consumer Affairs, Dental Board of California et al, Sacramento County Superior Court, Case No. 34-2013-00156509

The Board will meet in Closed Session as authorized by Government Code § 11126(e).

CLOSED SESSION – LICENSING, CERTIFICATION, AND PERMITS COMMITTEE

A. Issuance of New License(s) to Replace Cancelled License(s)

The Committee will meet in closed session as authorized by Government Code §11126(c)(2) to deliberate on applications for issuance of new license(s) to replace cancelled license(s)

B. Grant, Deny or Request Further Evaluation for Conscious Sedation Permit Onsite Inspection and Evaluation Failure, pursuant to Title 16 CCR Section 1043.6

The Committee will meet in closed session as authorized by Government Code Section 11126(c)(2) to deliberate whether or not to grant, deny or request further evaluation for a Conscious Sedation Permit as it Relates to an Onsite Inspection and Evaluation Failure

RETURN TO OPEN SESSION – FULL BOARD

13. Executive Officer's Report

- Communication Plan
- Dental Board's 2013-2016 Strategic Plan
- Possible Dental School Application from the Republic of Moldova

14. Budget Report

15. Update from the Department of Consumer Affairs' Executive Office

16. Report on the July 9, 2014 Meeting of the Elective Facial Cosmetic Surgery Permit Credentialing Committee; Discussion and Possible Action to Accept Committee Recommendations for Issuance of Permits

17. Discussion and Possible Action Regarding the Dental Board of California Sunset Review Report
18. Licensing, Certification and Permits Committee Report
The Board may take action on any items listed on the attached Licensing, Certification and Permits Committee agenda
19. Legislative and Regulatory Committee Report
The Board may take action on any items listed on the attached Legislative and Regulatory Committee agenda
20. Prescription Drug Abuse Committee Report
The Board may take action on any items listed on the attached Prescription Drug Abuse Committee agenda
21. Enforcement Committee Report
The Board may take action on any items listed on the attached Enforcement Committee agenda
22. Examination Committee Report
The Board may take action on any items listed on the attached Examination Committee agenda
23. Access to Care Committee Report
The Board may take action on any items listed on the attached Access to Care Committee agenda
24. Dental Assisting Council Report
The Board may take action on any items listed on the attached Dental Assisting Council agenda
25. Public Comment of Items Not on the Agenda
The Board may not discuss or take action 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 §§ 11125 and 11125.7(a))
26. Future Agenda Items
Stakeholders are encouraged to propose items for possible consideration by the Board at a future meeting
27. Board Member Comments for Items Not on the Agenda
The Board may not discuss or take action on any matter raised during the Board Member Comments 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 §§ 11125 and 11125.7(a))
28. Adjournment

CLOSED SESSION



MEMORANDUM

DATE	June 26, 2014
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant
SUBJECT	Agenda Item 13: Executive Officer Report

Karen M. Fischer, MPA, Executive Officer of the Dental Board of California will provide a verbal report.



MEMORANDUM

DATE	August 26, 2014
TO	Dental Board Members
FROM	Sharon Langness, Budget Analyst
SUBJECT	Agenda Item 14: Budget Report

The Board manages two separate funds: 1) Dentistry Fund, and 2) Dental Assisting Fund. The funds are not comingled. The following is intended to provide a summary of expenses for the fourth quarter/year-end of fiscal year (FY) 2013-14 for the Dentistry and Dental Assisting funds.

Dentistry Fund Overview

Fourth Quarter/Year-End Expenditure Summary for Fiscal Year 2013-14

The fourth quarter expenditures are based upon the year-end budget report, FM13, released by the Department of Consumer Affairs in August 2014. This report reflects actual expenditures for July 1, 2013 through June 30, 2014. The Board spent roughly \$10.4 million or 84% of its total Dentistry Fund appropriation for FY 2013-14 and had a net surplus of roughly \$1.6 million or 14%. Approximately 50% of the expenditures were for Personnel Services and 50% were for OE&E for this fiscal year.

Fund Title	Appropriation	Expenditures Through 6-30-14
Dentistry Fund	\$12,077,000	\$10,436,000

Analysis of Fund Condition

The Fund Condition reflects repayment of the remaining \$2.7 million (of the \$10 million that was loaned to the general fund) by the close of FY 2013-14, and also reflects fees collected for the Statutory Fee Increase (SB 1416) effective July 1, 2014. Though the fee increase did not become effective until July 1, 2014, fees received prior to July 1 for renewals that take effect after July 1 were reported in this fiscal year.

Dental Assisting Fund Overview

Fourth Quarter/Year-End Expenditure Summary for Fiscal Year 2013-14

The fourth quarter expenditures are based upon the year-end budget report, FM13, released by the Department of Consumer Affairs in August 2014. This report reflects actual expenditures for July 1, 2013 through June 30, 2014. The Board spent roughly \$1.6 million or 90% of its total Dental Assisting Fund appropriation for FY 2013-14 and had a net surplus of roughly \$185,000 or 10%. Approximately 35% was spent for Personnel Services, and roughly 66% was for OE&E.

Fund Title	Appropriation	Expenditures Through 6-30-14
Dental Assisting Fund	\$1,813,000	\$1,627,000

Analysis of Fund Condition

The Analysis of Fund Condition displays three fiscal years and projects the Dental Assisting Fund's fiscal solvency for future years.

0741 - Dental Board of California Analysis of Fund Condition

Prepared 8/15/14

(Dollars in Thousands)

Budget Act FY 2014-15

*Assumes SB 1416 would take effect January 1, 2015

	Actual 2013-14	Budget Act CY 2014-15	BY 2015-16
BEGINNING BALANCE	\$ 4,772	\$ 6,086	\$ 3,712
Prior Year Adjustment	\$ 191	\$ -	\$ -
Adjusted Beginning Balance	\$ 4,963	\$ 6,086	\$ 3,712
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	\$ 47	\$ 86	\$ 86
125700 Other regulatory licenses and permits	\$ 789	\$ 846	\$ 846
Statutory Fee Increase (SB 1416)	\$ -	\$ 21	\$ 84
125800 Renewal fees	\$ 7,286	\$ 8,723	\$ 8,723
Statutory Fee Increase (SB 1416)	\$ -	\$ 327	\$ 1,307
125900 Delinquent fees	\$ 75	\$ 66	\$ 66
131700 Misc. Revenue from Local Agencies	\$ -	\$ -	\$ -
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 9	\$ 3	\$ 6
150500 Interest Income From Interfund Loans	\$ 384	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ 3	\$ 3
161000 Escheat of unclaimed checks and warrants	\$ 3	\$ 3	\$ 3
161400 Miscellaneous revenues	\$ 5	\$ 2	\$ 2
164300 Penalty Assessments	\$ -	\$ -	\$ -
Totals, Revenues	\$ 8,598	\$ 10,080	\$ 11,126
Transfers from Other Funds			
F00001 Repayment Per Item 1250-011-0741, Budget Act of 2003	\$ 2,700	\$ -	\$ -
F00683 Teale Data Center (CS 15.00, Bud Act of 2005)			
Totals, Revenues and Transfers	\$ 11,298	\$ 10,080	\$ 11,126
Totals, Resources	\$ 16,261	\$ 16,166	\$ 14,838
EXPENDITURES			
Disbursements:			
0840 State Controller (State Operations)	\$ 1	\$ -	\$ -
8880 Financial Information System of California (State Operations)	\$ 53	\$ 10	\$ 10
1110 Program Expenditures (State Operations)	\$ 10,121	\$ 12,444	\$ 12,693
Total Disbursements	\$ 10,175	\$ 12,454	\$ 12,703
FUND BALANCE			
Reserve for economic uncertainties	\$ 6,086	\$ 3,712	\$ 2,135
Months in Reserve	5.9	3.5	2.0

NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.
- ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1
- ASSUMES INTEREST RATE AT 0.3%.

DENTAL BOARD - FUND 0741
BUDGET REPORT
FY 2013-14 EXPENDITURE PROJECTION

FM 13

OBJECT DESCRIPTION	FY 2012-13		FY 2013-14				UNENCUMBERED BALANCE
	ACTUAL EXPENDITURES (MONTH 13)	PRIOR YEAR EXPENDITURES	BUDGET STONE 2013-14	CURRENT YEAR EXPENDITURES 6/30/2014	PERCENT SPENT	PROJECTIONS TO YEAR END	
PERSONNEL SERVICES							
Salary & Wages (Staff)	3,224,188		3,783,329	3,375,369	89%	3,375,369	407,960
Statutory Exempt (EO)	236,291		95,808	98,202	102%	98,202	(2,394)
Temp Help (Expert Examiners)	0		40,000	0	0%	0	40,000
Physical Fitness Incentive	5,200		0	1,105		1,105	(1,105)
Temp Help Reg (907)	144,012		199,000	192,380	97%	192,380	6,620
Temp Help (Exam Proctors)	0		45,447	0	0%	0	45,447
BL 12-03 Blanket	8,519			36,821		36,821	(36,821)
Board Member Per Diem (901, 920)	16,600		45,950	18,100	39%	18,100	27,850
Committee Members (911)	5,600		58,686	3,700	6%	3,700	54,986
Overtime	41,676		25,208	9,572	38%	9,572	15,636
Staff Benefits	1,520,752		1,872,338	1,631,117	87%	1,631,117	241,221
TOTALS, PERSONNEL SVC	5,202,838	0	6,165,766	5,366,366	87%	5,366,366	799,400
OPERATING EXPENSE AND EQUIPMENT							
General Expense	108,558		92,153	102,809	112%	102,809	(10,656)
Fingerprint Reports	24,890		25,777	15,562	60%	15,562	10,215
Minor Equipment	14,558		0	69,049		69,049	(69,049)
Printing	44,381		42,134	38,259	91%	38,259	3,875
Communication	60,733		33,020	51,568	156%	51,568	(18,548)
Postage	73,968		59,435	58,315	98%	58,315	1,120
Insurance	2,775		2,100	2,632	125%	2,632	(532)
Travel In State	103,511		108,976	115,280	106%	115,280	(6,304)
Travel, Out-of-State	209		0	0		0	0
Training	4,648		6,907	4,731	68%	4,731	2,176
Facilities Operations	399,772		360,656	388,541	108%	388,541	(27,885)
C & P Services - Interdept.	46,077		680,086	343,154	50%	343,154	336,932
C & P Services - External	194,668		174,146	231,249	133%	231,249	(57,103)
DEPARTMENTAL SERVICES:							
OIS Pro Rata	472,181		600,693	594,427	99%	594,427	6,266
Admin/Exec	600,857		665,105	661,140	99%	661,140	3,965
Interagency Services	0		881	0	0%	0	881
IA w/ OER	23,330		0	0		0	0
DOI-ProRata Internal	25,531		21,328	21,220	99%	21,220	108
Public Affairs Office	31,983		29,949	24,505	82%	24,505	5,444
PCSD	41,860		28,785	27,124	94%	27,124	1,661
INTERAGENCY SERVICES:							
Consolidated Data Center	19,721		17,517	23,390	134%	23,390	(5,873)
DP Maintenance & Supply	10,450		11,118	18,265	164%	18,265	(7,147)
Central Admin Svc-ProRata	506,464		530,145	530,145	100%	530,145	0
EXAMS EXPENSES:							
Exam Supplies	0		43,589	0	0%	0	43,589
Exam Freight	0		166	0	0%	0	166
Exam Site Rental	0		196,586	0	0%	0	196,586
C/P Svcs-External Expert Administration	142,763		6,709	116,606	1738%	116,606	(109,897)
C/P Svcs-External Expert Examiners	0		238,248	0	0%	0	238,248
C/P Svcs-External Subject Matter	1,259		0	842		842	(842)
OTHER ITEMS OF EXPENSE:							
CURES - carry over	14,518		661	8,862	1341%	8,862	(8,201)
Tort Pymts-Punitive	2,500		(289,000)	2,500		2,500	(2,500)
ENFORCEMENT:							
Attorney General	1,151,154		1,778,310	1,021,186	57%	1,021,186	757,124
Office Admin. Hearings	183,978		406,720	206,201	51%	206,201	200,519
Court Reporters	12,596		12,204	12,204		12,204	(12,204)
Evidence/Witness Fees	408,706		243,959	425,161	174%	425,161	(181,202)
DOI - Investigative	0		15,095	15,075	100%	15,075	20
Vehicle Operations	58,434		5,055	55,609	1100%	55,609	(50,554)
Major Equipment	97,704		41,000	151,904	370%	151,904	(110,904)
TOTALS, OE&E	4,884,737	0	6,178,009	5,337,515	86%	5,337,515	840,494
TOTAL EXPENSE	10,087,575	0	12,343,775	10,703,881	173%	10,703,881	1,639,894
Sched. Interdepartmental				(235)			0
Sched. Reimb. - Fingerprints	(22,393)		(53,000)	(15,086)	28%	(53,000)	0
Sched. Reimb. - Other	(11,550)		(214,000)	(14,230)	7%	(214,000)	0
Unsched. Reimb. - External/Private	(44,863)			(46,438)			0
Probation Monitoring Fee - Variable	(105,674)			(124,961)			0
Invest Cost Recover FTB Collection	(15,999)			(405)			0
Unsched. External/Other	(5,748)						0
Unsched. - Investigative Cost Recovery	(283,747)			(381,589)			0
NET APPROPRIATION	9,597,602	0	12,076,775	10,120,938	84%	10,436,881	1,639,894
SURPLUS/(DEFICIT):							13.6%

3142 - Dental Assisting Program

Analysis of Fund Condition

Prepared 08/15/14

(Dollars in Thousands)

Budget Act FY 2014-15

	Actual 2013-14	Budget Act CY 2014-15	BY 2015-16
BEGINNING BALANCE	\$ 2,724	\$ 2,826	\$ 2,674
Prior Year Adjustment	\$ 35	\$ -	\$ -
Adjusted Beginning Balance	<u>\$ 2,759</u>	<u>\$ 2,826</u>	<u>\$ 2,674</u>
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	\$ 17	\$ 16	\$ 16
125700 Other regulatory licenses and permits	\$ 345	\$ 397	\$ 397
125800 Renewal fees	\$ 1,256	\$ 1,244	\$ 1,244
125900 Delinquent fees	\$ 72	\$ 66	\$ 66
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 7	\$ 7	\$ 7
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 1	\$ 1	\$ 1
161400 Miscellaneous revenues	\$ 5	\$ 4	\$ 4
164300 Penalty Assessments	\$ -	\$ -	\$ -
Totals, Revenues	<u>\$ 1,703</u>	<u>\$ 1,735</u>	<u>\$ 1,735</u>
Totals, Revenues and Transfers	<u>\$ 1,703</u>	<u>\$ 1,735</u>	<u>\$ 1,735</u>
Totals, Resources	<u>\$ 4,462</u>	<u>\$ 4,561</u>	<u>\$ 4,409</u>
EXPENDITURES			
Disbursements:			
0840 State Controller (State Operations)	\$ -	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 8	\$ 2	\$ -
1110 Program Expenditures (State Operations)	\$ 1,628	\$ 1,885	\$ 1,923
Total Disbursements	<u>\$ 1,636</u>	<u>\$ 1,887</u>	<u>\$ 1,923</u>
FUND BALANCE			
Reserve for economic uncertainties	\$ 2,826	\$ 2,674	\$ 2,486
Months in Reserve	18.0	16.7	15.2

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ONGOING.
- B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.
- C. ASSUMES INTEREST RATE AT 0.3%.

DENTAL ASSISTING PROGRAM - FUND 3142
BUDGET REPORT
FY 2013-14 EXPENDITURE PROJECTION

FM 13

OBJECT DESCRIPTION	FY 2012-13		FY 2013-14				
	ACTUAL EXPENDITURES (MONTH 13)	PRIOR YEAR EXPENDITURES	BUDGET STONE 2013-14	CURRENT YEAR EXPENDITURES 6/30/2014	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	297,101		372,469	319,271	86%	319,271	53,198
Statutory Exempt (EO)			0			0	0
Temp Help (Expert Examiners)			0				0
Temp Help (Consultants)			158		0%		158
Physical Fitness Incentive	0					0	0
Temp Help Reg (907)				18,947		18,947	(18,947)
Temp Help (Exam Proctors)			0			0	0
Board Member Per Diem (901, 920)	4,000		0	4,200		4,200	(4,200)
Overtime	26,735		0	10,835		10,835	(10,835)
Staff Benefits	202,510		214,885	223,426	104%	223,426	(8,541)
TOTALS, PERSONNEL SVC	530,346	0	587,512	576,679	98%	576,679	10,833
OPERATING EXPENSE AND EQUIPMENT							
General Expense	7,461		33,053	8,265	25%	8,265	24,788
Fingerprint Reports	20		7,780	0	0%	0	7,780
Minor Equipment			5,000		0%	0	5,000
Printing	17,776		19,001	12,451	66%	12,451	6,550
Communication	32		9,500	28	0%	28	9,472
Postage	22,412		35,991	23,692	66%	23,692	12,299
Insurance						0	0
Travel In State	62,524		56,300	65,563	116%	65,563	(9,263)
Training	695		4,119	250	6%	250	3,869
Facilities Operations	38,470		63,950	74,876	117%	74,876	(10,926)
C & P Services - Interdept.	0		288,439	0	0%	0	288,439
C & P Services - External	2,829		532	0	0%	0	532
DEPARTMENTAL SERVICES:							
OIS ProRata	176,035		247,452	245,105	99%	245,105	2,347
Admin/Exec	53,942		93,449	92,842	99%	92,842	607
Interagency Services	0		72,554	0	0%	0	72,554
IA w/ OPES	37,208		0	25,984		25,984	(25,984)
DOI-ProRata Internal	3,105		2,977	2,962	99%	2,962	15
Public Affairs Office	3,849		4,188	3,423	82%	3,423	765
PCSD	4,541		3,591	3,384	94%	3,384	207
INTERAGENCY SERVICES:							
Consolidated Data Center	0		1,576	0	0%	0	1,576
DP Maintenance & Supply	0		1,369	0	0%	0	1,369
Statewide ProRata	69,192		67,323	67,323	100%	67,323	0
EXAMS EXPENSES:							
Exam Supplies	14,779		3,946	6,834	173%	6,834	(2,888)
Exam Site Rental - State Owned	48,465			40,062		40,062	(40,062)
Exam Site Rental - Non State Owned	41,290		69,939	28,125	40%	28,125	41,814
C/P Svcs-External Expert Administration	24,710		30,877	23,545	76%	23,545	7,332
C/P Svcs-External Expert Examiners	0		47,476	0	0%	0	47,476
C/P Svcs-External Expert Examiners	13,506					0	0
C/P Svcs-External Subject Matter	90,179			158,189		158,189	(158,189)
OTHER ITEMS OF EXPENSE:	0		285	0	0%	0	285
ENFORCEMENT:							
Attorney General	170,945		67,536	170,033	252%	170,033	(102,497)
Office Admin. Hearings	0		2,740	0	0%	0	2,740
Evidence/Witness Fees	26,941		87	0	0%	0	87
TOTALS, OE&E	930,906	0	1,241,030	1,052,936	85%	1,052,936	188,094
TOTAL EXPENSE	1,461,252	0	1,828,542	1,629,615	183%	1,629,615	198,927
Sched. Reimb. - Fingerprints	(2,303)		(13,000)	(1,421)	11%	(1,421)	(11,579)
Sched. Reimb. - Other	(705)		(3,000)	(705)	24%	(705)	(2,295)
NET APPROPRIATION	1,458,244	0	1,812,542	1,627,489	90%	1,627,489	185,053
SURPLUS/(DEFICIT):							10.2%



MEMORANDUM

DATE	June 26, 2014
TO	Dental Board of California
FROM	Linda Byers, Executive Assistant
SUBJECT	Agenda Item 15: Update from the Department of Consumer Affairs' Executive Office

A representative from the Department of Consumer Affairs Executive Office will provide a verbal report.



MEMORANDUM

DATE	August 11, 2014
TO	Dental Board Members
FROM	Nellie Forgét, Program Coordinator Elective Facial Cosmetic Surgery Permit Program
SUBJECT	Agenda Item 16: Report on the July 9, 2014 Meeting of the Elective Facial Cosmetic Surgery Permit Credentialing Committee; Discussion and Possible Action to Accept Committee Recommendations for Issuance of Permit

Background :

On September 30, 2006, Governor Arnold Schwarzenegger signed Senate Bill 438 (Midgen, Chapter 9009, Statutes of 2006), enacting Business and Professions Code (Code) Section 1638.1, which took effect on January 1, 2007. Code Section 1638.1 authorizes the Dental Board of California (Board) to issue Elective Facial Cosmetic Surgery (EFCS) permits to qualified licensed dentists and establishes the EFCS Credentialing Committee (Committee) to review the qualifications of each applicant for a permit.

Pursuant to Code Section 1638.1(a)(2), an EFCS permit that is issued by the Board is valid for a period of two (2) years and is required to be renewed by the permit-holder at the time his or her dental license is renewed. Additionally, every six (6) years, prior to the renewal of the permit-holder's license and permit, the permit-holder is required to submit evidence acceptable to the Committee that he or she has maintained continued competence to perform the procedures authorized by the permit. The Committee is authorized to limit a permit consistent with Code Section 1638.1(e)(1) if it is not satisfied that the permit-holder has established continued competence.

Current Update:

The Committee met on July 9, 2014 via teleconference to consider the possible need for regulatory requirements and to review one (1) application for issuance of a permit.

At the meeting, staff discussed that Code Section 1638.1(a)(2) does not expressly provide the requirements a permit-holder must meet to establish continuing competency, and that it has become necessary to promulgate a regulation to implement, interpret, and make specific the provisions of Code Section 1638.1 for the purpose of clarifying the necessary requirements that would establish continuing competency for the EFCS permit. Additionally, the Committee considered an application from Michael P. Morrissette, DDS. The Committee has made the following recommendation regarding issuance of an EFCS permit to Dr. Morrissette:

Applicant: Michael P. Morrisette, DDS, applied for an EFCS permit with unlimited privileges for Category I (cosmetic contouring of the osteocartilaginous facial structure, which may include, but not limited to, rhinoplasty and otoplasty) and Category II (cosmetic soft tissue contouring or rejuvenation, which may include, but not limited to, facelift, blepharoplasty, facial skin resurfacing, or lip augmentation). Dr. Morrisette currently holds an EFCS permit for Category II limited to submental liposuction, Botox and fillers, and chemical peels.

Based on consideration of the application at its July 9, 2014 meeting, the Committee recommends the Board issue a permit for Category I procedures limited to facial implants and Category II procedures limited to upper and lower blepharoplasties in addition to the privileges already granted to Dr. Morrisette.

Action Requested:

Staff requests the Board take the following actions:

1. Accept the EFCS Credentialing Committee Report, and
2. Accept the Committee's recommendation to issue Michael P. Morrisette, DDS, an EFCS Permit a permit for Category I procedures limited to facial implants and Category II procedures limited to upper and lower blepharoplasties in addition to the privileges already granted to Dr. Morrisette.



MEMORANDUM

DATE	August 18, 2014
TO	Dental Board of California
FROM	Karen Fischer, Executive Officer
SUBJECT	Agenda Item 17: Discussion and Possible Action Regarding the Dental Board of California Sunset Review Report

In preparation for the Sunset Review Hearings that will take place in March 2015, staff is in the process of writing a report that must be submitted to the Oversight Committees of the Senate and Assembly by November 1, 2014. The report will include thirteen sections:

1. Background and Description of the Board and Regulated Profession
2. Performance Measures and Customer Satisfaction Surveys
3. Fiscal and Staff
4. Licensing Program
5. Enforcement Program
6. Public Information Policies
7. Online Practice Issues
8. Workforce Development and Job Creation
9. Current Issues
10. Board Action and Response to Prior Sunset Issues
11. New Issues
12. Attachments
13. Board Specific Issues – Diversion

At the August meeting, we will focus on Section 10 – Board Action and Response to Prior Sunset Issue.

Section 10 Board Action and Response to Prior Sunset Issues

Include the following:

1. Background information concerning the issue as it pertains to the board.
2. Short discussion of recommendations made by the Committees/Joint Committee during prior sunset review.
3. What action the board took in response to the recommendation or findings made under prior sunset review.
4. Any recommendations the board has for dealing with the issue, if appropriate.

BOARD ADMINISTRATION ISSUES

Senate BPE Staff Recommendation: *To ensure the continued commitment of DBC to protect the public, the composition of DBC should be changed to include more public members. This could be accomplished by replacing one of the dentists appointed by the Governor with a public member and giving the Governor an additional public member appointment. This would bring the total of DBC to 15 members: 7 dentists, 1 RDA, 1 RDH and 6 public members.*

DBC Response: Senate Bill 540 (Price) (Chapter 385, Statutes of 2011) changed the membership of the Board to include one additional public member who is appointed by the Governor. The Board currently consists of eight practicing dentists, one registered dental assistant, one registered dental hygienist, and five public members for a total of 15 members.

Senate BPE Staff Recommendation: *DBC should develop and publish a detailed action plan with specific action items and realistic target dates for how each of the objectives will be met. Additionally, the Board should be given a written status report on the action plan at each board meeting.*

DBC Response: In the fall of 2012, the Board updated its Strategic Plan (Plan) to include eight goals and 36 objectives. Action items and deliverable dates were identified for each objective. Initially adopted as a three year plan in December 2012, due to unanticipated delays in implementation of a new computer system (BreEZe), the hiring of new Executive Officer, and the appointment of new members to the Board, the duration of the Plan was changed to four years, therefore extending the plan through the sunset review period. The

Board receives strategic plan updates during its quarterly meetings in written report form and through the Executive Officer's report.

Senate BPE Staff Recommendation: *DBC should explain to the Committee its system of work performance evaluations and ensure that these evaluations or appraisals are completed by staff on a timely basis.*

DBC Response: Government Code Sections 19992 – 19992.4 and the Department of Personnel Administration Rule 599.798 require supervisors to complete written evaluations and discuss overall work performance with permanent employees. This written evaluation, referred to as the Individual Development Plan (IDP) should occur at least once every 12 months after the completion of the employee's probationary period. The purpose of the IDP is to inform the employee of the caliber of his/her work. It aids the supervisor in identifying areas where performance could be improved and develops a plan to accomplish these improvements. Supervisors are required to use the IDP to provide the employee recognition of effective performance or for documenting substandard performance. DBC managers strive to complete these evaluations on a timely basis.

Senate BPE Staff Recommendation: *It would appear as if the intent of the Legislature was that the Dental Hygiene Committee was created so that it could make independent decisions on issues related to the regulation of the hygienist profession unless it involved scope of practice changes which would need to be worked out between both the dentistry and hygienist professions. Clarification may be needed to assure that the Dental Hygiene Committee maintains its independence over that of DBC. Additionally, the Committee should ask DBC to explain the purpose for establishing two groups to deal with dental assisting issues, and consider merging the DAC and DAF into one entity.*

DBC Response: Since its formation in 2009, the Dental Hygiene Committee of California (DHCC) falls within the jurisdiction of the Board ONLY on issues dealing with scope of practice for registered dental hygienists, registered dental hygienists in extended functions, and registered dental hygienists in alternative practice. All other aspects of the DHCC are independent of the Board, including the DHCC's development of its own practice act and promulgation of regulations relating to dental hygiene. The DBC and the DHCC have worked to keep the lines of communication open and collaborate on issues of mutual concern.

With regard to establishment of a dental assisting forum, Senate Bill 540 (Price) (Chapter 385, Statutes of 2011) created a Dental Assisting Council which is comprised of seven members appointed by the Board: the registered dental assistant member of the Board, another member of the Board, and five registered dental assistants representing as broad a range of dental assisting experience and education as possible. The mandate of the Council is to consider all matters relating to dental assistants in the state, on its own initiative or upon the request of the Board, and to make appropriate recommendations to the board and the standing committees of the board relating to examinations, licensure, educational programs, courses, and continuing education; duties settings and supervision levels; appropriate standards of conduct and enforcement for dental assistants; and requirements regarding infection control. The appointments to the Council were made in February 2012.

DENTAL WORKFORCE AND DIVERSITY ISSUES

Senate BPE Staff Recommendation: *The Committee should ask DBC whether it has assessed the impact of, and planned for, implementation of the PPACA; how DBC is looking at the dental workforce capacity in light of implementation of the PPACA, given that millions of additional Californians, especially children, will gain dental coverage when the PPACA is implemented. Additionally, DBC should continue in its efforts to increase the dental workforce in California, explore approaches and work collaboratively with for-profit and non-profit organizations and other stakeholders to address the increased demand for oral healthcare as a result of the PPACA. Additionally, DBC should be proactive in finding ways to increase access to dental programs especially for socio-economic disadvantaged students.*

DBC Response: During the prior sunset review period, the Senate Business & Professions Committee indicated that the Board should be looking at workforce issues and be acting as an information source for the Committee and the Legislature on dental work force issues. The Board has been collecting workforce data for dentists and dental assistants pursuant AB 269 (Eng) since January 1, 2009. Licensees are required to complete a survey upon initial licensure and at each biennial renewal. The purpose of the survey is to determine the number of dentists and licensed or registered dental auxiliaries, and their cultural and linguistic competencies. This workforce survey project is ongoing.

In addition, Board is a participant in the California Office of Statewide Health Planning and Development (OSHPD) project to create a health care workforce clearinghouse in accordance with SB 139. The clearinghouse is responsible for the collection, analysis, and distribution of information on the educational and employment trends for health care occupations in California. The data included in the OSHPD project is fairly comprehensive and will allow OSHPD to deliver a report to the Legislature that addresses employment

trends, supply and demand for health care workers, gaps in the educational pipeline, and recommendations for state policy needed producing workers in specific occupations and geographic areas to address issues of workforce shortage and distribution.

In 2012, the Board updated its strategic plan to include the goal of maintaining awareness of the changes and challenges within the dental community and to serve as a resource to the dental workforce. One objective is to identify areas where the Board can assist with workforce development, including the dental loan repayment program, and publicize such programs to help underserved populations.

Lastly, the Board established an Access to Care Committee to monitor the implementation of the PPACA and to ensure that the goals and objectives outlined in its strategic plan are carried out.

Senate BPE Staff Recommendation: *DBC should enhance its efforts on diversity issues, and increase its collaboration efforts with dental schools, dental associations, other state and local agencies, and for-profit and non-profit organizations.*

DBC Response: The Board has been collecting workforce data pursuant AB 269 (Eng) since January 1, 2009. The purpose of the survey is to determine the number of dentists and licensed or registered dental auxiliaries, and their cultural and linguistic competencies. This workforce survey project is ongoing.

DENTAL PRACTICE ISSUES

Senate BPE Staff Recommendation: *Adopt the recommendation of DBC to delete B & P Code Section 651(h)(5)(A)(i) through Section 651(h)(5)(A)(iii).*

DBC Response: The Board has historically taken the view that it is a licensing body and does not have the authority or staff to determine and review areas of education and accreditation requirements for specialized areas of dentistry. The Committee staff recommended deletion of sections in statute in order to prevent future lawsuits filed against the Board related to advertising of specialty credentials. This was accomplished in Senate Bill 540 (Price) (Chapter 385, Statutes of 2011) when Section 651(h)(5)(A)(i) through Section 651(h)(5)(A)(iii) was removed from the Business & Professions Code.

EXAMINATION ISSUES

Senate BPE Staff Recommendation: *DBC should explain further the reasons for the delays in processing examination application averages and whether these delays are attributable to DBC.*

DBC Response: The Board currently utilizes an outside vendor to administer an examination in Law & Ethics for dentists, registered dental assistants, and registered dental assistants in extended functions, and the written examination for registered dental assistants, and registered dental assistants in extended functions. Board staff administers a practical examination for registered dental assistants, and registered dental assistants in extended functions. There have been no backlogs or delays in processing examination applications, either in dental assisting or dental licensing units since the last sunset review period. Examination applications for dentists applying to take the Western Regional Examination (WREB) take approximately 48 hours to process; applications for the registered dental assistants, and registered dental assistant in extended functions examinations are processed within ten days.

Senate BPE Staff Recommendation: *To avoid examination compromises and ensure that the examination questions reflect current law and regulations, DBC should require that OPES randomize (scramble) California law and ethics examinations for dentists and RDAs. Additionally, dentists should be required to certify that examination content will not be released.*

DBC Response: The Board periodically reviews and updates the test questions for both California Law and Ethics examinations (dentists and RDAs) to reflect current laws and regulations through a contract with the Office of Professional Examinations. The examinations are computer based and administered by an outside vendor (PSI); and test questions are scrambled in order to avoid examination compromises. All applicants are required to certify that the contents of the examination will not be released.

ISSUE #10: (RDA WRITTEN EXAMINATION PASS RATE IS LOW.) Should DBC explore pathways to improve the pass rates of RDAs taking the written examinations if the low pass rate trend continues?

Senate BPE Staff Recommendation: *If in fiscal year 2010/2011, the RDA examination pass rate remains low, DBC should explore approaches to improve the passage rate of RDAs.*

DBC Response: When the Board assumed responsibility for the Dental Assisting Program on July 1, 2009, the examination pass rate was 53%. Since implementation of the new RDA examination on January 1, 2010, the pass rate is fluctuating between 62% and 70% depending on the candidate pool. The candidates graduating from board-approved dental assisting programs appear to be passing the examination at a higher rate.

CONTINUING COMPETENCY ISSUES

Senate BPE Staff Recommendation: *DBC should explain to the Committee its current policy on continuing education audits for dentists and the reasons for suspension of the audits prior to 2009. DBC should also explain why it does not audit CE for RDAs and describe plans, if any, to implement audit for RDA CE.*

DBC Response: Random Continuing Education audits for dentists were temporarily suspended in July 2009 due to workload in other areas of the Board and the need to redirect staff. The random audit program resumed with the February 2011 renewals. Staff has been auditing 5% of all dentists who renew on a two-year renewal cycle each month. Dentists who are not able to provide any proof of continuing education units are issued a citation and fine. Additionally, staff developed written procedures for the auditing process. Audits for Registered Dental Assistants cannot take place until additional staff is hired to assume those duties.

ENFORCEMENT ISSUES

Senate BPE Staff Recommendation: *In order to improve case processing and case aging, and to meet its goal of reducing the timeframe for the handling of its disciplinary cases, the following recommendations from the Monitor and Assessment Report should be considered by DBC:*

- 1) Continue to reduce the amount of time to process and close complaints.***
- 2) A Guideline for case assignments must be established, taking into consideration the skills or experience level of staff and other factors.***

- 3) ***Making Case Processing and Aging a major focus of DBC's improvement planning.***
- 4) ***Prioritize the review of aged cases.***
- 5) ***Establish reasonable elapsed time objectives for each step of the case processing.***
- 6) ***Monitor Performance by establishing regular oversight of case progress and staff productivity.***
- 7) ***A policy or procedures for supervisory staff in performing case reviews should be established.***

Additionally, the Committee should give consideration to auditing both the Investigation Unit of DBC and the Licensing Section of the AG's Office to determine whether improvements could be made to the investigation and prosecution of disciplinary cases.

DBC Response: The Board's Enforcement program is committed to process improvement and has established several policies and procedures in response to the Enforcement Assessment 2009 and the committee's recommendations. With the additional staffing provided by the Consumer Protection Enforcement Initiative (CPEI), the Board has made improvements to processing times. The Complaint Unit reduced the average number of days to close a complaint from 435 days to 100 days (a 77% decrease). The implementation of quarterly case reviews has focused on case closures and closing the oldest investigations.

With the implementation of the Investigator Activity Report (IAR) system, the Board is gathering data associated with specific investigative functions to be able to establish time objectives for various case types. This data combined with the case reviews is being used by managers to monitor case progress and staff productivity.

Case review procedures along with case assignment guidelines have been developed and are included in the recently updated Enforcement Program manual.

Additionally, the Enforcement Program has implemented a number of internal procedures to address case handling; from receipt of complaint through investigation to closure.

Specifically:

- 1) Case assignment guidelines were established in March 2011. These guidelines take into consideration the employee classification (skills, knowledge and abilities), case complexity and whether criminal components are present which would require assignment to sworn investigators.
- 2) Case reviews between first-line supervisor and assigned staff occur on a quarterly basis. As quoted from the Enforcement Procedure Manual, "case reviews assist in case reconciliation, provide timely supervisory assistance, help prioritize the investigators' workload, identify training needs, and can identify and address problems early on."
- 3) Reductions in case aging. With the exception of the most egregious circumstances, working the oldest cases first continues to be the Enforcement program's primary goal.

Case Age	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14*
0 – 1 Year Old	589	497	351	423
1 – 2 Years Old	271	249	268	312
2 – 3 Years Old	123	63	93	80
3+ Years Old	9	18	21	21

* As of 5/30/2014

ISSUE #13: (DISCIPLINARY CASE TRACKING SYSTEM INADEQUATE.) Should DBC

Senate BPE Staff Recommendation: *Although all the boards and bureaus within the DCA will transition into the BreZe system, this process is several years out. In the meantime, DBC should continue to monitor the quality of enforcement data and tracking of investigative services. Moreover, although DBC had transitioned to the IAR utilized by the MBC, DBC should ensure that the IARs are consistent and completed. Additionally, as the Enforcement Assessment recommended, guidelines should be established for the completion of specific investigative functions to establish objective expectations. Lastly, DBC should continue in its role to work collaboratively with the DCA’s Office of Information Services project staff, as well as with any vendor, to assist in creating an efficient and user-friendly integrated computer system.*

DBC Response: The Board developed internal reports as well as reasonable time objectives to track administrative case referrals for timely handling at the Attorney General’s Office (AGO). Presently, enforcement staff monitors timeframes between the following benchmarks:

- 1) Referral to assignment (benchmark – 30 days maximum)
- 2) Assignment to accusation (benchmark – 90 days maximum)
- 3) Hearing conclusion to receipt of written Disciplinary Order (benchmark – 30 days)

Staff are taking the initiative and contacting the AGO for follow-up and to ensure the case handling is made a priority. These efforts have resulted in greater accountability and reductions to case aging.

It should be noted that some case aging issues are beyond the control of board staff and will continue to cause disciplinary cases to exceed the current Performance expectations. These include delays caused by opposing counsel, suspensions while criminal matters are pending, and difficulty in scheduling hearing dates with the Office of Administrative Hearings (three months out for a one to two day hearing, 8 months out for 4 or more day hearings).

Senate BPE Staff Recommendation: *Extend the time constraints placed on the AG to file an accusation thus allowing the AG to utilize the ISO process without having to have their accusation prepared within a very limited time frame (15 days). Pursuant to Section 494 of the B&P Code, DBC does not have to always rely on an ALJ to conduct the ISO hearing, DBC also has authority to conduct the hearing and could do so more expeditiously where serious circumstances exist regarding the suspension of a dentist's license. Provide for automatic suspension of a dental license if the dentist is incarcerated and mandatory revocation of a license if a dentist is convicted of acts of sexual exploitation of a patient.*

DBC Response: The Board is utilizing a number of tools to suspend a practitioner's license when necessary, including Penal Code Section 23 motions to temporarily suspend practice on criminal allegations which have the potential for public harm, and Business and Professions Code Section 1687 on convicted sexual offenders. In addition, effective January 1, 2011, the Board was authorized to order a licensee to cease practice per Section 315.2 of the Business and Professions Code if a licensee tests positive for any substance that is prohibited under the terms of the licensee's probation.

Senate BPE Staff Recommendation: *In order to improve cost recovery and fine collection efforts, DBC should be allowed to procure a contract with a collection agency for the purpose of collecting outstanding fees, fines, or cost recovery amounts. According to the DCA, most of the boards within DCA are struggling to collect cost recovery amounts, outstanding fees, citations or fines. If this is the case, the DCA may wish to procure a contract with one collection agency for all its boards.*

DBC Response: Licensees who have been issued a citation or who are on probation are required to pay these fees in order to renew their license and continue practicing. Unrecovered costs are limited to those practitioners whose license is revoked. When a license is revoked, the individual's ability to secure gainful employment and reimburse the board is diminished significantly. Unless the practitioner wishes to reapply for licensure, there are limited mechanisms to require the licensee to meet their cost recovery obligation.

Currently the DBC participates with the Department's Franchise Tax Board program which allows the Board to collect outstanding cost recovery associated with enforcement actions. The process has been successful, however staff resources have limited our referrals. The

DBC will consider submitting a BCP to add staff that can perform this function on an ongoing basis.

ISSUE #16: (PROBLEMS WITH PROBATION MONITORING.) Should DBC adopt written guidelines on how to make probation assignments and ensure that probationary and evaluation reports are conducted consistently and regularly as recommended by the Enforcement Assessment?

Senate BPE Staff Recommendation: *As recommended in the Enforcement Assessment, DBC should adopt written guidelines on how to make probation assignments, and ensure that probationary and evaluation reports are conducted consistently and regularly.*

DBC Response: The Board's Enforcement Program has updated and revised its written guidelines for probation monitoring which also includes the language outlined in the uniform standards; and enforcement staff has been trained on the procedures so that there is statewide consistency in monitoring licensees on probation. In addition, modifications have been made to the Investigator Activity Report System (IAR) to allow for tracking the time spent on probation monitoring functions in addition to investigative tasks.

Senate BPE Staff Recommendation: *The Dental Practice Act should be amended to require DBC to report annually to the Legislature information required under Business and Professions Code Section 2313 that applies to dentists, including malpractice settlements and judgments, Section 805 reports, the total number of temporary restraining orders or interim suspension orders sought by DBC, and other licensing and enforcement information as specified. Staff recommends that annual reports should also be published in DBC's newsletter and made available on its Website.*

DBC Response: The Board annually reports malpractice settlements and judgment information collected pursuant to Business and Professions Code Section 806. In addition, the Board reports annually to the Department in a number of categories consistent with the intent of Business and Professions Code Section 2313; including complaint totals and timeframes, arrest and conviction filings, cite and fine results, and disciplinary totals and benchmarks. On a quarterly basis, the Board reports on several Performance Measures to the Department of Consumer Affairs. These results (collected beginning in July 2010) are compared to established expectations and provide transparency of the Board's ongoing achievements and challenges. These reports are available on the Board's website.

ISSUE #18: (IMPLEMENT 2009 DBC ENFORCEMENT ASSESSMENT CORRECTIVE ACTION PLAN.) Should DBC implement the recommendations of a 2009 Enforcement Assessment of DBC's Enforcement Program?

Senate BPE Staff Recommendation: *DBC should submit to this Committee a corrective action plan detailing how DBC intends to address and implement the recommendations contained in the 2009 Enforcement Assessment.*

DBC Response: Below are the areas identified in the 2009 Enforcement Assessment report along with the action taken by the Board's Enforcement program to date:

Complaint & Compliance Unit (CCU) and Assignment Processes - COMPLETED

- Issue: Discrepancies between contracted dental consultant productivity and the in-house salaried dental consultant were discussed in the 2009 report. In response, several internal checks and balances were put in place. Individual productivity is tracked monthly and staff performance is rated and up-to-date.
- Issue: The Complaint & Compliance Unit needs an updated Procedure Manual. A comprehensive Intake manual has been drafted and is under final review. In addition, the CCU manager updates procedures on an ongoing basis as processes are affected by regulations process improvements are identified.

Non-Sworn Enforcement Processes - COMPLETED

- Issue: It was noted that probation monitors may have used DMV reports for probation monitoring outside of established procedure. This issue was addressed as a part of the new Probation Monitoring manual and training provided to all monitoring staff.

Inspection Services - COMPLETED

- Issue: Concern that Inspectors need to track their probation monitoring time when they monitor probationers. Capturing this time allows the board to collect more accurate monitoring data to establish probation monitoring fees. Inspectors were added to the IAR system after it was implemented. The Board can now track their time performing inspections and probation monitoring duties. However, following assignment guidelines, Inspectors are not typically assigned active probationers. Inspectors do manage probationers placed on a tolling status, which requires only a limited degree of interaction with staff.

Sworn Investigator Services – COMPLETED AND ONGOING

- Issue: Concern that Investigator vacancies are causing a backlog and case aging. Due in part to economic changes which increased the candidate pools, and more aggressive recruitment efforts by the Board, there have been no ongoing vacancies in several years.

As addressed in the Enforcement Program vacancy table (Attachment ???), both offices have remained at nearly full staff for the last full years. As a result, the Board has eliminated its backlog of cases. As noted at the Board's May 2014 Board meeting, staff caseloads (while still higher than Medical Board and Division of Investigation) are not unmanageable. In addition, cased in the oldest categories has decreased significantly over the past four years.

Case Aging	2010	2011	2012	2013
Cases over 1 year old				
Cases over 2 years old				
Cases over 3 years old				

Investigator Activity Reporting (IAR) – UPGRADED AND IN USE

- Issue: The case activity tracking system that was in place was antiquated and not used by staff consistently. In 2010, the Board upgraded its tracking system and now uses a copy of the Medical Board’s existing Investigator Activity Reporting (IAR) web-based time-tracking program. Enforcement managers are responsible for checking this system monthly to ensure staff are using the tool consistently.

It should be noted that as Medical Board’s staff have been integrated into the BreEZe database, they are no longer using IAR and are unable to provide the Board with the IT support. The Board anticipates time-tracking functionality in BreEZe will replace IAR in the next two years.

Law Enforcement Databases - RESOLVED

- Issue: The CURES computer has been kept in the evidence room and compromises the integrity of evidence safekeeping. The computer was removed from the evidence room. Presently, sworn staff are registered with the Department of Justice’s CURES program and may access the database via a web-based portal. Access to the evidence room has been restricted to one Evidence Custodian and the Enforcement Chief.

Toxicology Services - RESOLVED

- Issue: Concern of a non-reliable vendor for toxicology screening. The Dental Board has joined along with several other DCA Boards on a master contract with Phamatech. Thus far, this vendor has met the Board’s ongoing needs for random testing.

Evidence Funds – IN PLACE

- Issue: The Enforcement Program lacked an Evidence Fund for use by Sworn Investigators. The Enforcement Program has written policy and procedure for staff and established evidence funds for the Southern California and Northern California offices.

Administrative Cite and Fine Process – IN PLACE

- Issue: Concern that the Administrative Cite & Fine process was underutilized. Enforcement staff have increased their use of this enforcement tool more broadly than in the past. Citations are issued for a number of violations including:
 - Failure to comply with CE requirements,
 - Failure to comply with Student Loan requirements,
 - Failure to produce patient records within statutory requirements,
 - Inadequate record keeping,
 - Failure to report conviction within time requirements,
 - Fictitious Name Permit violations, and
 - False, misleading advertising violation.

Expert Review – IN PROCESS

- Issue: Concern that the current pool of Subject Matter Experts (SMEs) is insufficient to meet the Board's needs. Adequate administrative support may further assist in generating additional subject matter experts. Several efforts were implemented to recruit additional SMEs. CPEI staff were tasked with updating a brochure to attract licensees to participate in the program. In addition, the Board's website was updated, and eligibility criteria were established. An Access database was developed to catalog and track SME's in contract.
- Pending: SME training materials are in the process of being updated, and a new SME calibration training is in development.

Evidence and Storage - ADDRESSED

- Issue: The Evidence room is not secure and the evidence storage loses integrity with various individuals being allowed in the Evidence room. As noted above, access to the Evidence rooms in both offices have been limited to a primary Evidence Custodian and one back-up person. Evidence policies and procedures have been put in place, including a sign in/sign out sheet to document access in and out of the evidence room.

Enforcement Management and Oversight - COMPLETED

- Issue: Concern that the Enforcement Chief vacancy has led to a lack of regular oversight of cases progress and productivity. In July 2010, a full-time Enforcement Chief was hired. The Enforcement Chief has been responsible for implementing much of the improvement items noted in the Enforcement Assessment. In addition, the Chief runs monthly and quarterly reports to monitor case aging, caseloads and ongoing productivity. Regular case reviews, probation reports and IDP's are being completed on a timely basis.

Case Reviews and Audits – INITIATED AND ONGOING

- Issue: Concern that without regular and ongoing case reviews, staff issues may contribute to case aging and decreased productivity. As noted in other sections of Board's response, regular case reviews are being conducted and documented in the

DCA case tracking system (CAS). Probation reports and Annual Reviews are also being completed in a more timely manner.

Criminal Prosecution – Need to establish Due Diligence - IN PLACE

- Issue: Concern that following a criminal filing, Investigators were not conducting follow-up with the District Attorney to ensure warrants were not outstanding. A Criminal Action Report form was developed to document filed criminal cases and trigger regular follow-up intervals. Administrative staff use calendaring tools to assist in tracking these warrant dates.

Administrative Discipline Processes – IN PLACE

- Issues: Concern that the Enforcement Program's administrative referrals are not handled timely at the AGO. The Board redirected a position to address the existing workload issues at the Discipline desk. Additionally, CPEI funds established a ½-time position to augment the CPEI increase in administrative referral workload. Between these two positions, the Board has accelerated its efforts to process administrative cases to the AGO. These staff are also responsible for tracking the referrals and conducting follow-up on perceived case delays.

Use of Enforcement Program Data for Management Oversight - ADDRESSED

- Issue: Only a limited number of DBC employees have access to certain screens on CAS. Licensing staff cannot view Enforcement screens and may be at a disadvantage when making licensing and renewal decisions. **BREEZE will resolve this issue.**

Reports and Tracking - COMPLETED

- Issue: Concern that management does not receive Enforcement reports to better assess the ongoing productivity of the staff. The Enforcement Chief has established procedures to collect monthly statistical data, which is used to produce a monthly Enforcement report for the management team every month. Managers can use this information to assess their program status, provide feedback on probationary employees and annual evaluations.

Data Integrity – NO CHANGE

- Issue: The current database (CAS) is limited in some of the report data it can provide to management. Staff have developed some work-arounds to obtain data and better assess trends, but with the exception one manager, cannot run "ad hoc" reports. Due to the complexity in running these specialized reports, additional access will not be granted while DCA's IT staff resources are dedicated elsewhere. It is anticipated that BreEZe will solve this issue.

PERSONNEL RESOURCES

Hiring Practices – NO LONGER AN ISSUE

- Issue: Concern that attracting well qualified peace officer applicants has been challenging. At the time of this report, the board was required to consider SROA candidates during the recruitment process. Although candidates may have been within an established salary range, there were few peace officer applicants. Currently, the Board has found numerous well qualified applicants in the absence of a SROA list.

Background Requirements - ADDRESSED

- Issue: Concern that a non-POST trained employee conducted a background investigation for a sworn applicant. Presently, the Board has several sworn staff with POST training to conduct background investigations as needed. If workload or other issues prevent the Board from completing a background promptly, we contract with Division of Investigation or Medical Board to conduct our backgrounds.

Probation Reports and Annual Evaluations - ADDRESSED

- Issue: Concern that probation reports and annual evaluations are not being conducted on a routine basis. Currently, personnel staff provides the management team with a monthly report with due dates. Managers are working to remain in compliance with these due dates.

Peace Officer Training Requirements

Continuing Professional Training and Perishable Skills – IN COMPLIANCE

- Issue: Concern that Peace Officers are out of compliance with Perishable Skills requirements. The Dental Board has trained several of its staff to provide many of the required training courses. In addition, the Board now partners with the Medical Board and Division of Investigation to share resources and offer sufficient training dates to ensure all sworn staff remain in compliance.

Firearms Training – IN COMPLIANCE

- Issue: Concern that a POST certified Tactical Firearms course has not been developed. One of the Board's Firearms instructors has attended the POST course and received certification for our Tactical Firearms course. Staff have participated in and are now in compliance with this requirement.

Field Training Officer (FTO) Program – IN PLACE

- Issue: Concern that there is a lack of a FTO Program. The new Enforcement Chief developed a FTO program and the Enforcement Manual has been updated to reflect the FTO Program.

Racial Profiling – IN COMPLIANCE

- Issue: Some sworn staff had not attended this 5-year required course. All staff have been sent to the course and continue to meet the requirement.

Tracking and Accountability of POST Requirements– IN COMPLIANCE

- Issue: Concern that the lack of tracking of POST requirements has contributed to the compliance issues discovered. A sworn investigator has been assigned to track POST training requirements on a regular basis and report issues (well in advance) to management. Quarterly reminders are also sent out to staff with course opportunities to meet the 2-year training obligation.

Procedure Manuals – IN PROGRESS

- Issue: Concern that the Board’s Policy & Procedure Manuals are outdated. Nearly all the Board’s manuals have been updated within the past 2 years.

Senate BPE Staff Recommendation: The California Dental Corps Loan Repayment Program should be extended until DBC distributes all the funds in the account. DBC should indicate to the Committee its efforts to inform students about the availability of the loan repayment program.

DBC Response: Senate Bill 540 (Price) (Chapter 385, Statutes of 2011) extended the California Dental Corps Loan Repayment Program until all monies in the account are expended. There are currently three participants in the program and approximately [REDACTED] left in the account. The DBC promotes this program on its website and includes this information in its presentation to senior students in California dental schools. In addition, the Board has worked with stakeholders and professional associations to distribute this information through their publications.

SUBSTANCE ABUSE AND DIVERSION PROGRAM ISSUES

ISSUE #20: (EFFECTIVENESS OF DIVERSION PROGRAM AND IMPLEMENTATION OF SB 1441 STANDARDS.) It is unknown how successful DBC’s Diversion Program is in preventing recidivism of dentists who may abuse drugs or alcohol, and if the Diversion Program is effectively monitoring and testing those who participate in the program. Additionally, it is unclear when “Uniform Standards” for their Diversion Programs will be implemented.

Senate BPE Staff Recommendation: *The Committee should consider requiring an audit of DBC's Diversion Program in 2012, along with the other health boards which have Diversion Programs to assure that these programs are appropriately monitoring and treating participants and to determine whether these programs are effective in preventing further substance abuse. Additionally, the audit should also determine the value of utilizing DECS in a diversion program. DBC should also indicate to the Committee how the Uniform Standards are being implemented and if all Uniform Standards are being followed, and if not, why not; give a definite timeframe when disciplinary guidelines will be amended to include SB 1441 standards, whether formal training for DECS is necessary to ensure that standards are applied consistently, and the necessity of revising the Maximus diversion program recovery contract signed by a dentist who enters the diversion program to incorporate certain aspects of SB 1441 including the requirement that a dentist must undergo a clinical diagnostic evaluation to participate in the program; the practice restrictions that apply while undergoing a diagnostic evaluation; the requirement to provide the names and contacts of employers or supervisors for participants who continue to work; the frequency of drug testing; that collection of specimens shall be observed; that certain requirements exist for facilitators; what constitutes major or minor violations; and the consequences for major or minor violations.*

DBC Response: The DCA Internal Audit Office (IAO) performed an audit of the DCA's contract with MAXIMUS, Inc. to fulfill the audit requirements outlined in Senate Bill 1441. The purpose of the audit was to review MAXIMUS' effectiveness, efficiency, and overall performance in managing diversion programs for substance abusing licensees.

The audit was performed in accordance with the Standards for the Professional Practice of Internal Auditing, in addition to the voluntary adoption of Government Auditing Standards for performance auditing. The objective of the audit was to provide DCA management, and the California legislature with an audit of the effectiveness, efficiency, and overall performance of the vendor chosen by the department to manage diversion programs for substance-abusing licensees of health care licensing boards, as required by Senate Bill 1441. The Senate Bill also requested the audit make recommendations regarding the continuation of the programs and a changes or reforms required to ensure that individuals participating in the programs are appropriately monitored, and the public is protected from health care practitioners who are impaired due to alcohol or drug abuse or mental or physical illness.

The audit scope was designed to closely follow the audit requirements set forth in SB1441, and was organized as follows:

- Description of the program, including percentages of self-referred, board-referred, and board-ordered participants; whether or not each board or committee uses a Diversion Evaluation Committee (DEC); describes in detail the diversion services provided by MAXIMUS, Inc. including bodily fluids testing, frequency, randomness, method of notice to participants, timing of tests, standard for specimen collectors, and procedures used by specimen collectors, group meeting attendance requirements, inpatient or

outpatient treatment determination, worksite monitoring Looks like the sentence just ends.

SB1441 required the audit make recommendations regarding the continuation of the programs and any changes or reforms required to ensure that individuals participating in the programs are appropriately monitored. In general the audit found that MAXIMUS has established and is maintaining an effective and efficient program. They recommended the program be continued, for the following reasons:

- The Diversion program is the only program designed to protect the consumer from self-referred substance-abusing licensees. These are the licensees for whom there have been no formal complaints, arrests, or other matter coming to the attention of the department. If not for the Diversion program, under which a licensee can confidentially refer him or herself for treatment, while voluntarily refraining from clinical practice, these licensees; substance abuse problems could be driven underground with no one the wiser.
- The Board would like to emphasize that when a participant enters diversion they do not circumvent the enforcement system. The term diversion implies that enforcement has been somehow avoided. In fact, if a participant is not successful in the diversion program, MAXIMUS will immediately inform the Board of this fact so that they may decide what action to take next. If the licensee is in diversion as a condition of probation, the disciplinary action will continue. In some instances, disciplinary action continues whether or not the licensee enters diversion.
- The program is very economical for the Board. Most of the cost is paid by the participants. The Board pays only a monthly administrative fee, which is partially deferred by program participants. Participants pay for all drug tests, inpatient or outpatient treatment, therapy, support group costs, etc.
- The cost of the Diversion Evaluation Committees (DECs) that assist the Board is also very economical. The state pays only \$100 per day worked for each DEC member. Each committee consists of three licensed dentists, one licensed dental auxiliary, one public member, and one licensed physician or psychologist. They are primarily volunteers, who provide this public service because they want to. Many are giving up their usual daily income to provide this service. DECs provide face to face monitoring by a committee of experienced health care professionals. This monitoring is much more effective than any one individual could be.
- The Diversion program can also be considered successful when a participant becomes a public risk and/or is terminated non complainant, s/he and is eliminated from the program. These licensees are immediately referred to the Board's enforcement for action.

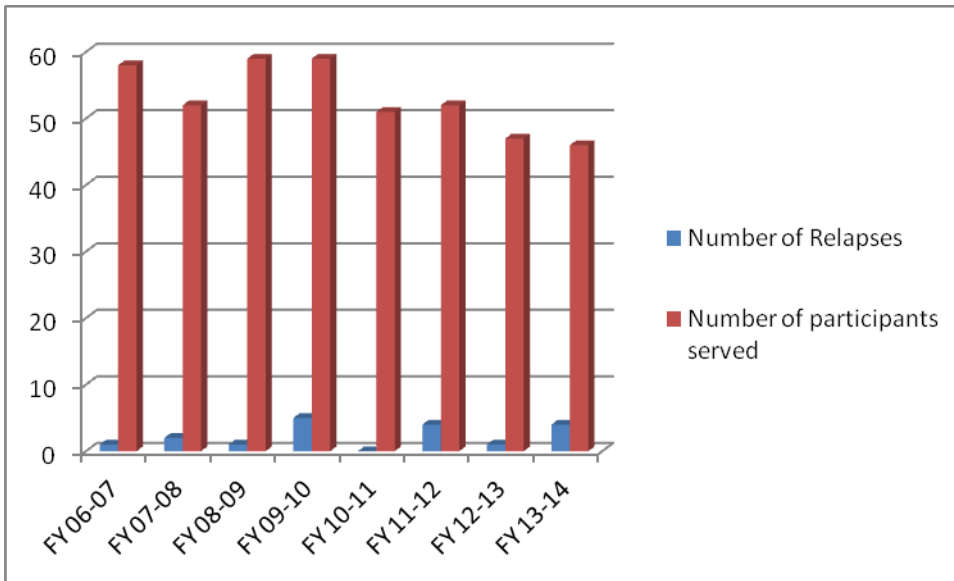
With respect to the SB 1441 requirements, the Board's rulemaking relating to Uniform Standards for Substance Abusing Licensees was approved by the Office of Administrative Law and filed with the Secretary of State on January 7, 2014. These standards amended the Board's Disciplinary Guidelines to use the uniform standards developed by the Substance Abuse Coordination Committee and to specify that it is the Diversion Evaluation Committee's

duty and responsibility to consider the uniform standards contained within the Disciplinary Guidelines in creating treatment rehabilitation plans for licensees entering the Diversion Program. The amended Disciplinary Guidelines use the uniform standards that should be used in all cases in which a license is placed on probation due to a substance abuse problem. The uniform standards include (1) Clinical Diagnostic Evaluation; (2) Clinical Diagnostic Evaluation Report; (3) Facilitated Group Support Meetings; (4) Supervised Practice (Work Site Monitor Requirements); (5) Major and Minor Violations; and (6) Drug Testing Standards.

The SB 1441 mandates that were included without regulation were accomplished through a contract amendment which became effective on 02/01/2014.

The recidivism rate has remained substantially low throughout the last eight (8) fiscal years. Below are two (2) charts indicating the number of participants and the number of relapses during this time frame.

	FY	FY	FY	FY	FY	FY	FY	FY
	06-07	07-08	08-09	09-10	10-11	11-12	12-13	13-14
Number of Relapses	1	2	1	5	0	4	1	4
Number of participants served	58	52	59	59	51	52	47	46



ISSUE #21: (DBC CANNOT ACCESS RECORDS OF THE DIVERSION PROGRAM)

Senate BPE Staff Recommendation: *Amend the Dental Practice Act to authorize DBC to access any diversion records of a licensee who participates in a diversion program and is terminated for non-compliance, for purposes of investigation and imposition of a disciplinary action.*

DBC Response: Senate Bill 540 (Price) (Chapter 385, Statutes of 2011) amended the Dental Practice Act to authorize DBC to access any diversion records of a licensee who participates in a diversion program and withdraws or is terminated for non-compliance, for purposes of investigation and imposition of a disciplinary action.

CONSUMER NOTICE ISSUE

Senate BPE Staff Recommendation: *Pursuant to Section 138 of the B & P Code, DBC should adopt regulations to require dentists to inform their patients that they are licensed by the DBC.*

DBC Response: Regulations were promulgated that required licensed dentists engaged in the practice of dentistry provide notice to each patient of the fact that the dentist is licensed and regulated by the Dental Board of California. In addition, the notice is required to include

the Boards telephone number and internet address. This notice is required to be posted prominently in a conspicuous location accessible to public view on the premises where the dentist provides the licensed services. The font size of the notice is required to be at least 48-point type. This regulation became effective November 28, 2012.

BOARD, CONSUMER AND LICENSEE USE OF THE INTERNET ISSUES



Senate BPE Staff Recommendation: *DBC should continue to explore ways to enhance its Internet Services to licensees and members of the public, including posting meeting materials, board policies, and legislative reports on the Internet and webcasting Board meetings.*

DBC Response: Improving the web site is a board priority. The Board will continue to post meeting notices and materials, board policies, legislative and regulatory information, newsletters, and other information on its website. While the Board intends to webcast its meetings and has done so since 2011, it may not be possible to webcast the entire open meeting due to limitations on resources.

BUDGETARY ISSUES



Senate BPE Staff Recommendation: *DBC should assure the Committee that it will have sufficient resources to cover its administrative, licensing and enforcement costs and to provide for adequate staffing levels for critical program areas if appropriate staffing and funding is provided. Additionally, the Committee may consider amending Section 1725 of the B & P Code to instead require that any changes in licensing and permitting fees of dental assistants be established by regulations, instead of Board Resolutions as currently required.*

DBC Response:



Senate BPE Staff Recommendation: *DBC should express to the Committee its frustration in being unable to meet the staffing needs of its various critical programs, especially that of its enforcement program, and the impact that it will have on its ability to address the problems identified by this Committee, especially as it concerns its goal to reduce the timeframe for the investigation and prosecution of disciplinary cases.*

DBC Response: [REDACTED]

Since this last report, the Board has been fortunate to be able to fill the majority of its sworn and non-sworn enforcement positions. Case closure rates climbed following the addition of CPEI positions and remain steady, averaging 968 cases/year, up from 651 cases/year four years ago.

As a result of these figures, the Board recognized the increase in clerical support tasks that resulted from the growth in enforcement staff and casework, and has submitted a Budget Change Proposal (BCP) to add two full-time Office Technician positions to support these enforcement efforts.

In addition, since the increase in rank and file staff to the Enforcement program, the Board is considering an additional BCP to add one Enforcement manager to ensure program oversight remains a priority.

		Fiscal Year								
		2010/11		2011/12		2012/13		2013/14		
Classification		Positions	Vacant	Positions	Vacant	Positions	Vacant	Positions	Vacant	
Enforcement Program Staff	Mgmt.	Supervising Investigator II	1	0	1	0	1	0	1	0
		Supervising Investigator I	2	0	3	0	3	0	3	0
		Staff Services Manager	2	0	2	0	2	0	2	0
	Investigations	Investigator (sworn)	15	4	14	3.5	14	3.5	14	2.5
		Special Investigator (non-sworn)	1	0	4	0	4	0	4	0
		Inspector	2	0	2	0	2	0	2	0
		Analytical Staff	11.5	0	9.5	1	8.5	0	8.5	1
		Dental Consultant	2	1	2	1	2	1	2	1
		Enforcement Representative I	1	0	0	0	0	0	0	0
	Support	Discipline Analysts	2.5	0	2.5	0	2.5	0.5	2.5	0
		Office Technicians	4	1	4	0	4	0	4	0
	Total Sworn Staff		20	4	20	3.5	20	3.5	20	2.5
	Total Non-Sworn Staff		24	2	24	2	23	1.5	23	2
	Total Enforcement APs		44	6	44	5.5	43	5	43	4.5

ISSUE #26: (IMPACT ON DBC OF THE UNPAID LOANS MADE TO THE GENERAL FUND.) Will the unpaid loan to the General Fund have an impact on the ability of DBC to deal with its case aging and case processing?

Senate BPE Staff Recommendation: *No more loans from the reserve funds of the DBC to the General Fund. DBC should explain to the Committee what the impact will be to its overall Budget and its enforcement process if the outstanding loan is not repaid as soon as possible. This of course is if DBC is granted an exemption from the hiring freeze, otherwise new expenditures will not be necessary.*

DBC Response: The Board has received full repayment of the \$10 million loan to the general fund.

CONTINUED REGULATION OF THE PROFESSION BY THE CURRENT MEMBERS OF THE DENTAL BOARD OF CALIFORNIA

ISSUE #27: (CONSUMER SATISFACTION WITH DBC IS LOW.) A 2010/2011 Consumer Satisfaction Survey of DBC shows only about 30% of complainants are satisfied with the service provided by the Board. Additionally, DBC failed to disseminate a consumer satisfaction survey prior to 2010.

Senate BPE Staff Recommendation: *DBC should explain to the Committee why a Consumer Satisfaction Survey was not implemented as recommended by the Monitor, and explain why it believes consumer satisfaction regarding its service is so low, and what other efforts DBC could take to improve its general service to the consumer. Does DBC believe that mediation could be used in certain circumstances to help resolve complaints from the general public regarding health care practitioners?*

DBC Response: The Board continues to survey consumers to learn about their experience with the complaint and enforcement process. However, participation remains low. Acting on the belief that consumers may be increasingly reluctant to participate in online surveys, staff have also provided self-addressed, postage paid survey cards in closure envelopes. This has not had any discernible effect to the participation rate.

ISSUE #28. (CONTINUED REGULATION OF DENTISTS BY DBC.) Should the licensing and regulation of the dental profession be continued, and be regulated by the current board membership?

Senate BPE Staff Recommendation: *Recommend that the dental profession should continue to be regulated by the current DBC members in order to protect the interests of consumers and be reviewed once again in four years.*

DBC Response: Senate Bill 540 (Price) (Chapter 385, Statutes of 2011) extended the Board's sunset date to January 1, 2016.

COMMITTEE REPORTS

ADJOURNMENT