



Dental Board of California
Meeting Minutes
Monday, December 3, 2012
Embassy Suites LAX/South
1440 East Imperial Avenue, El Segundo, CA 90245

Members Present:

Bruce Whitcher, DDS President
Huong Le, DDS, Vice President
Fran Burton, Secretary
Steve Afriat, Public Member
Stephen Casagrande, DDS
Luis Dominicus, DDS
Rebecca Downing, Public Member
Judith Forsythe, RDA
Suzanne McCormick, DDS
Steven Morrow, DDS
Thomas Olinger, DDS

Members Absent:

Staff Present:

Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
Kim Trefry, Enforcement Chief
April Alameda, Investigative Analysis Unit Manager
Jocelyn Campos, Enforcement Coordinator
Sarah Wallace, Legislative and Regulatory Analyst
Karen Fischer, Special Assistant to the Executive Officer
Linda Byers, Executive Assistant
Spencer Walker, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

ROLL CALL AND ESTABLISHMENT OF QUORUM

Dr. Bruce Whitcher, President, called the meeting to order at 8:35 a.m. Fran Burton, Secretary, called the roll and a quorum was established. Dr. Whitcher recognized Kit Neacy, former Board President, Dr. Guy Acheson from the California Academy of General Dentistry, and Lori Gagliardi and Lindsay Shubin from the California Association of Dental Assisting Teachers and thanked them for attending the Board meeting.

AGENDA ITEM 1: Update on Pending Regulatory Packages:

Sarah Wallace, Legislative and Regulatory Analyst, gave an overview of the Board's pending regulatory packages. Ms. Wallace reported that she has been working on wrapping up two of the regulatory packages; the Sponsored Free Health Care Events and the Notice to Consumers.

The Notice to Consumers, which was the package that required dentists to disclose that they are licensed and regulated by the Dental Board of California, was approved by the Office of Administrative Law (OAL) and became effective on November 28, 2012.

The Sponsored Free Health Care Events regulatory package, which allows out of state practitioners, with authorization from the Board, to participate in Sponsored Free Health Care Events in California, was approved by OAL and became effective December 7, 2012.

Ms. Wallace reported that the Board approved moving forward with the Abandonment of Applications regulatory package and she is working on the initial rulemaking documents along with rulemaking documents for Uniform Standards for Substance Abusing Licensees and Examination, Permit and License Fee Increases for Dentists.

AGENDA ITEM 2: Discussion and Possible Action Regarding the Review and Prioritization of Regulatory Packages and Subcommittee Assignments

Richard DeCuir, Executive Officer, reported that Sarah Wallace, the Board's Legislative and Regulatory Analyst is working on four regulatory packages deemed priorities by the Board last year, four subcommittees developing regulatory framework for various programs and requirements and three Dental Assisting Council subcommittees helping with the review of dental assisting course requirements.

In the event that staff encounters difficulty addressing all of these priorities during Ms. Wallace's absence during the first half of 2013, the Board is requested to reprioritize and specify the top three issues.

Dr. Morrow suggested that Portfolio remain at the top of the list as there are statutory deadlines that must be met. There was discussion regarding what and how to prioritize.

M/S/C (Morrow/Olinger) to prioritize work on the regulatory packages of Dentistry Fee Increase, Portfolio Examination Requirements and Uniform Standards for Substance Abusing Licensees in that order. The motion passed unanimously.

Dr. Le suggested that as far as the regulatory framework for various programs and requirements goes, because there are statutory requirements, Minimum Standards for Infection Control should be the only priority we should be taking on at this time.

M/S/C (McCormick/Le) to prioritize work with the subcommittees as Radiation Safety Course Requirements and Minimum Standards for Infection Control in that order.

Dr. Lori Gagliardi, representing the California Association of Dental Assisting Teachers (CADAT) requested that Radiation Safety Course Requirements be the top priority and provided her rationale as to why. There was discussion surrounding the pros and cons of digital versus analog radiography.

The previous motion passed unanimously.

Mr. DeCuir clarified the prioritization as:

1. Dentistry Fee Increase

2. Portfolio Examination Requirements
3. Uniform Standards for Substance Abusing Licensees
4. Radiation Safety Course Requirements
5. Minimum Standards for Infection Control

AGENDA ITEM 3: Discussion and Possible Action Regarding Adoption of the Dental Board of California's 2013 – 2015 Strategic Plan

Dr. Witcher reported that the public workshop facilitated by the SOLID Training Unit was very successful. Karen Fischer, Interim Executive Officer, discussed the DRAFT Plan that had been prepared by the SOLID Training Unit as a result of workshop. She stated that if the Plan is adopted by the Board, SOLID staff will reconvene with Board staff to develop tasks and measures to ensure the goals and objectives for the future will be met.

M/S/C (Olinger/Dominicis) to adopt the DRAFT Plan.

Dr. Guy Acheson commented on access to care issues in California and the true numbers of the workforce. He stated that there seems to be some discrepancy as to who the authority is when it comes to the correct numbers. He would like to see the Dental Board of California be the only authority on the number of dentists in the workforce and clarify the definition of "Full Time".

Bill Lewis, California Dental Association (CDA), complimented the Board and staff on the Strategic Plan and the transparency in which they conducted the formulation of the Plan.

The motion passed unanimously.

AGENDA ITEM 4: Subcommittee Report and Possible Action Regarding Future Legislation to Require Dental Labs to Register with the Dental Board

Sarah Wallace, Legislative and Regulatory Analyst, reported that at the May 2012 Board meeting, the California Dental Association (CDA) appeared before the Board and requested that the Board review a proposal requiring Dental Laboratory registration and disclosure of material content.

The purpose of CDA's proposal was to promote patient protection by requiring dental laboratories, who conduct business in California, to register with the Board in order to engage in the manufacture or repair of dental prosthetic appliances, and to disclose the material content, point of origin, and the location of manufacturer of the restoration, to the dentist issuing the work order.

At that meeting, Board President, Dr. Witcher, appointed a subcommittee of Dr. Dominicis and Dr. Olinger to work on the project. Prior to the August 2012 Board meeting, a teleconference was held with the subcommittee, CDA, staff and stakeholders to perform a preliminary review of what had been proposed. It was decided at that meeting that the best way to move forward would be for CDA to draft proposed language for the subcommittee to review. The draft language was received in mid-October.

The subcommittee reviewed the draft and held another teleconference with CDA representatives on November 1, 2012. Subcommittee members voiced their concerns regarding CDA's proposal including the Board's ability to enforce some of the provisions.

The Board does not typically see cases regarding dental laboratories and prosthetics. However, if this were to become law, the Board could see an increase in consumer complaints and enforcement activity, including the filings of administrative action against dental labs and dentists.

The subcommittee provided additional comments and recommendations regarding the proposal which were:

- It would be beneficial if dental laboratory registration be required biennially, rather than annually, to maintain consistency with other Board renewal requirements.
- It would be beneficial if the statute could specify all of the registration requirements rather than having to go through the regulatory process (i.e. registration fee, renewal fee, change of address requirements, notification to Board of dental laboratory closure, etc.)
- It would be of importance for the proposal to include a provision authorizing the Board to hire additional staff to facilitate the dental lab registration. The number of dental laboratories that would register with the Board as a result of these requirements is unknown and it is difficult to estimate the impact the Board would be facing from a staffing perspective. The Board does not have current staff resources to coordinate the provisions of this proposal.

The outcome of the teleconference was that the subcommittee ultimately expressed concern regarding unintended consequences that the proposal could place on California licensed dentists. The subcommittee did **not** recommend moving forward with a legislative proposal and suggested that the issue may be better addressed in a way other than legislatively, given the unknown variables. The subcommittee suggested that Dental Associations could launch a marketing campaign promoting better communication between the dentists and dental laboratories that may better serve the intent of the proposal. Once more information can be collected to address the unknowns of this draft proposal, another legislative proposal could then be considered.

Ms. Wallace stated that she had received a letter dated November 30, 2012 from the Dental Laboratory Owners Association of California (DLOAC) which is a state organization that has been representing California dental laboratory owners for over 70 years. Their letter stated:

*We feel the subcommittee identified many of the potential negative issues that would result within the industry if the bill, as currently drafted, were passed. Most of our members feel lab registration would increase lab costs without providing the intended patient protection which was the initial driving force behind this effort. When it comes to material safety, FDA protections that require overseas manufacturers to register and submit to inspections are already in place. We fully support the recommendation of the subcommittee to “**not** recommend moving forward with a legislative proposal” at this time.*

The DLOAC went on to say that within their industry, both laboratories and manufacturers are committed to quality and transparency and they already provide material disclosure, ongoing educational events, and industry certifications. They encourage all dentists to establish relationships with quality-oriented laboratories as a way to protect patient health and safety.

Dr. McCormick stated that she felt that there was a significant public safety issue and she would like to revisit this issue within eighteen months.

Dr. Whitcher commented that this is in the very preliminary stages and may be brought back once CDA has passed it through their policy committee.

Bill Lewis, California Dental Association (CDA), commented that it was the intent of CDA to begin the process and get feedback from the Board's subcommittee as part of CDA's own deliberations in working with the Dental Lab community and the Legislature to decide if they wanted to sponsor a bill this coming year. If CDA decides to move forward they will continue to seek the Board's input and certainly take into consideration the subcommittee's recommendations and comments. He thanked Drs. Dominicis and Olinger and staff for their involvement in the subcommittee process.

Richard DeCuir, Executive Officer, expressed his concern that the industry asked the Board to establish a subcommittee to look into the necessity for proposed legislation. The subcommittee and the industry recommended **not** moving forward with legislation but CDA is considering going ahead with the process. Mr. DeCuir also asked if there was a demonstrated need.

Steve Killian, Board member of the National Association of Dental Laboratories, commented that in his opinion state registration of dental laboratories are a benefit to the consumer/patient. He stated that with an estimated 1,500 dental labs in the state, competition drives some laboratories to cut corners and use less expensive and sometimes more dangerous materials to remain competitive. Registration, including continuing education, would help stop these dangerous practices. Many other states currently require registration and disclosure. Regulations could possibly be garnered from those already in place. Mr. Killian expressed his opposition to the opinion in the letter from DLOAC that stated "*most of our members feel lab registration would increase lab costs without providing the intended patient protection....*" He stated that to his knowledge the membership had not been polled. In his opinion they are misrepresenting the membership and he asked the Board to request that DLOAC provide proof of their statement.

M/S/C (Casagrande/Olinger) to accept the subcommittee's report. The motion passed unanimously.

COMMITTEE/COUNCIL MEETINGS

The Full Board reconvened at 3:10 p.m.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

There were no public comments.

FUTURE AGENDA ITEMS

There were no future agenda items requested.

BOARD MEMBER COMMENTS FOR ITEMS NOT ON THE AGENDA

Dr. Morrow commented that at the Board's August meeting, representatives from the American Board of Dental Examiners (ADEX) gave a presentation. Dr. Morrow asked that the Board consider adding the ADEX examination to its list of licensing opportunities.

Ms. Judith Forsythe shared some highlights of her trip to Ethiopia where she along with a group of volunteers were able to provide care for 1900 patients in five days at a dental clinic they had set up. She is planning on continuing this service next year.

The meeting adjourned at 3:17 p.m. until the next morning, Tuesday, December 4, 2012 at 8:30 a.m.