



Dental Hygiene Committee of California
Full Committee Meeting

Doubletree LAX
1985 East Grand Avenue
El Segundo, CA 90245

Friday, April 29, 2011

1. Roll Call/Establishment of Quorum

Members in attendance:

Rhona Lee, RDH, RDHEF – President
Alex Calero, Public Member - Vice President
Cathy DiFrancesco, RDH – Secretary
Michelle Hurlbutt, RDH
Bill Langstaff, DDS
Andrew Wong, Public Member

Staff in Attendance:

Lori Hubble, Executive Officer
Tom Jurach, Associate
Government Program Analyst
Norine Marks, Legal Counsel
Traci Napper, Associate
Government Program Analyst
Dennis Patzer, Enforcement
Analyst
Greg Salute, Deputy Attorney

Members not in attendance:

Miriam DeLaRoi, RDH, RDHAP Coordinator
Rita Chen Fujusawa, Public Member

The meeting was called to order at 8:09 a.m. Members introduced themselves for roll call and a quorum was established. Ms. Lee instructed the audience about the presentation microphones, voluntary sign-in sheet, restroom and noted the DCA webcasting team streaming the meeting live.

2. Ethical Decision Making – presentation by Norine Marks

This presentation was tabled due to time constraints.

3. Open Session – Administrative Hearing

Petition for reinstatement of license – Patricia McCartney

4. Closed Session upon conclusion of Administrative Hearing

The committee will meet in closed session to deliberate the above matter and any other disciplinary matters pursuant to Government Code §11126 (c) (3).

SUBCOMMITTEE MEETINGS BEGIN

Legislation and Regulation Subcommittee
Education and Outreach Subcommittee
Licensing and Examination Subcommittee
Enforcement Subcommittee (Tabled until further notice)

5. Public Comment for Items not on the agenda

There was no public comment.

6. President's Report

Ms. Lee introduced Dr. Langstaff as a dentist since 1975, a member of the ADA since he was a student, and other biographical information relative to his past. Dr. Langstaff added that he was on the board on the Academy of General Dentistry and recognizes the importance of teamwork and protecting the public. He also feels it is imperative to unify the DHCC and the DBC, preserve current structure, and will promote cooperation between entities.

Ms. Lee provided the rest of her report in written format, but highlights CRDTS and the Dental Board's sunset review. She also thanked Alex Calero for his input during the DCA Director's Conference calls held Tuesday mornings.

7. Executive Officer's Report

Ms. Hubble, Executive Officer of the DHCC presented an update. She discussed the current staffing challenges within the DHCC and thanked her staff for putting in extra effort to maintain office duties. She announced that the previous Office Technician, Liz Roberts, had moved on to another department to further her career. Also mentioned was the unlikely return of Nichole Johnston who is currently out on maternity leave. Replacing individuals has been difficult as the applications to replace the Office Technician position have been from outside DCA and therefore are not hireable under the current hiring freeze. In an effort to reduce cost and materials while increasing the value of the DHCC meeting packets, Ms. Hubble announced that the DHCC is investigating the feasibility of incorporating iPads into the meeting packet production cycle. Costs and viability are being explored, now. Ms. Hubble offered her iPad – which is being used as a demonstration machine – as an example of how a PDF digital workflow can work for the DHCC.

Ms. Hubble also mentioned her salary review to which Ms. DiFrancesco added that Ms. Hubble was topped out in her salary scale and was not able to receive her bonus as committed by the Committee during her annual performance review.

8. Approval of December 06, 2010 Meeting Minutes

It was m/s/c (DiFrancesco/CAlero) to accept the minutes from December 6, 2010. Carried unanimously. Langstaff and Wong abstained; not present for minutes origination. Mr. Calero asked to remove the word "regulatory" from paragraph 3, bullet points 1 and 3.

9. Presentation on OSHPD Health Care Workforce Clearinghouse

-Senita Robinson, Chief; Research, Policy and Planning Section

This presentation was not given due to executive order limiting travel.

10. Department of Consumer Affairs (DCA) Director's Report (DCA Representative)

Kim Kirchmeyer, Deputy Director, Board and Bureau Relations, presented on Behalf of Brian Stiger, Director, Department of Consumer Affairs to give an update on the projects involved within the DCA. She discussed the current hiring freeze and the pressure it puts on the department. She mentioned that exceptions may be granted for mission-critical positions such as those dealing with court functions or fulfilling statutory missions. From the Board of Finance: exemptions require justification of the positions as well as a statement describing the results of the position not being filled. She described the flow of each exemption from the DCA organization to the Governor's office. Last week, 7 exemptions were approved. Kudos to board and budget staff for getting exceptions granted.

She also touched on the restriction of travel. No travel is admitted unless travel is mission-critical. No discretionary travel will be allowed. Main committee meetings can be traveled to, but she suggested using teleconferencing for the smaller subcommittee meetings.

She then touched on CPEI statistics. She thanked staff for adding the CPEI performance measures in the DHCC meeting packets to promote transparency to the public. It promotes the improvements of each board even through the tough economic times.

Will provide extensive enforcement statistics at a future meeting.

Ms. Kirchmeyer is sensitive to staffing levels and the increased workload assumed by all when requesting additional enforcement statistical data.

Applauded DHCC for their Disciplinary Guidelines and encouraged DHCC to finalize the regulatory package and move them forward to a regulatory hearing. BreEZe project is underway. The final proposals were received in March. Costs were higher than anticipated and DCA staff are exploring options. DCA is currently in negotiations with the vendor and hopes to finalize the contract in August 2011.

Requests have been proposed to DCA to up the ceiling salary of the Executive Salary review. This data has not been explored for 10 years and wanted to have a study evaluating all boards, bureaus, and committees. Hopes to have the study completed by August 2011.

She appreciates the digital data on our website and applauds the webcasting of our meetings. In addition to webcasting, may want to look into video conferencing as an option to maintain business given the current travel restrictions.

11. Adoption of §1139-1144 of Title 16 of the California Code of Regulations – Cite and Fine

Ms. Lee described the options for the Committee to vote upon. Option 1 and Option 2 are listed in the meeting packet and were read by Ms. Lee to the Committee. M/s/c (Calero/DiFrancesco) to accept option 1. Motion passed unanimously.

Option 1 reads: If the committee adopts §1139-1144 as presented, direct staff to take all necessary steps to complete the rulemaking process, include the final rulemaking package to the Office of Administrative Law and authorize the

Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process.

Ms. Marks added that the committee wished to categorize fine levels but recommends getting other regulations in place, first.

12. Adoption of Amendments to §1138 of Title 16 of the California Code of Regulations – Disciplinary Guidelines

Ms. Lee turned the meeting over to Mr. Calero, Chair of Enforcement Subcommittee to discuss Disciplinary Guidelines. Mr. Calero explained that a public hearing was held; no public were in attendance; no public comment received. Therefore, the language is back to the DHCC for final approval. He would like the committee to accept the amended language in the packet and authorize staff to make non-substantive changes and preparing a second modified text for a 15-day comment period. After the 15-day period closes, allow the Executive Officer to make non-substantive changes if needed for completion of the rulemaking process.

Mr. Calero asked for a motion to begin discussion.

M/s/c (Wong, Lee) to accept the disciplinary guidelines with changes as amended. Motion passed unanimously.

Ms. Napper noted that staff requests to remove sections B (leaving the first sentence of B) and C from 1138.

Ms. Marks and Ms. Kirchmeyer respectfully disagree about what triggers uniform standards and what discretion follows.

Ms. Hurlbutt asked to hear “the other side” and Mr. Calero invited Ms. Kirchmeyer to comment. She explained that the language contained in (b) and (c) of 1138 have given the Committee the ability to lower the drug-testing standards. The wording in the paragraphs does not give boards the discretion to go below minimum standards.

Ms. Hurlbutt probed why we couldn’t accept (b) and (c)?

Ms. Kirchmeyer responded that you shall use uniform standards in statute and committee sets levels in regulation.

Ms. Hurlbutt is confused and asked why Ms. Marks’ opinion differed from that of Ms. Kirchmeyer.

Ms. Marks added that regulation is the ultimate discretion of the committee.

Mr. Calero asked if he could make amend a motion.

M/s/c (Wong/Lee) To amend motion to reflect is to delete is §1138 the second sentence to subdivision (b) and the paragraph (c) as well as deleting the “(b)” with the parentheses around it. Ms. Lee added that her second was for discussion purposes.

Discussion ensued.

The motion passed unanimously.

Mr. Calero began discussion of amendments on page 8 to §1138. He asked that the word “randomly” be added into #1 to read “shall be RANDOMLY drug tested in...” He also asked that the third paragraph beginning with “Nothing precludes a the Committee” “TheAny Committee who...” and “...as identified in Uniform Standard #20, may reestablish...” Ms. Lee added to change #2 verbiage as follows “drug tested at least 404 52 times per year...” and later in the paragraph “...drug tested at least 50 36 times per year...”

Mr. Calero added to change “Boards” to “Committees” in the second sentence of #4.

M/s/c (Lee/DiFrancesco) to accept amendments as stated on page 8. Motion passed unanimously.

Moving to page 9, Mr. Calero suggested changing the first line to read A ~~“The-A Committee by may use of other testing methods in place of of,”~~ or to supplement biological ~~sample fluid-sample testing,...~~”

Ms. Marks added to change #6 to read, “Mitigation or aggragation evidence.”

M/s/c (DiFrancesco/Lee) To accept changes on page 9 as stated. The motion passes unanimously.

On page 11, first bullet should read “...dental ~~Hygiene~~ Hygienist (RDH),...”

Declared non-substantive by Ms. Hurlbutt.

Mr. Calero suggested changing “20) Submit Biological ~~Fluid Samples~~ Sample.”

M/s/c (Lee/Langstaff) To accept amendments as stated on pages 11 and 12.

Motion passed unanimously.

Ms. Marks stated on page 17, change “If the Committee or board certified psychiatrist concludes...”

M/s/c (Lee/Langstaff) to accept amendments to page 17 as stated. Motion passed unanimously.

Ms. Marks on page 18, change “...current financial, personal, ~~familiar~~ familial or business...” Mr. Calero recommended that staff change “billing monitor” to “practice/billing monitor” throughout the document to make it consistent with #18 on page 18.

On page 19, Mr. Calero asked to change paragraph two to read “...practice of ~~psychology~~ dental hygiene, beginning...”

Ms. Marks added a change to the bottom of page 25. The last bullet should read “...been revoked is required to ~~live scan~~ submit electronic fingerprints as part of reinstatement ...”

M/s/c (DiFrancesco/Lee) To accept changes to pages 17-26 as stated. The motion was unanimously accepted.

M/s/c (Hurlbutt/DiFrancesco) That a conference call ensue between Enforcement Chair, Legal Counsel, Greg Salute and Staff to finalize optional terms and conditions language from pages 27-34 and include those changes as part of the regulatory package. Motion passed unanimously.

MS. DiFrancesco suggested to remove the “/” and replace with “or” to be in congruity with page 36.

Back to the original motion to vote.

M/s/c (Langstaff/DiFrancesco) to delegate the authority to the Executive Officer to adopt the modified text in the event there are no negative comments received during the 15-day comment period. Motion passed unanimously.

13. Budget Report

Ms. Lee asked, “Do you, Ms. Napper, have any comments?”

Ms. Napper replied, “The budget is currently solvent.”

14. Strategic Business Plan

Ms. Hubble provided an informative Strategic Business Plan.

There were no comments from the Committee or public.

15. Update on Dental Board of California’s Infection Control

Regulations [Title 16, California Code of Regulations §1005 (d)]

Ms. Hubble stated that the Infection Control regulations are going through the process. As soon as more information is made available, it will be shared. Ms. DiFrancesco thanked Dennis, Traci, Shirley, and Tom for their cooperation through this process. Mr. Langstaff appreciates the warm and genuine welcome.

16. Legislation and Regulation Subcommittee Report

The committee may take action on any items listed on the attached Legislation and Regulation Subcommittee Agenda

Report: Established quorum and approved minutes. Reported to committee that Fingerprint Regulations are well on their way. Listed Subcommittee's position on various bills. Also delegated authority to the Executive Officer to adopt the modified Disciplinary Guideline text and approve it in the event no negative comments are received during the 15-day comment period.

Recommended that the full committee accept the recommendations by the M/s/c (Lee/DiFrancesco) to accept the report of the Legislation and Regulation Subcommittee. Motion carries. Wong abstained.

17. Education and Outreach Subcommittee Report

The Committee may take action on any items listed on the attached Legislation and Education and Outreach Subcommittee Agenda

The Education and Outreach Subcommittee met this afternoon and accepted the minutes as submitted from the December 5, 2010 Subcommittee meeting. Ms. Lee mentioned the outreach agenda had been cancelled due to the governor's travel restrictions. She also mentioned that the DHCC is no longer allowed to give away swag.

M/s/c (Calero/Langstaff) to approve the report as submitted. Motion carries unanimously.

18. Licensing and Examination Subcommittee Report

The Committee may take action on any items listed on the attached Licensing and Examination Subcommittee Agenda

Ms. Hurlbutt announced the Licensing and Examination Subcommittee met today and approved the December 5, 2010 meeting minutes as amended. Also reviewed were the clinical and written test statistics as well as licensure statistics.

They also agreed to form a task force to charged to develop a white paper with recommendations on alternative pathways for initial licensure as long as it complies with the executive order and with the approval of the Executive Officer.

Ms. Hurlbutt has asked the committee to accept this report of the Licensing and Examination Subcommittee. M/s/c (Calero/Langstaff) to accept the report from Examination and Licensing. Ms. Lee asked that the meeting minutes' date be amended to reflect December 4, 2010. Motion carried unanimously.

19. Enforcement Subcommittee Report

The Committee may take action on any items listed on the attached Enforcement Subcommittee Agenda

This report was tabled until the next meeting. Tentatively scheduled for August 29 and 30 in Sacramento, CA.

20. Future Agenda Items

There are no future agenda items.

Mr. Wong would like to look at how we address the Leg Committee.

Mr. Wong would like to put on for discussion ALJ issue and whether we individual things are allowed for the ALJ to hear given our first experience, today. Interested in hearing how other committee members feel about the process. Ms. Lee added that Ethical Decision Making will be tentatively added to the next agenda.

There were no further comments.

Ms. Lee thanked Paul Costas and Jake for helping to webcast the meeting.

21. Adjournment

With no further business to discuss, the April 29, 2011 Dental Hygiene Committee of California was adjourned at 4:48 p.m.