



Monday, July 9, 2012

Dental Hygiene Committee of California

DHCC Teleconference Meeting
Agenda



NOTICE OF PUBLIC MEETING - TELECONFERENCE

July 9, 2012

12:00 p.m. – 1:00 p.m.

Department of Consumer Affairs
2005 Evergreen Street, Silverwood Lake Room
Sacramento, CA 95815
916-263-1978

DENTAL HYGIENE COMMITTEE OF CALIFORNIA TELECONFERENCE AGENDA

President, Alex Calero

1. Call to Order – Roll Call and Establishment of a Quorum
2. Public Comment for Items Not on the Meeting Agenda
3. Discussion and Possible Action Regarding:
 - (A) Comments Received During the 15-Day Public Comment Period for the Committee's Proposed Rulemaking File to Add Title 16, Division 11 of the California Code of Regulations (CCR), § 1149 et. seq Relating to Sponsored Free Health Care Events;
 - (B) Adoption of Proposed Changes to Title 16, Division 11, CCR, § 1149 et. seq Relating to Sponsored Free Health Care Events.
4. Discussion and Possible Action to Adopt Modifications to Proposed Amendments to Title 16, Division 11, CCR § 1139 et. seq Relating to Citations and Fines Subsequent to the Disapproval of the Regulatory File by the Office of Administrative Law.

TELECONFERENCE SITES:

Alex Calero, President
Downtown State Office Building
1350 Front Street, Room 2034
San Diego, CA 92101

Cathy DiFrancesco, RDH
Christy K. Rollofson, DDS, Inc.
9727 Elk Grove – Florin Road, #270
Elk Grove, CA 95624

William Langstaff, DDS
Hilton New York – Hotel Lobby
1335 Avenue of the Americas
New York, NY 10019-6078

Evangeline Ward, RDH
Elmira Road Dental Care
179 Elmira Road, Suite H
Vacaville, CA 95687

Andrew Wong, Public Member
Dechert LLP
US Bank Tower
633 West 5th Street, Suite 3700
Los Angeles, CA 90071

One or more Dental Hygiene Committee of California (DHCC) Member(s) will participate in this meeting at the teleconference sites listed above. Each teleconference location is accessible to the public and the public will be given opportunity to address the DHCC at each teleconference location. The public teleconference sites are noticed on the agenda. Public comments will be taken on the agenda items at the time the specified item is raised. The DHCC 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. For verification of the meeting, contact Anthony Lum at 916-576-5004 or access the DHCC Web Site at www.dhcc.ca.gov

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Anthony Lum at 916-576-5004 or email Anthony.lum@dca.ca.gov or send a written request to the DHCC at 2005 Evergreen Street, Suite 1050, Sacramento, CA 95815. Providing your request at least five business days prior to the meeting will help to ensure availability of the requested accommodation.



Monday, July 9, 2012

Dental Hygiene Committee of California

DHCC Teleconference Meeting

Agenda Item 1

Call to Order – Roll Call and Establishment of Quorum



Monday, July 9, 2012

Dental Hygiene Committee of California

DHCC Teleconference Meeting

Agenda 2

Public Comment for Items Not on the Meeting Agenda



Monday, July 9, 2012

Dental Hygiene Committee of California

DHCC Teleconference Meeting

Agenda 3

Discussion and Possible Action Regarding:

- (A) Comments Received During the 15-Day Public Comment Period for the Committee's Proposed Rulemaking File to Add Title 16, Division 11 of the California Code of Regulations (CCR), § 1149 et. seq Relating to Sponsored Free Health Care Events;
- (B) Adoption of Proposed Changes to Title 16, Division 11, CCR, § 1149 et. seq Relating to Sponsored Free Health Care Events.



MEMORANDUM

DATE	July 9, 2012
TO	DHCC Members
FROM	Lori Hubble, Executive Officer
SUBJECT	Agenda Item 3 – Discussion and Possible Action Regarding Proposed Changes to Title 16, Division 11, CCR, § 1149 et. seq Relating to Sponsored Free Health Care Events

Background

At its last meeting the Dental Hygiene Committee of California (DHCC) adopted modifications to its proposed regulatory text due to concerns from the Office of Administrative Law (OAL) regarding other boards’ regulations on this subject which were communicated through the Department of Consumer Affairs (DCA) to all boards currently pursuing regulations relative to sponsored free healthcare events in response to new statutory requirements.

The Committee adopted a resolution to delegate authority to DCA to receive and process sponsored entity registration forms for events and adopted modified language with amendments, directing staff to prepare modified text for a 15 day public comment period as required by law. The Committee further directed that if no adverse comments were received during the comment period, the Executive Officer was authorized to make any non-substantive changes to the proposed regulations and complete the rulemaking process.

During the 15 day comment period, the Committee did receive an adverse comment. DCA’s Legal Office and Legislative and Regulations Unit expressed concerns that the proposed regulatory language contained a fee that did not reflect the actual cost of processing the application. The proposed application fee is \$31.08 less than actual projected processing costs, and staff proposes that the application fee be increased as allowed in statute to cover the actual cost of processing the application, \$86.00. A fee calculation based upon projected workload shows that the actual staff time projected to process an application amounts to \$81.33, which does not include the \$4.75 fee to access out of state licensees’ information on the National Practitioner Database. Therefore the actual cost to process an application is \$86.08 rather than \$55.00, which would require a change to the form’s current regulatory language. Statute, Business and Professions Code Section 901(b)(1)(C) allows the Committee to collect a fee “to cover the cost of developing the authorization process and processing the request.” The Committee needs to consider whether to retain the \$55.00 application fee and absorb the additional processing cost of \$31.08 per application or to modify the amount to \$86.00 to reflect the actual costs. Fee amounts are commonly rounded to the nearest dollar, and \$.08 per application is minor and absorbable.

Additionally, legal counsel pointed out that the “Request for Authorization to Practice without a License at a Registered Free Health Care Event” included a hard-card fingerprint option, which is not allowed under CCR Section 1132 as well as the proposed CCR Section 1151 of this regulation packet. The DHCC no longer accepts fingerprint cards due to the lengthy processing

times through the Department of Justice for these cards and the high rate of rejection, resulting in additional processing delays. These are substantive changes to the regulation, so the Committee must vote to adopt the modified text and form before this rulemaking package can move forward to completion.

Part 2 – Attached is the new modified regulatory language and form for your consideration.

Committee Action Requested

- Approve modified regulatory language and form with amendments and direct staff to take all necessary steps to complete the rulemaking process including preparing the modified text and form for a 15 day comment period which includes the amendments accepted by the committee at this meeting. If no adverse comments are received during the 15 day public comment period, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed amendments to California Code or Regulations, Title 16 Sections 1149-1153.

Title 16. Dental Hygiene Committee of California
Department of Consumer Affairs
MODIFIED TEXT

Changes to the text are shown in blue or red, underline for added text, strikethrough for deleted text.

Article 13.
Sponsored Free Health Care Events—Requirements for Exemption.

§1149. Definitions.

For the purposes of section 901 of the Code:

(a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice of dental hygiene but who holds a current active and valid license or certificate in good standing in another state, district, or territory of the United States to practice dental hygiene.

(c) The term "in good standing" means the applicant:

(1) Has not been charged with an offense for any act substantially related to the practice of dental hygiene for which the applicant is licensed by any public agency;

(2) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant's professional conduct or practice, including any voluntary surrender of a license;

(3) Has not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the Committee determines constitutes evidence of a pattern or negligence or incompetence.

NOTE: Authority cited: Sections 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§1150. Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the code shall register with the Committee not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the Committee or its delegate by submitting to the Committee a completed "Registration of Sponsoring Entity Under Business & Professions Code Section 901," [Form 901-A \(DCA/2011\)](#), which is [hereby incorporated by reference](#).

(b) Determination of Completeness of Form. The Committee may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process "Registration of Sponsoring Entity Under Business & Professions Code Section 901," [Form 901-A \(DCA/2011\)](#) on behalf of the Committee. The Committee or its delegate shall inform the sponsoring entity within 15 calendar days of receipt of "Registration of Sponsoring Entity Under Business & Professions Code Section Form 901," [Form 901-A \(DCA/2011\)](#) in writing that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The

Committee or its delegate shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 as well as a copy of the authorization for participation issued by the Committee to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the Committee at the time of registration, as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the Committee.

(d) Requirement for Prior Committee Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the Committee.

(e) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the Committee summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

- (1) The date(s) of the sponsored event;
- (2) The location(s) of the sponsored event;
- (3) The type(s) and general description of all health care services provided at the sponsored event; and
- (4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

NOTE: Authority cited: Sections 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§1151. Out-of-State Practitioner Authorization to Participate in Sponsored Event.

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the Committee to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the Committee to provide those services. An applicant shall request authorization by submitting to the Committee a completed "Request for Authorization to Practice Without a License at a Registered Free Health Care Event," Form DHCC 901-B (04/2012), which is hereby incorporated by reference, accompanied by a nonrefundable, non-transferable processing fee of \$5586.00. The applicant shall also furnish electronic fingerprints to establish the identity of the applicant and to permit the Committee to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check.

(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the Committee shall notify the sponsoring entity or local government entity administering the sponsored event whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The Committee shall deny a request for authorization to participate if:

- (A) The submitted "Request for Authorization to Practice Without a License at a

Registered Free Health Care Event.” Form DHCC 901-B, [\(04/2012\)](#) is incomplete and the applicant has not responded timely to the Committee’s request for additional information.

(B) The applicant does not possess a current active and valid license in good standing.

(C) The applicant has not satisfactorily completed a course of instruction, approved by the committee, in the following procedures, if these procedures are to be performed, and the sponsoring entity will not be providing an appropriately licensed or authorized dentist for direct supervision of these procedures:

(i) Periodontal Soft-tissue curettage.

(ii) Administration of local anesthetic agents.

(iii) Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.

(D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the Committee.

(E) The Committee has been unable to obtain a timely report from a criminal history records check.

(F) The applicant was previously denied an application to practice dentistry, dental hygiene, or dental assisting in this state.

(2) The Committee may deny a request for authorization to participate if:

(A) The request is received less than 20 calendars days before the date on which the sponsored event will begin.

(B) The applicant has been previously denied a request for authorization by the Committee to participate in a sponsored event.

(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the Committee.

(D) The applicant has participated in three (3) or more sponsored events during the 12 month period immediately preceding the current application.

(d) Appeal of Denial .An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 1152.

NOTE: Authority cited: Sections 144, 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§1152. Termination of Authorization and Appeal.

(a) Grounds for Termination. The Committee may terminate an out-of-state practitioner’s authorization to participate in a sponsored event for any of the following reasons:

(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the Committee.

(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the Committee.

(3) The Committee has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner’s services.

(b) Notice of Termination. The Committee shall provide both the sponsoring entity or a local government entity administering the sponsored event and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the Committee may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination. Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the Committee shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the Committee's decision to terminate an authorization in the manner provided by section 901(j)(2) of the Code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) Agency Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an agency conference with the executive officer regarding the reasons for the termination of authorization to participate. The executive officer shall, within 30 days from receipt of the request, hold an agency conference with the out-of-state practitioner. At the conclusion of the agency conference, the executive officer may affirm or dismiss the termination of authorization to participate. The executive officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the agency conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an agency conference. If the termination is dismissed after the agency conference, the request for a hearing shall be deemed to be withdrawn.

NOTE: Authority cited: Sections 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§1153. Additional Practice Requirements for Out-of-State Practitioners Authorized to Participate in Sponsored Free Health Care Events.

(a) Each out-of-state practitioner authorized to participate in a sponsored event and provide dental hygiene services at the sponsored event pursuant to Section 1154 shall provide a written notice to each patient or prospective patient prior to performing any services. This notice shall be in at least 12 point font, and include, at a minimum, the following information:

- (1) The state, district, or territory where the out-of-state practitioner is licensed in good standing;
- (2) The name of each governmental agency that has issued the out-of-state practitioner a license to practice dental hygiene and the effective dates of each license;
- (3) The out-of-state practitioner's license number(s);
- (4) The dates the out-of-state practitioner is authorized to practice by the Committee; and,
- (5) A disclosure that states: "The Dental Hygiene Committee of California has only authorized me to provide services under my license from another state and only at this free health care event for a period not to exceed ten (10) days."

(b) This notice required by this Section shall be provided separate and apart from all other notices or authorizations that a patient may be given or required to sign and shall be retained by the patient.

NOTE: Authority cited: Sections 901 and 1906, Business and Professions Code. Reference: Section 901, Business and Professions Code.



SPONSORED FREE HEALTH CARE EVENTS

REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901

In accordance with California Business and Professions Code section 901(d), a non-government organization administering an event to provide health-care services to uninsured and underinsured individuals at no cost, may include participation by certain health-care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 90 calendar days prior to the sponsored event.** *Note that the information required by Business and Professions Code section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.*

PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name: _____

2. Organization Contact Information (*use principal office address*):

Address Line 1

Phone Number of Principal Office

Address Line 2

Alternate Phone

City, State, Zip

Website

County

Organization Contact Information in California (*if different*):

Address Line 1

Phone Number

Address Line 2

Alternate Phone

City, State, Zip

County

3. Type of Organization:

Is the organization operating pursuant to section 501(c)(3) of the Internal Revenue Code? Yes No

If not, is the organization a community-based organization*?

____ Yes ____ No

Organization's Tax Identification Number _____

If a community-based organization, please describe the mission, goals, and activities of the organization (*attach separate sheet(s) if necessary*): _____

* A "community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

PART 2 – RESPONSIBLE ORGANIZATION OFFICIALS
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Please list the following information for each of the principal individual(s) who is the officer(s) or official(s) of the organization responsible for operation of the sponsoring entity.

Individual 1:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

Individual 2:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

Individual 3:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

(Attach additional sheet(s) if needed to list additional principal organizational individuals)

PART 3 – EVENT DETAILS

1. Name of event, if any: _____

2. Date(s) of event (not to exceed ten calendar days): _____

3. Location(s) of the event (be as specific as possible, including address):

4. Describe the intended event, including a list of all types of healthcare services intended to be provided (*attach additional sheet(s) if necessary*): _____

5. Attach a list of all out-of-state health-care practitioners who you currently believe intend to apply for authorization to participate in the event. The list should include the name, profession, and state of licensure of each identified individual.

___ *Check here to indicate that list is attached.*

Note:

- Each individual out-of-state practitioner must request authorization to participate in the event by submitting an application to the applicable licensing Board or Committee.
- The organization will be notified in writing whether authorization for an individual out-of-state practitioner has been granted.

This form, any attachments, and all related questions shall be submitted to:

Department of Consumer Affairs
Attn: Sponsored Free Health-Care Events
Legislative and Policy Review Division
1625 North Market Blvd., Ste. S-204
Sacramento, CA 95834

Tel: (916) 574-7800
Fax: (916) 574-8655
E-mail: lpdivision@dca.ca.gov

- I understand that I must maintain records in either electronic or paper form both at the sponsored event and for five (5) years in California, per the recordkeeping requirements imposed by California Business and Professions Code section 901 and the applicable sections of Title 16, California Code of Regulations, for the regulatory bodies with jurisdiction over the practice to be engaged in by out-of-state practitioners
- I understand that our organization must file a report with each applicable Board or Committee within fifteen (15) calendar days of the completion of the event.

I certify under penalty of perjury under the laws of the State of California that the information provided on this form and any attachments is true and current, and that I am authorized to sign this form on behalf of the organization:

Name Printed

Title

Signature

Date

PERSONAL INFORMATION COLLECTION, ACCESS AND DISCLOSURE

Disclosure of your personal information is mandatory. The information on this form is required pursuant to Business and Professions Code section 901. Failure to provide any of the required information will result in the form being rejected as incomplete. The information provided will be used to determine compliance with the requirements promulgated pursuant to Business and Professions Code section 901. The information collected may be transferred to other governmental and enforcement agencies. Individuals have a right of access to records containing personal information pertaining to that individual that are maintained by the applicable Board or Committee, unless the records are exempted from disclosure by section 1798.40 of the Civil Code. An individual may obtain information regarding the location of his or her records by contacting the Deputy Director of the Legislative and Policy Review Division at the address and telephone number listed above.



REQUEST FOR AUTHORIZATION TO PRACTICE WITHOUT A LICENSE AT A REGISTERED FREE HEALTH CARE EVENT

In accordance with California Business and Professions Code Section 901 any dental hygienist licensed/certified and in good standing in another state, district, or territory in the United States may request authorization from the Dental Hygiene Committee of California (Committee) to participate in a free health care event offered by a sponsoring entity, registered with the Committee pursuant to Section 901, for a period not to exceed ten (10) days. The Committee may deny requests for authorization received less than twenty (20) calendar days before the date on which the sponsored event will begin.

~~Note: If you are submitting fingerprint cards to the Committee ("Ink on Cards") along with your application, the Committee recommends that you submit your completed application package to the Committee at least 60 days prior to the scheduled event to assist in the timely processing of your fingerprint submissions through the California Department of Justice and Federal Bureau of Investigation.~~

PART 1 - APPLICATION INSTRUCTIONS

An application must be complete and must be accompanied by all of the following:

- ~~• A processing fee of \$5586.00, made payable to the Dental Hygiene Committee of California. If submitting fingerprint cards instead of using Live Scan, please submit an additional \$51 fee, payable to the Dental Hygiene Committee of California, to process your fingerprint cards for a total fee of \$106.00. See additional details below.~~
- A copy of each valid and current license and/or certificate authorizing the applicant to engage in the practice of dental hygiene issued by any state, district, or territory of the United States.
- A copy of a valid photo identification of the applicant issued by one of the jurisdictions in which the applicant holds a license or certificate to practice.
- Copies of Certificates of Completion showing at least 25 units of continuing education, including current CPR within two years of the date of this application.
- Any documents or statements requested on this application.
- ~~• Live Scan Fingerprints. Fingerprints can must be done with-through electronic Live Scan or ink on cards.~~
- ~~• Live Scan is available only in California, for either residents or visitors, and is far speedier. You must download the Live Scan form from the DHCC website at this link www.dhcc.ca.gov/formspubs/form_livescan_rdh.pdf The California Department of Justice (DOJ) has the form you need to complete and take to the Live Scan service location in California, and Aa list of the Live Scan locations where it is obtainable (see can be found at <http://ag.ca.gov/fingerprints/publications/contact.php>). The procedure is that Y you can take the completed form to the service location of your choice, pay a fee and your fingerprints are taken~~

Address Line 2

Facsimile

City, State, Zip

E-mail address (if available)

PART 3 – LICENSURE INFORMATION

1. Do you hold a current license, certification, or registration issued by a state, district, or territory of the United States authorizing the unrestricted practice of dental hygiene in your jurisdiction(s)?

No If no, you are not eligible to participate as an out-of-state practitioner in the sponsored event.

Yes If yes, list every license, certificate, and registration authorizing you to engage in the practice of dental hygiene in the following table. If there are not enough boxes to include all the relevant information please attach an addendum to this form. Please also attach a copy of each of your current licenses, certificates, and registrations.

State/ Jurisdiction	Issuing Agency/Authority	License Number	Expiration Date

2. Do you possess valid certification according to committee requirements in periodontal soft tissue curettage, administration of nitrous oxide and oxygen and administration local anesthetic agents? Yes No

3. CONTINUING EDUCATION. Provide copies of certificates of completion including CPR certification. Do not send originals.

4. Are you currently the subject of any investigation by any governmental entity? Yes No
If yes, provide a detailed explanation of the circumstances surrounding the investigation.

5. Have you ever had charges filed against a dental hygiene license that you currently hold or held in the past, including charges that are still pending? Yes No

If yes, provide a detailed explanation and a copy of the documents relating to the filing of charges.

6. Have you ever had any disciplinary action taken against a dental hygiene license or other healing arts license? Yes No

Disciplinary action includes, but is not limited to, suspension, revocation, probation, confidential discipline, consent order, letter of reprimand or warning, or any other restriction or action taken

against a dental hygiene license. If yes, provide a detailed explanation and a copy of all documents relating to the disciplinary action.

7. Have you ever surrendered a dental hygiene license, either voluntary or otherwise?

Yes No

If yes, provide a detailed explanation and a copy of all documents relating to the surrender.

8. Have you ever been the subject of a malpractice settlement or judgment? Yes No

If yes, provide a detailed explanation of the circumstances and outcome relating to the malpractice settlement or judgment. You may be required to provide additional information after review of your explanation.

IMPORTANT REQUIREMENT: If a disciplinary action is filed against any license you currently hold pending the Committee's decision on this application for authorization, you must notify the Committee in writing within 48 hours.

9. With the exception of conviction of an infraction resulting in a fine of less than \$1,000, have you ever been convicted of any crime, including an infraction, misdemeanor or felony? Yes No

"Conviction" includes a plea of no contest and any conviction that has been set aside pursuant to Section 1203.4 of the Penal Code. Therefore, you must disclose any convictions in which you entered a plea of no contest and any convictions that were subsequently set aside pursuant to Section 1203.4 of the Penal Code.

10. Do you have a current physical or mental impairment related to drugs or alcohol?

Yes No

11. Have you been adjudicated by a court to be mentally incompetent or are you currently under a conservatorship? Yes No

If yes, provide a detailed explanation of the circumstances, date and time of the court order or the duration of the conservatorship.

PART 4 – SPONSORED EVENT

1. Name of non-profit or community-based organization hosting the free healthcare event (the "sponsoring entity"): _____

2. Name of event: _____

3. Date(s) & location(s) of the event: _____

4. Date(s) & location(s) applicant will be performing healthcare services (if different): _____

5. Please specify the healthcare services you intend to provide: _____

6. Name and phone number of contact person with sponsoring entity: _____

PART 5 – ACKNOWLEDGMENT/CERTIFICATION

I, the undersigned, declare under penalty of perjury under the laws of the State of California and acknowledge that:

- I will comply with all applicable practice requirements required of licensed dental hygienists and all regulations of the Committee.
- In accordance with Business and Professions Code Section 901(i), I will only practice within the scope of my licensure and/or certification and within the scope of practice for California-licensed dental hygienists.
- I will provide the services authorized by this request and Business and Professions Code Section 901 to uninsured and underinsured persons only and shall receive no compensation for such services.
- I will provide the services authorized by this request and Business and Professions Code Section 901 only in association with the sponsoring entity listed herein and only on the dates and at the locations listed herein for a period not to exceed 10 calendar days.
- I am responsible for knowing and complying with California law and practice standards while participating in a sponsored event located in California.
- Practice of a regulated profession in California without proper licensure and/or authorization may subject me to potential administrative, civil and/or criminal penalties.
- The Committee may notify the licensing authority of my home jurisdiction and/or other appropriate law enforcement authorities of any potential grounds for discipline associated with my participation in the sponsored event.
- I have read the questions in the foregoing application and that all information provided by me in this application is true and complete to the best of my knowledge. By submitting this application and signing below, I am granting permission to the Committee to verify the information provided and to perform any investigation pertaining to the information I have provided as the Committee deems necessary.

My signature on this application, or copy thereof, authorizes the National Practitioner Data Bank to release any and all information required by the Dental Hygiene Committee of California.

Signature

Date

Name Printed: _____

NOTE: Authorization will not be issued until clearance has been received from the California Department of Justice and the Federal Bureau of Investigation.

NOTICE OF COLLECTION OF PERSONAL INFORMATION

Disclosure of your personal information is mandatory. The information on this application is required pursuant to Title 16, California Code of Regulations Section 1023.17 and Business and Professions Code section 901. Failure to provide any of the required information will result in the form being rejected as incomplete or denied. The information provided will be used to determine compliance with Article 8 of Division 10 of Title 16 of the California Code of Regulations (beginning at Section 1023.15). The information collected may be transferred to other governmental and enforcement agencies. Individuals have a right of access to records containing personal information pertaining to that individual that are maintained by the Board, unless the records are exempted from disclosure by Section 1798.40 of the Civil Code. Individuals may obtain information regarding the location of his or her records by contacting the Executive Officer at the Committee at the address and telephone number listed above.



Monday, July 9, 2012

Dental Hygiene Committee of California

DHCC Teleconference Meeting

Agenda 4

Discussion and Possible Action to Adopt Modifications to Proposed Amendments to Title 16, Division 11, CCR § 1139 et. seq Relating to Citations and Fines Subsequent to the Disapproval of the Regulatory File by the Office of Administrative Law.



MEMORANDUM

DATE	July 9, 2012
TO	DHCC Committee Members
FROM	Lori Hubble Executive Officer
SUBJECT	Agenda Item 4 - Discussion and Possible Action to Adopt Modifications to Proposed Amendments to Title 16, Division 11, California Code of Regulations § 1139 et. seq Relating to Citations and Fines Subsequent to the Disapproval of the Regulatory File by the Office of Administrative Law

Background

On April 30, 2012, staff submitted the Cite and Fine regulatory file to the Office of Administrative Law (OAL). On June 7, staff was notified of OAL’s pending disapproval of the package for concerns relating to the necessity and clarity of the regulations. Although I and legal counsel both spoke with the Senior Staff Counsel at OAL to clarify those issues and speak to the necessity of the regulations within the DHCC’s enforcement program, OAL disapproved the file on June 14, 2012. Attached is the final Decision of Disapproval of Regulatory Action from OAL. By law, the Committee has 120 days to address the concerns identified by OAL and resubmit the rulemaking package.

Staff and Legal Counsel have drafted amendments to the text that address OAL’s concerns as contained in the Decision of Disapproval. The Committee must consider these modifications and, if acceptable, adopt the proposed language and direct staff to take all necessary steps to complete the rulemaking. This will include a 15 day public comment period. The Committee may authorize the Executive Officer to make any non-substantive changes in order to complete the rulemaking process if no adverse comments are received during the 15 day public comment period.

Committee Action Requested

Approve modified regulatory language with amendments and direct staff to take all necessary steps to complete the rulemaking process including preparing the modified text for a 15 day comment period which includes the amendments accepted by the committee at this meeting. If no adverse comments are received during the 15 day public comment period, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed amendments to California Code of Regulations, Title 16 Sections 1139 – 1144.

Dental Hygiene Committee of California
ORDER OF ADOPTION

Adopt Section 1139-1144 of Division 11 of Title 16 of the California Code of Regulations to ~~r~~Read as follows

ARTICLE 11. CITATIONS AND FINES

§1139. Issuance of Citations and Fines.

(a) The Executive Officer of the Committee or his or her designee may issue a citation containing an order to pay a fine ~~not to exceed~~~~between \$100 and~~ \$5,000 and an order of abatement against a licensee for any violation of ~~Division 11 of Title 16 of the California Code of Regulations~~~~Article 11 of the Business and Professions Code, or any regulations adopted pursuant thereto,~~ or any laws governing the practice of dental hygiene. A citation may be issued without either the assessment of a fine, or an order of abatement when determined by the Executive Officer or his or her designee.

(b) Each citation ~~issued pursuant to subdivision (a) of this section or pursuant to Section 1141~~ shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the law or regulation alleged to have been violated.

(c) The citation ~~issued pursuant to subdivision (a) of this section or pursuant to Section 1141~~ shall be served upon the cited person either personally or by certified United States mail.

Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 ~~and 148~~, Business and Professions Code.

§1140. Criteria to be Considered.

In the issuance of any citation, the following factors shall be considered:

(a) Nature and severity of the violation.

(b) Length of time that has passed since the date of the violation.

(c) Consequences of the violation, including potential or actual patient harm.

(d) History of previous violations of the same or similar nature.

(e) Evidence that the violation was willful.

(f) Gravity of the violation.

(g) The extent to which the cited person has remediated any knowledge or skill deficiencies, which could have injured a patient.

Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

§1141. Citations for Unlicensed Practice.

The Executive Officer or his or her designee may issue a citation against any unlicensed person who is acting in the capacity of a licensee and who is not otherwise exempt from licensure. Each citation may contain an order of abatement fixing a

reasonable period of time for an abatement and an order to pay a fine not to exceed \$5,000 per occurrence of a violation. Any sanction authorized for activity under this section shall be separate from and in addition to any other administrative, civil or criminal remedies.

Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

§1142. Contested Citations.

(a) The citation shall inform the ~~cited person~~~~licensee~~ that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the Committee within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In addition ~~or as an alternative~~ to requesting a hearing provided for in subdivision (a) of this section, the cited person may, within 14 calendar days after service of the citation, submit a written request ~~to the Committee~~ for an informal conference with the Executive Officer.

(c) The Executive Officer or his or her designee shall, within 30 calendar days from receipt of the written request ~~for an informal conference pursuant to subdivision (b) of this section~~, hold an informal conference with the person cited and or his or her legal counsel or authorized representative, ~~if any~~, unless continued for good cause.

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

~~(i)(e)~~ If the citation, ~~including any administrative fine levied or order of abatement~~, is dismissed, the request for a hearing shall be deemed withdrawn.

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

~~(iii)(f)~~ If the citation, ~~including any administrative fine levied or order of abatement~~, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a cited person wishes to contest an ~~affirmed or~~ modified citation, the cited person shall, within 30 ~~calendar~~ days after ~~issuance~~~~service~~ of the ~~modified~~ citation, contest ~~it the affirmed or modified citation~~ by submitting a written request for an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, to the ~~Committee~~~~executive officer or his or her designee~~. An informal citation conference shall not be held on ~~affirmed or~~ modified citations.

Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

§1143. Compliance with Citation/Order of Abatement.

(a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request

an extension of time from the Executive Officer or his or her designee in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When a citation or order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation within the time allowed or pay the fine that is imposed, if one was, shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement or pay a fine that is imposed is unprofessional conduct and may result in disciplinary action being taken by the Committee in addition to other remedies.

Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

§1144. Disclosure.

The issuance and disposition of a citation shall be public.

Note: Authority cited: Section 1906, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

DATED: _____

Lori Hubble
Executive Officer
Dental Hygiene Committee of California

**State of California
Office of Administrative Law**

In re:
Dental Hygiene Committee of California

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections: 1139, 1140, 1141, 1142,
1143, 1144

**NOTICE OF DISAPPROVAL OF
REGULATORY ACTION**

Government Code Section 11349.3

OAL File No. 2012-0430-02 S

This regulatory action establishes criteria and procedures for the issuance of citations for fines and orders of abatement to licensees and unlicensed persons acting in the capacity of a licensee. It also provides a means to contest a citation through an informal conference and an administrative hearing.

OAL disapproves this regulatory action for the following reason(s):

The disapproved regulation(s) fail(s) to comply with the Clarity standard of Government Code section 11349.1., The disapproved regulation(s) fail(s) to comply with the Necessity standard of Government Code section 11349.1., The disapproved regulation(s) fail(s) to comply with the Reference standard of Government Code section 11349.1.

Within seven (7) calendar days of the date of this notice, the Office of Administrative Law will send the adopting agency a written decision detailing the reason(s) for disapproval of this regulatory filing. Pursuant to Government Code section 11349.4, the adopting agency may resubmit the regulation(s) within 120 calendar days of receipt of that written decision.

Date: 6/12/2012


George C. Shaw
Senior Counsel

For: DEBRA M. CORNEZ
Director

Original: Lori Hubble
Copy: Traci Napper