

Rulemaking to Add Title 16, CCR, §1107 and 1108 Relevant to RDH Courses in Local Anesthesia, Nitrous Oxide-Oxygen Analgesia and Periodontal Soft Tissue Curettage

13. Discussion and Possible Action on Proposed Dental Hygiene Regulations Title 16, Articles 1, 2, 6, and 8 of the California Code of Regulations

14. Update on the Following Legislation:

- a) Assembly Bill (AB) 18 (Pan) - Health Care Coverage: Pediatric Oral Care Benefits
- b) AB 50 (Pan) – Healthcare Coverage: Medi-Cal Eligibility
- c) AB 186 (Maienschein) – Professions and Vocations: Military Spouses Licenses
- d) AB 213 (Logue) - Healing Arts: Licensure requirements: Military Experience
- e) AB 258 (Chavez) - State Agencies: Veterans
- f) AB 291 (Nestande) - California Sunset Review Commission
- g) AB 318 (Logue) - Medi-Cal: Teledentistry
- h) AB 512 (Rendon) - Healing Arts: Licensure Exemption
- i) AB 771 (Jones) - Public Health: Wellness Programs
- j) AB 1174 (Bocanegra/Logue) – Dental professionals: Teledentistry under Medi-Cal
- k) AB 1231 (Perez) - Regional Centers: Telehealth
- l) Senate Bill (SB) 28 (Hernandez) – California Health Benefit Exchange
- m) SB 176 (Galgani) – Administrative procedures
- n) SB 456 (Padilla) – Healthcare Coverage
- o) SB 532 (De Leon) - Professions and Vocations: Military Spouses
- p) SB 562 (Galgani) - Dentists: Mobile or Portable Dental Units
- q) SB 809 (DeSaulnier) - Controlled Substances: Reporting
- r) SB 821 (Senate Committee on Business, Professions and Economic Development) – Omnibus Bill
- s) Any Additional Legislation Impacting the Committee for the Committee’s Attention

15. Closed Session

The Committee May Meet in Closed Session to Deliberate on Disciplinary Matters Pursuant to Government Code §11126 (c)(3)

Return to Open Session

16. Future Agenda Items

17. Adjournment

Public comments will be taken on agenda items at the time the specific item is raised. The Committee 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, call (916) 263-1978 or access DHCC’s 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, via e-mail at: anthony.lum@dca.ca.gov or send a written request to DHCC at 2005 Evergreen Street, Ste. 1050, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

- a) The license was in good standing at the time the reservist was called to active duty;
- b) The waiver is only for the period when the reservist is on active duty service; and,
- c) Written proof of active duty service must be provided to the board.

Ms. Kantner said that this new law provides for waivers from professional license renewal fees and CE requirements for active duty military members. Additionally, the licensee must meet all renewal requirements within six months of the date of discharge from active duty service, and must notify the Committee within 60 days of his or her notice of discharge. No private practice is permitted during the period of active duty. Committee staff estimated that a very small number of current active licensees will qualify for this waiver. Regulations will need to be implemented for these new provisions of law.

Ms. Kantner reminded members that at the December 3, 2012 Committee meeting, the Committee asked staff to prepare sample proposed language for consideration at its next meeting. She directed the Committee members to their meeting materials for reference.

Ms. Yazigi informed members that the language she drafted was to add substance and detail to the requirements of BPC Section 114.3. She indicated that what the Legislature wanted to do was give licensees who are also service members a break if they are current and active with their license and called up to active military duty, and at some point during their active duty, their license is set to expire.

After a lengthy discussion, the Committee directed staff to develop a definition for the term “call to active duty” so that Committee members have a clear idea of who this legislation impacts.

The Committee also directed staff to review subsection (b) and add in language that clearly requires that the mandatory course work (i.e., Basic Life Support, California Dental Practice Act, infection control, and law and ethics) for license renewal are met.

FULL 20 – Update on Phase I of the Transfer and Possible Amendment of Dental Hygiene Regulations into Division 11 of Title 16, Articles 1-12 of the California Code of Regulations

Ms. Kantner informed the Committee members that these proposed regulations were the bulk of the regulations that exist in the DBC regulations.

At the December 10, 2011 meeting, Committee members approved staff’s recommendation to complete the regulatory process in a three phase plan. The phases are:

- Phase 1 - existing regulations from the Dental Practice Act (DPA) with none or minor revisions (non-substantive changes)(Sections 1067 – 1088). These regulations have been in place for a number of years in the DPA. Transfer from the DPA to the Dental Hygiene Committee with non-substantive changes.

- Phase 2 - regulations that have been revised with substantive changes.
- Phase 3 - new regulations – the Committee currently has no statutory authority to implement.

Ms. Kantner reported that in drafting the Initial Statement of Reasons for the regulations in Phase I, the Committee staff noticed that portions of the text used outdated language and other portions are simply unclear – which violates one of the six standards of regulations – clarity. Additionally, she reported that some sections of statute are duplicative and, as written, the draft regulations would not pass a review by OAL as they violate two of the six standards: clarity and duplication. She indicated that Committee staff is working on regulatory text revisions that will be reviewed by Ms. Yazigi prior to bringing it forward for the Committee’s consideration at the September 2013 meeting.

FULL 21 – Discuss and Possible Action on the Following Legislation:

a) Assembly Bill (AB) 50 (Pan) – Healthcare Coverage: Medi-Cal Eligibility

President Hurlbutt shared with members that normally a subcommittee would have met earlier and reviewed the legislative materials and brought its recommendations concerning what action to take to the full Committee. She indicated that since there was no subcommittee meetings conducted for recommendations, the full Committee would work together on this agenda item.

Ms. Kantner informed the Committee members that she had prepared an analysis for a number of bills she was tracking that pertain to the practice of dental hygiene, or potentially pertain to the practice of dental hygiene. She explained that this bill (AB 50) is being tracked due to its potential impact relating to the Federal Patient Protection and Affordable Care Act. She indicated that Committee staff will continue to monitor the bill and inform the Committee of any impacts on the practice of dental hygiene. She recommended a “watch” position; however, she reminded the Committee that they were not required to take a position. She explained that this bill would require the Department of Health Services to implement a process by a specific date to inform enrollees of their options. She added that at this time, the legislation does not impact the Committee or its licensees.

There was no further comment from the Committee on the issue.

b) AB 186 (Maienschein) – Professions and Vocations: Military Spouses Licenses

Ms. Kantner informed the Committee members that the bill (AB 186) as originally drafted did not impact the Committee. She stated that the bill allows boards to issue a temporary license to someone who is the spouse or domestic partner of a member of the armed forces that is currently assigned to duty in California. However, she explained that since the requirement was discretionary and the Committee does not have the authority to issue a temporary license, there was little concern for the Committee with this legislation. She noted that this concern changed with the amendments made to the bill on April 1, 2013 when any discretionary action was removed and all boards would be required to issue a temporary license.

Ms. Kantner noted that the bill's only requirement for issuing a temporary license is that the individual be licensed in at least one other state and that they submit fingerprints to the Committee, though the fingerprint results do not have to be received prior to licensure. She added that the temporary license would be valid for 12 months and it would not rollover into a permanent license.

Ms. Kantner indicated that the potential impact of this bill could be significant, since the Committee does not currently issue provisional or temporary licenses to applicants. She stated that to ensure public protection, the Committee issues licenses only to qualified applicants who have met all statutory and regulatory licensing requirements, including mandatory fingerprinting requirements for a background check for all applicants and licensees. She explained that the Committee would need to create a process for issuance of a temporary license, which would be burdensome utilizing the current computer system. She did not know whether such a process might interface with the BreEZe computer system already underway.

- **Evangeline Ward moved to oppose the bill unless amended.**

Noel Kelsch seconded the motion.

Vote: The motion passed (8 – 0).

c) AB 213 (Logue) – Healing Arts: Licensure Requirements: Military Experience

Ms. Kantner informed the Committee that existing law provides for licensure for all qualified professionals. She explained that this bill would require that if a board accredits or approves schools that offer educational programs for meeting the licensing requirements, the schools that seek to be approved by the Committee by July 1, 2015 would need to have procedures in place to evaluate the applicant's military education and training and practical experience toward the completion of an educational program that would qualify an individual to apply for licensure.

Ms. Kantner stated that this bill would impact dental hygiene educational programs applying for approval, as they would be required to submit proof of a process for evaluating an applicant's military education, training, and experience.

The Committee members decided to take no action on this bill.

d) AB 512 (Rendon) Healing Arts: Licensure Exemption

Ms. Kantner explained that this bill is the extension of the Sunset date for the sponsored health care events. She stated that existing law allows until January 1, 2014, for exemption of licensure requirements for health care professionals who hold a current, active license in another state who offers or provides services through a sponsored event, as defined by:

- (1) Services provided to uninsured or underinsured persons;
- (2) A short-term voluntary basis;

- (3) Association with a sponsoring entity that registers with the applicable healing arts board and provides specified information to the county health department of the county in which the health care services are provided; and
- (4) Charge no fee to the recipient or a 3rd party on behalf of the recipient.

She stated that this bill would extend those provisions until January 1, 2018.

Ms. Kantner reported that AB 512, as currently written, would have no impact on the Committee, as the process is in place through regulation to comply with existing law.

- **Nicolette Moultrie moved to support AB 512.**

Sherrie-Ann Gordon seconded the motion.

Vote: The motion passed (8 – 0).

e) AB 555 (Salas) – Amended to have no impact to the DHCC

Ms. Kantner reported that this bill was no longer of any interest to the Committee, as it had been revised and amended to an issue that did not pertain to the Committee.

f) AB 1174 (Bocanegra/Logue) – Dental Professionals: Teledentistry under Medi-Cal

President Hurlbutt informed the Committee members that this legislation would implement the findings of the Teledentistry Project.

She stated that the Teledentistry Project had identified two activities that would give Registered Dental Assistants in Extended Functions and Registered Dental Hygienists the following additional duties:

- After submitting evidence of education to the Committee of a Committee-approved course, they would be able to determine the appropriate radiograph to perform based on the symptoms that a patient presents; and,
- Place an interim therapeutic restoration upon the order of a licensed dentist.

Ms. Kantner said that one of the important components of this bill is that the Teledentistry aspect of the legislation is also considered a billable service under Medi-Cal. She also noted that regulations would be necessary to define an approved course of instruction.

After discussion, Committee members raised concerns as to whether the placement of interim therapeutic restorations is not already allowed by current law. Committee members also wanted clarification as to what is meant by an adhesive restorative material.

Ms. Galliano suggested that the Committee members take a support if amended position on this legislation, as such a position would allow the Committee to be called into a dialog with the author concerning any amendments.

- **Susan Good moved to support if amended (strike line 26 regarding the determination of the type of radiographs to perform) then continue to monitor.**

Evangeline Ward seconded the motion.

Vote: The motion passed (8 – 0).

g) Senate Bill (SB) 28 (Hernandez) – California Health Benefit Exchange

Ms. Kantner informed the Committee that this legislation requires the Department of Health Services, starting October 1, 2013, to designate an Exchange for the New Patient Protection Affordable Health Care Act. She explained that this bill is being tracked due to its potential impact relating to the Federal Patient Protection and Affordable Care Act (ACA).

Mr. Lewis stated that:

- Pediatric dental care is mandatory under the ACA and that it is offered as part of the essential benefits package that anyone purchasing through the Exchange process must have.
- There are many details being worked out at the Exchange level and through legislation. He reported that another bill: AB 18 (Pan) would deal with some of the specific issues about how dental plans and dental benefits are offered through the Exchange.
- Federal law only mandated children’s benefits be offered and was inconclusive as to whether parents have to purchase it for their children. This point is being clarified through legislation.
- The Exchange is also planning to offer adult benefits through the Exchange mechanism but those benefits will be an add-on negotiated in a similar way with dental plans – but no one would be required to purchase it.
- The other issue of the ACA that impacts the dental profession is the expansion of Medicaid benefits to childless adults.

The Committee took no action on the bill and directed Committee staff to continue to monitor it.

h) SB 176 (Galgani) – Administrative Procedures: California Regulatory Notice Register

Ms. Kantner explained that there are certain requirements for regulations known as Administrative Procedures. She stated that this bill would add more requirements to the regulatory process.

Ms. Kantner indicated that the bill would require the Committee to submit for publication in the California Regulatory Notice Register notification 15 days prior to any meeting date or report that seeks input from the public. She explained that

it would include any Committee workshops, informational hearings, scoping hearings, preliminary meetings, public and stakeholder outreach meetings, 15-day comment period notices, and posting of Internet Web site links to informational and state reports prepared for public review and comment.

Ms. Kantner stated that the bill would create an additional administrative workload for Committee staff and increase the already lengthy timeframe involved in promulgating regulations. She indicated that all the Committee meetings would need to be noticed in the California Regulatory Notice Register since there is normally the opportunity for public discussion and input regarding current regulatory actions and any proposed future regulations at each meeting. She continued that it is unclear as to what format these notifications would require. She added that if the meeting agenda must be part of the notice, it will require additional time for review and finalization of all meeting agendas so that they will meet the deadline to be posted in the Public Register.

Ms. Hubble indicated that the legislation was in conflict with the Bagley-Keene Open Meetings Act requirement of a 10-day notice period prior to a meeting. Ms. Yazigi added that if the notice that appears in the Public Register is the meeting notice itself, then the current 10-day requirement is superseded by a 15-day notice. Such a requirement ties the Committee's hands with the agility with which it can cancel a meeting and re-notice or amend a meeting agenda. Additionally, publishing in the Register is very cumbersome in that it is only published on Fridays. Ms. Kantner added that if the Committee misses a publishing deadline, the next available deadline is a week later which could cause scheduling problems for meetings.

- **Susan Good moved to support the bill if amended to include an exemption for any agency, board, or commission operating under the requirements of the Bagley-Keene Open Meetings Act.**

Noel Kelsch seconded the motion.

Vote: The motion passed (8 – 0).

i) SB 456 (Padilla) – Healthcare Coverage

Ms. Kantner stated that this is a “spot bill” (legislation that is created as a placeholder to introduce new or additional language) intended to revisit last year’s proposed SB 694 that would have created a statewide Office of Oral Health within the Department of Public Health. She indicated that the Committee is still waiting for revisions to the legislation from the author.

Mr. Lewis commented that Senator Padilla decided not to move forward with the legislation because of a lack of funding sources.

j) SB 821 (Senate Committee on Business, Professions and Economic Development) – Omnibus Bill

Ms. Kantner explained that this bill is the DCA’s Omnibus bill, which contains various non-substantive and technical changes to statutory law governing boards,

bureaus, and committees under the DCA. The Committee proposed technical corrections for inclusion in the bill

- **Nicolette Moultrie moved to support SB 821.**

Noel Kelsch seconded the motion.

Vote: The motion passed (8 – 0).

FULL 22 – CLOSED SESSION

There was no closed session for this meeting.

FULL 23 – Future Agenda Items

Ms. Hubble stated that the following would be listed for future agenda items:

- Renewal fees for all licensees
- Sunset Review report
- Extramural facility fee
- AB 562 – Portable Dental Units
- AB 836 – Dentists (retired) – Continuing Education Requirements

President Hurlbutt asked for any comments from the Committee members or the public. There was no comment.

FULL 24 – Next Scheduled Committee Meeting

Ms. Hubble informed those present that the remaining meetings for 2013 are:

- 1) September 6-7, 2013 in the San Francisco Bay area;
- 2) December 6-7, 2013 in Sacramento at the Committee's headquarters building.

President Hurlbutt asked for any comments from the Committee members or the public. There was no comment.

FULL 25 – Adjournment

President Hurlbutt asked for any comments prior to adjournment from the Committee members or the public. There was no comment.

The Full Committee meeting adjourned at 6:33 p.m.

**Agenda items taken out of order to accommodate speakers or time constraints*

