



Education Subcommittee Meeting Minutes *November 17, 2017*

Department of Consumer Affairs
Dental Hygiene Committee of California
2005 Evergreen Street, Hearing Room
Sacramento, CA 95815

Education Subcommittee Members Present:

Michelle Hurlbutt, Chairperson, Registered Dental Hygienist (RDH) Educator
Susan Good, Public Member
Sandra Klein, Public Member
Timothy Martinez, Doctor of Dental Medicine (DMD), Public Health Dentist

DHCC Staff Present:

Anthony Lum, Interim Executive Officer (IEO)
Brittany Alicia, Office Assistant
Traci Napper, Licensing Program Analyst
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Educational Specialist
Jason Hurtado, Department of Consumer Affairs (DCA) Legal Counsel for the DHCC

Public Present:

Dr. Vicki Kimbrough, Program Director, Taft College
Students, Taft College Dental Hygiene Program (TCDH)

Roll Call and Establishment of a Quorum

Dr. Michelle Hurlbutt, Chairperson of the Education Subcommittee, called the meeting to order at 12:38 p.m. Roll call taken and quorum established with four members present.

Public Comments for Items Not on the Agenda

Michelle, student from TCDH, read a prepared statement from the students of TCDH to address the pending closure of the TCDH dental hygiene program.

No further comments received.

Chairperson's Report

Chair Hurlbutt reported she was consulted by the Interim Executive Officer as needed to answer any general questions.

Approval of the June 10, 2017, Education Subcommittee Minutes

Motion: Susan Good moved to approve the June 10, 2017, Education Subcommittee Meeting Minutes.

Second: Dr. Timothy Martinez.

Chair Hurlbutt requested comments.

No comments received.

Vote: The motion to approve the June 10, 2017, Education Subcommittee Meeting Minutes.

Vote: Pass (3:1).

Name	Aye	Nay	Abstain
Michelle Hurlbutt	X		
Susan Good	X		
Sandra Klein			X
Timothy Martinez	X		

Discussion, Possible Action, and Recommendation to the Full Committee to Amend CCR, Title 16, Division 11§ 1105.4 Appeals Process

Anthony Lum presented to the DHCC the background for Business and Professions Code § 1905 (a)(2) which gives the DHCC the authority to withdraw or revoke approval of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions educational program in accordance with California Code of Regulations (CCR) § 1105.4. In addition, the appeals process was reviewed.

Mr. Lum reported after experiencing the appeals process for two programs, the allocated time to review the materials submitted by the program, write a detailed report, and notify an educational program of the decision of the Executive Officer (EO) is not sufficient.

Mr. Lum presented proposed language to extend the time allowed to notify the educational program of the final decision of the EO. Mr. Lum recommended that the existing time frame of ten days be amended to 30 business days.

Motion: Susan Good moved for the Education Subcommittee to recommend to the Full Committee to approve the proposed language for CCR Section 1105.4 (c)(1) and authorize the Interim Executive Officer to make any technical and non-substantive changes to the language and move forward with the rulemaking file.

Second: Sandy Klein

No comments received.

Name	Aye	Nay	Abstain
Michelle Hurlbutt	X		
Susan Good	X		
Sandra Klein	X		
Timothy Martinez	X		

Vote: Motion for the Education Subcommittee to recommend to the Full Committee to approve the proposed language for Section 1105.4 (c)(1) and authorize the Interim Executive Officer to make any technical and non-substantive changes to the language and move forward with the rulemaking file.

Vote: Pass (4:0).

Update and Discussion on Dental Hygiene Educational Program Review

Adina Pineschi-Petty, D.D.S., reported that the DHCC requested DHCC Biosketches from all dental hygiene programs in California to review faculty teaching credentials. All California dental hygiene programs complied, DHCC Biosketches were reviewed, and all compliance issues were remedied.

Comment: Michelle Hurlbutt stated that DHCC's current regulations regarding hiring new faculty does not require a Biosketch be submitted to the DHCC. Dr. Hurlbutt recommended the DHCC revise regulations to make it a requirement for newly hired faculty to submit a Biosketch to the DHCC.

Dr. Pineschi-Petty reported staff conducted two Site Visits to ensure program compliance.

1. Carrington College – San Jose:
 - a. Deficiencies were identified and staff is working with the school to bring the program into compliance by January 2, 2018.

Chair Hurlbutt questioned if the site visit was required due to a complaint filed or part of DHCC oversight.

Dr. Pineschi-Petty reported that the site visit was part of DHCC oversight.

2. Taft College:

- a. Site visit was generated to confirm program compliance as part of the informal hearing process with the EO.
- b. Previously identified deficiencies remained. DHCC confirmed the “withdrawal” of TCDH.

Chair Hurlbutt questioned as to the next step in the process after the withdrawal of a program.

Mr. Lum stated Taft had requested a hearing with the Administration Law Judge (ALJ) stated the date of a hearing depends of the schedule of the Office of Administrative Hearings (OAH).

Dr. Pineschi-Petty reported deficiencies identified during the review process of program Self Studies required to be submitted to the Commission on Dental Accreditation (CODA) during the accreditation process. The DHCC plans to conduct Site Visits to all California dental hygiene programs to verify that all programs are compliant with California laws and regulations.

Chair Hurlbutt stated that the DHCC’s current law requires a dental hygiene program going through reaccreditation to submit all their documents to the DHCC as well as to the Commission of Dental Accreditation, and questioned Dr. Pineschi-Petty as to the process if staff have questions after reviewing the documents submitted.

Dr. Pineschi-Petty replied the DHCC would contact the program via letter or phone. If the question(s) cannot be answered in this manner, the DHCC would request a site visit. The dental hygiene educational programs that received a request for a site visit have cooperated.

Dr. Pineschi-Petty provided an update on Concorde Career College (CCC-GG). The DHCC requires CCC-GG to submit a quarterly report to maintain the “Stay of Withdrawal”. An unannounced site visit will be conducted to confirm compliance with California laws and regulations. CCC-GG provided notification to the DHCC of issues concerning completion of their wet laboratory.

Chair Hurlbutt requested questions or comments.

Public Comment: Vicki Kimbrough, Program Director of Taft College was informed at the October 13, 2017 site visit to revise the grading policy and create a weighted grading

system. All the corrections were completed in a timely manner. She stated the DHCC did not consider the items completed when the final decision was made. She stated that Dr. Pineschi-Petty reviewed draft versions of Taft's response. Ms. Kimbrough stated the program has met all requirements and incorporated all suggestions and recommendations. All aspects of the infection control issues are corrected and new policies established. Ms. Kimbrough stated that Taft will be in compliance by the next site visit.

Chair Hurlbutt questioned Dr. Pineschi-Petty for confirmation of Dr. Kimbrough's statement.

Dr. Pineschi-Petty confirmed that Dr. Kimbrough and Taft were cooperative and incorporated all DHCC recommendations. As of the October 13, 2017 Site Visit deficiencies remained. Dr. Pineschi-Petty stated the report was required to be based on findings at the time of the Site Visit. Once information was conveyed to Dr. Kimbrough, she immediately began working towards compliance.

Chair Hurlbutt questioned DCA legal counsel as the law is written, could the DHCC intervene prior to the ALJ hearing.

Jason Hurtado, DHCC legal Counsel, questioned Dr. Pineschi-Petty if Taft is in full compliance with the regulations.

Public Comment: JoAnn Galliano, DHCC Education Consultant, stated DHCC staff would be required to conduct a Site Visit to confirm compliance. As the law states, based on the findings from the last site visit, staff could not recommend to reverse the withdrawal of approval of the program to the IEO. As the decision was to withdraw the approval of TCDH, Ms. Galliano questioned if the DHCC is required to proceed with the appeals process with the ALJ.

Mr. Hurtado responded it is dependent on the scheduled hearing date. If the scheduled hearing date timing is excessive, Mr. Hurtado did not foresee a problem with issuing a "Stay Order" by the IEO or the Full Committee. The "Stay Order" would be pending an additional site visit to verify Taft is in compliance with standards outlined by the DHCC. The "Withdrawal" would be rescinded and a new order can be issued by the full Committee.

Ms. Galliano stated her concern is for students that graduate in May 2018. She stated as the hearing process cannot be expedited, or the withdrawal of the approval reversed, the students will graduate from a dental hygiene program that is not approved by the DHCC and therefore not eligible to obtain a license in California.

Ms. Galliano questioned if the DHCC could "Stay" the IEO's decision.

Mr. Hurtado stated the DHCC does not have that authority. The DHCC should seek a regulatory change to extend any decisions to 30 business days to afford the Committee time to review and verify that program(s) are in compliance. He stated that the DHCC's current regulation is inverted and he is of the opinion that the full Committee should make the decision.

Chair Hurlbutt questioned if students will be graduating from an unapproved school if it is near graduation time and the decision is not finalized.

Mr. Hurtado stated based on the letter sent from the IEO October 27, 2017 the program is withdrawn, and the DHCC should submit a regulatory change to revise the appeals process.

Chair Hurlbutt questioned if an emergency regulation change could be requested.

Mr. Lum stated that he is of the opinion the request does not meet the emergency regulatory process guidelines.

Public Comment: Dr. Kimbrough stated that at the June 10, 2017 Committee meeting, the approval for CCC-GG was "Withdrawn" and "Stayed" for 12 months.

Susan Good questioned if the DHCC could issue a "Stay" pending the investigation.

Mr. Hurtado stated that Mr. Lum can reissue a decision including a "Stay" pending the outcome of the Administrative Hearing.

Chair Hurlbutt questioned if the DHCC could rescind the decision of the IEO as DHCC staff stated that Taft should be in compliance.

Chair Hurlbutt questioned Dr. Pineschi-Petty if Taft provided evidence of compliance to outstanding deficiencies.

Dr. Pineschi-Petty stated evidence provided by Taft was reviewed and is in compliance.

Chair Hurlbutt questioned if an additional Site Visit was warranted.

Ms. Galliano stated a Site Visit is necessary to review how the program is tracking patient completion. Previous issues included lack of faculty grading calibration A random audit of patient charts is needed to ensure the program is in compliance.

Chair Hurlbutt questioned if the DHCC could "Stay" the decision pending the investigation from DHCC staff.

Susan Good stated the motion made at the June 10, 2017 meeting set the date of the "Withdrawal of Approval of a Registered Dental Hygiene Education Program" at Taft for 30

days from date the DHCC served Taft with written notification. The motion passed unanimously.

Mr. Lum stated that there were open lines of communication with Dr. Daniels and Dr. Kimbrough during the process to ensure compliance, and would reverse his decision if it can be done legally.

Mr. Hurtado questioned if patient tracking was the only outstanding deficiency.

Chair Hurlbutt stated there were a total of 5 deficiencies. Staff received evidence of compliance for 4 deficiencies. The Site Visit would provide the opportunity to randomly audit patient chart files to ensure compliance.

Mr. Hurtado stated that he will collaborate with Mr. Lum to draft language to address rescinding the Interim Executive Officers decision for review by the full Committee.

Sandy Klein questioned what types of procedures the DHCC could enact to avoid a recurrence.

Dr. Pineschi-Petty stated this issue arose due to a lack of oversight by the previous program director.

Ms. Klein questioned the tenure of the previous program director.

Dr. Pineschi-Petty stated the program director was with Taft for 17 years.

Ms. Galliano stated the authority to approve programs by the DHCC was effective in 2016. Prior to that, the DHCC relied on CODA approval. During review of CODA Self Studies submitted by the dental hygiene programs, staff found that CODA allowed programs placed on probation to draft a response stating compliance. CODA did not return to the probationary school to verify compliance.

Chair Hurlbutt stated the DHCC does not have regulatory language to issue cite and fine or probation for educational programs lacking compliance with the law. The DHCC has received an increase in filed complaints from students and faculty.

Vicki Kimbrough responded and agreed with Ms. Galliano that the program directors relied on CODA's recommendation. Now that the DHCC has the authority to review and approve the dental hygiene programs and the scope of their duties the programs are taking notice.

Recess

*The Education Subcommittee meeting recessed at 1:15 p.m.
then reconvened at 2:15 p.m.*

Readdress: Discussion, Possible Action, and Recommendation to the Full Committee to Amend CCR, Title 16, Division 11§ 1105.4 Appeals Process

Chair Hurlbutt questioned the Subcommittee members if there was any objection to revisit Agenda Item 5: Language Adopted to Revise the Time from Ten Days to Thirty Business Days. Request proposed to add additional language to aid future DHCC proceedings.

Susan Good stated procedurally a motion to revise the vote for Agenda Item 5 should be put forth.

Motion: Chair Hurlbutt moved to readdress the vote of Agenda Item 5: Modifying CCR Title 16, Division 11 § 1105.4.

Second: Sandy Klein

Discussion:

Chair Hurlbutt stated the request for reconsideration was to add additional language to the regulation to provide the DHCC latitude regarding returning to the full committee after an informal conference.

Chair Hurlbutt for discussion or comments.

No comments received.

Motion: to reconsider the vote made concerning Agenda Item 5: Modifying Title 16, Division 11 § 1105.4.

Vote: Pass (4:0).

Name	Aye	Nay	Abstain
Michelle Hurlbutt	X		
Susan Good	X		
Sandra Klein	X		
Timothy Martinez	X		

Discussion to modify the language:

Chair Hurlbutt questioned legal counsel as to the most prudent way to not take action on this item and direct staff to add additional language. Mr. Hurtado stated staff can revise the

language and set a teleconference to adopt the revised language to begin the rule making process.

Chair Hurlbutt motioned to add clarifying language which would allow a “Stay” of the Executive Officer’s decision pending final adjudication. Susan Good requested clarification as to if the school would remain approved until final decision is made.

Chair Hurlbutt stated the school would remain approved until the final decision is made, thereby allowing the students to graduate from an approved program.

Ms. Klein questioned if the “Stay” allowed the schools to accept new students.

Chair Hurlbutt stated the school would be able to accept new students. The DHCC does not have authority over that process and would be based on the recommendation of CODA. The DHCC would be required to add new language to have authority over that process.

Motion: Chair Hurlbutt moved to recommend to the full Committee to direct staff to add clarifying language which would allow a “Stay” of the Executive Officer’s decision pending final adjudication.

Second: Timothy Martinez

Chair Hurlbutt requested comments or discussion.

No comments received.

Vote: The motion to recommend to the full Committee to direct staff to add clarifying language which would allow a “Stay” of the Executive Officers decision pending final adjudication.

Vote: Pass (4:0).

Name	Aye	Nay	Abstain
Michelle Hurlbutt	X		
Susan Good	X		
Sandra Klein	X		
Timothy Martinez	X		

The Subcommittee returned to Agenda Item 6:

Chair Hurlbutt stated concerns regarding the CCC-GG Quarterly Report. She questioned Dr. Pineschi-Petty about the water testing deficiency and as to what steps will the staff be taking to verify the water testing status.

Dr. Pineschi-Petty stated that the DHCC staff have an unannounced site visit scheduled.

Chair Hurlbutt questioned the procedure if there is a finding.

Dr. Pineschi-Petty stated a previous program had similar issues. The DHCC required the program to remediate all deficiencies discovered and clinical treatment was cancelled until deficiencies were corrected.

Chair Hurlbutt stated the DHCC voted that CCC-GG must be in full compliance with all California laws and regulations. If the DHCC determines CCC-GG is not in full compliance, the program is immediately “Withdrawn”.

Mr. Lum stated the DHCC voted for the “Stay” with the condition that if the program was not in compliance, the DHCC would automatically “withdraw” the program effective immediately.

Update and Discussion on Dental Hygiene Remedial Education Course

Dr. Pineschi-Petty that the DHCC was notified three students had failed a clinical examination (WREB or CRDTS) at least three times. DHCC law requires that a candidate that fails any clinical exam three times is required to take a remediation course. At that time, the DHCC did not have any approved remediation course providers. Currently, Southwestern College is the only approved provider of remedial education and Cabrillo College has now applied.

Chair Hurlbutt thanked Anthony Lum for notifying all the program directors of this issue. She envisions all dental hygiene programs to become remediation providers to assist in the success of their students.

Chair Hurlbutt requested comments.

Public Comment: Vicki Kimbrough stated that she had a conversation with Dr. Pineschi-Petty and was informed that most programs will remediate their own students.

Chair Hurlbutt stated the way the law is written, a formal remediation is required. If there’s a critical error, or if an applicant failed the examination three times, the applicant must complete a remediation course.

Dr. Pineschi-Petty reported seven newly appointed dental hygiene program directors throughout California. Staff reviewed DHCC Biosketches of the program directors and

discovered sufficient time was lacking for directors to devote to program administration. Staff requested clarification of the regulations regarding the allocated time for program administration.

Chair Hurlbutt clarified the question of majority and stated that the regulation regarding administrative time is vague. Chair Hurlbutt questioned if staff was requesting the DHCC to define the language under the CCR § 1105.1(a).

Dr. Pineschi-Petty stated that staff is requesting clarification of the language.

Public Comment: Dr. Kimbrough stated administration time is dependent on hiring practices. Colleges generally do not use the term Program Director, the position is usually called a full-time faculty member with release time. Release time becomes a bargaining unit issue, and there are very few Program Directors that are hired as full time administration.

Chair Hurlbutt recommended a survey be sent to the California dental hygiene program directors to determine how much time they recommend for administrative functions and to meet CODA Standards. Chair Hurlbutt stated data is needed to support any recommendation made to the Committee.

Public Comment: Jana Pierce, Shasta College, stated that the DHCC may be able to find the data nationally by obtaining the information from CODA's recently released survey.

Chair Hurlbutt stated the DHCC should gather and review data from the California programs and compare it with the national data surveys prior to the Subcommittee making a recommendation to the full Committee.

Dr. Pineschi-Petty stated as the DHCC is the regulatory body and determines the requirements for program directors, the colleges are required to follow the regulations. It is difficult for program directors to acquire adequate release time needed due to the administrative process.

Chair Hurlbutt stated that if the DHCC created a survey that asks pertinent questions about the administrative process, the DHCC would be provided with more facts to justify the need for a regulatory change.

Chair Hurlbutt questioned the subcommittee if they were opposed to recommending that staff survey the program directors.

Susan Good stated the survey would not be out of order. However, the data is only as good as the people that respond to the questions.

Sandra Klein responded that there should a specific time allocated for administrative functions and stated that CODA Standards are very subjective.

Chair Hurlbutt recommended staff to review the data collected by CODA and if additional information is needed to revise the regulatory language, staff can reach out to the California program directors. Chair Hurlbutt requested this issue be added as a future agenda item, and would like staff to bring forth to the subcommittee new language including the sections of law and regulations that will be modified.

Susan Good stated that out of the 27 dental hygiene programs, there were 7 new program directors hired. Ms. Good questioned staff if this was common.

Dr. Pineschi-Petty stated this was unusual. Program directors are generally stable positions. Some program directors have retired and was the main reason for the changes.

Susan Good stated due to the retirement and the hiring of new program directors, clarifying the regulatory language is more significant.

Future Agenda Items

1. New language for the administrative time for program directors.
2. New language for modifying California Code of Regulations §1105.4.

Chair Hurlbutt adjourned the Education Subcommittee meeting at 2:49 p.m.