



Enforcement Subcommittee Meeting Minutes

Friday, April 20, 2018

Location:

Doubletree by Hilton Hotel – San Diego Mission Valley
7450 Hazard Center Drive
San Diego, CA 92108

DHCC Members Present:

Michelle Hurlbutt, Chairperson, Registered Dental Hygienist (RDH) Educator
Timothy Martinez, Doctor of Dental Medicine (DMD)
Edcelyn Pujol, Public Member
Garry Shay, Public Member

DHCC Staff Present:

Anthony Lum, Executive Officer
Brittany Alicia, Receptionist
Nancy Gaytan, Enforcement 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:

JoAnn Galliano, MEd, RDH, DHCC Educational Consultant and Subject Matter Expert (SME), Legislative Consultant
Beth Wilson, California Dental Hygienist's Association (CDHA)
Maureen Titus, CDHA
Heidi Coggan, CDHA
Karen Fischer, Executive Officer, Dental Board of California (DBC)
Thomas Stewart, DDS, President, DBC
Debra Daniels, President, Taft College
Vickie Kimbrough, Taft College, Purple Pen
Leslie Nazaroff, San Joaquin Valley College (SJVC) – Ontario
Brenda Serpa, SJVC – Visalia
Morgan Stacey, Duane Marris, LLP
Kelly Reich, Western Regional Examination Board (WREB)
Sabrina Santucho, Concorde Career College (CCC) – San Bernardino
Jana Pierce, Shasta College
Linda Brookman, University of Southern California (USC)
Meg Robison, Southwestern College (SWC), Dental Hygiene Student
Jen Stoehr, SWC Dental Hygiene Student
Amanda Friednchs, SWC Dental Hygiene Student
Kassandra Brown, SWC Dental Hygiene Student
Kerrin Bradford, SWC Dental Hygiene Student
Amelia Mosser, SWC Dental Hygiene Student
Lisa Kamibayashi, West Los Angeles College (WLAC)
Arezou Goshtasbi, Concorde Career College (CCC) – Garden Grove

Laurel Sampson, CCC – San Diego
Veronica Patino, SWC
Victoria Mayfield, SWC
Summery Cheam, SWC
Jeressa Balagot, SWC
Farah Al-jay, SWC
Jean Honny, SWC

1. Roll Call and Establishment of a Quorum

Dr. Michelle Hurlbutt, Chairperson of the Enforcement Subcommittee, called the meeting to order at **2:01 p.m.** Roll call was taken, and a quorum was established with all four members present.

2. Public Comments for Items Not on the Agenda

There were no comments from the public.

3. Chairperson's Report

Chair Hurlbutt stated that there was no Chairperson's report for this meeting.

4. Approval of the November 17, 2017 Enforcement Subcommittee Meeting Minutes

Chair Hurlbutt stated that only two of three DHCC Enforcement Subcommittee Members were present at the November 17, 2017 meeting; therefore, the minutes could only be accepted rather than adopted.

Chair Hurlbutt requested comments from the public or the Subcommittee. There were no comments.

The November 17, 2017 Enforcement Subcommittee Meeting Minutes were accepted.

5. Enforcement Statistics and Performance Measures

Nancy Gaytan, Enforcement Analyst, presented enforcement statistics for fiscal year 2017/18. During this period, there were 22 complaints and 113 convictions and/or arrests; 12 citations were issued; five cases were referred to the California State Attorney General's Office; six accusations were filed; four petitions for early termination of probation were received; 13 decisions and orders were adopted by DHCC Enforcement Subcommittee; and the current number of active probationers is 42, while an additional five are tolling probationers.

Chair Hurlbutt requested Ms. Gaytan to define tolling provisions.

Ms. Gaytan explained that tolling provisions are used if a probationer should leave California to reside or practice outside the State. While residing or practicing outside of the State, the probation is tolled until the probationer returns to California.

Ms. Gaytan presented performance measures for October 2017 to December 2017. Enforcement actions during this period were completed with greater time efficiency than the time allowed in the performance measure stated goals.

Ms. Gaytan presented aging statistics of complaint cases. Currently, there are 30 open complaints. Of the open complaints 56% are less than one year old and 44% are more than one year old. Enforcement closed 16 cases between July 1, 2017 and March 31, 2018. Ms. Gaytan stated that it took an average of 432 days to close a complaint case in comparison to the previous fiscal year, where it took an average of 575 days to close a complaint case. Ms. Gaytan concluded that Enforcement's goal is to close all cases that are two years old or older by the end of 2018.

Chair Hurlbutt requested comments from the Subcommittee members or public.

No comments received.

6. Discussion and Possible Action, and Recommendation to the Full Committee on the Diversion Program: Parameters for New Contract

Anthony Lum, Executive Officer (EO), stated that since inception, the Dental Hygiene Committee of California (DHCC) has had the authority to implement a diversion program that rolled over from Dental Board of California (DBC) statutes. The diversion program allows licensed individuals who have an alcohol or substance abuse issue to voluntarily enroll or have the DHCC assign them to the program. The DHCC contracted with a third-party vendor for a diversion program in 2014, and the contract will expire in 2019. When the contract was made, it was structured to parallel the DBC diversion program. Subsequently, EO Lum discovered that the diversion program was very costly to the DHCC. It was indicated by the third-party vendor that the participant only pays a \$100.00 copay and the DHCC subsidizes the remainder of the cost.

EO Lum requested the Enforcement Subcommittee to discuss and determine the parameters of a new contract, including the removal of any DHCC subsidies for the participants and any costs absorbed by the DHCC related to the diversion program. EO Lum added that the diversion program is important to continue, as the rising opioid crisis, as well as the legalization of marijuana, is of concern.

Chair Hurlbutt added that the existing contract for the diversion program is a 60/40, where the DHCC subsidizes 60% of costs and the Participant pays 40%.

EO Lum stated that the cost per month for one participant is \$365.00.

Chair Hurlbutt stated there were two past participants in the diversion program, which ultimately cost the DHCC thousands of dollars per year.

Mr. Shay stated that shifting the cost may make the licensee less likely to participate in the diversion program.

Chair Hurlbutt stated the Diversion Program poses an ethical dilemma. As a regulatory agency, knowing that someone is addicted and is continuing to practice while under the Diversion Program can

be problematic. She stated the DHCC had planned to do away with the Diversion Program with the Sunset Review; however, legislators were concerned the rising opioid crisis and legalization of marijuana leaves an unknown factor. As a result, the DHCC made the decision to keep the Diversion Program to observe how the new laws affect the dental hygiene profession.

Mr. Shay stated that he would like to see a delineation in the cost between a person who volunteers to participate and a person who is assigned to a Diversion Program by the DHCC.

EO Lum recognizes Mr. Shay's concern; however, there are other potential avenues that are less expensive for individuals with alcohol and substance abuse issues.

Chair Hurlbutt stated that there is somewhat of a protection when a participant is in a Diversion Program. If an individual is complying with the Diversion Program, the investigation for that individual is halted.

EO Lum reports that it is unclear if the investigation is halted while a participant is in the Diversion Program. He stated that he would continue to research the statement in question and report back to the DHCC.

Chair Hurlbutt requested to table this topic, as more information is needed to have an educated discussion regarding the cost of the Diversion Program. She asks for the opinion of the DHCC Enforcement Subcommittee.

Mr. Shay states that he would like to have more information such as how the other boards have their Diversion Programs set up, how much the boards contribute cost wise, if there is a cost difference between participants who volunteer and those who are assigned, and the success rate of Diversion Programs.

Motion: Garry Shay moved to recommend DHCC Staff investigate Diversion Programs and provide the DHCC Members with more information such as, success rates, costs, how other Boards conduct their programs, the distinction between a participant who volunteers and one who is assigned, if there is a cost associated with the contract, and anything else the DHCC Staff feels is necessary to report.

Second: Timothy Martinez

Chair Hurlbutt requested comments from the public or the Subcommittee.

Maureen Titus, CDHA, stated that she personally feels that the DHCC should not subsidize a participant's costs in a Diversion Program, but that the participant should pay all costs. She stated that costs are part of the recovery process and the participant would be able to see the consequences of their actions if they had to pay. The participant should shoulder the responsibilities of all costs.

Linda Brookman, USC, recommended the DHCC engage a subject matter expert in Diversion Programs.

Vote: Motion to recommend DHCC staff investigate Diversion Programs and provide the DHCC Members with more information such as: success rates, costs, how other

Boards conduct their programs, the distinction between a Participant who volunteers and one who is assigned, if there is a cost associated with creating a contract, and anything else the DHCC Staff feels is necessary to report. Passed 4:0.

Name	Aye	Nay	Abstain
Michelle Hurlbutt	X		
Timothy Martinez	X		
Edcelyn Pujol	X		
Garry Shay	X		

7. Discussion and Possible Action, and Recommendation to the Full Committee on Amendments to the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

EO Lum stated that there were no updates to the Uniform Standards in relation to substance abuse and disciplinary guidelines. On Monday, April 23, 2018, a meeting was held by the Department of Consumer Affairs (DCA) to review testing protocols, standard number four, regarding the frequency of testing.

Chair Hurlbutt stated that “Disciplinary Guidelines” was the first regulatory package that the DHCC passed. She suggested that it be revisited, as it was created 8 years ago. She requested the DHCC include a section in the Disciplinary Guidelines that would allow the DHCC to have probationers complete remedial education, as there is a provision for continuing education, but not remedial education. She stated that she is not ready to make a recommendation to the Subcommittee today; however, she wanted to resurface the disciplinary guidelines for discussion.

Motion: Garry Shay moved to postpone discussion of amendments to the Uniform Standards related to Substance Abuse and Disciplinary Guidelines until the next meeting.

Second: Timothy Martinez

Chair Hurlbutt requested comments from the public or the Subcommittee.

Jean Honny, SWC, requested clarification as to what the remedial education would include.

Chair Hurlbutt stated that while making discipline decisions, the DHCC would like to have the ability to make a probationer retake a specific course as part of their probationary terms.

Ms. Honny questioned if it would be subject to the same guidelines as the remedial education programs that are already in place.

Chair Hurlbutt confirmed that it would be subject to the same guidelines as the remedial education programs that are already in place.

Vote: The motion to postpone discussion of amendments to the Uniform Standards related to Substance Abuse and Disciplinary Guidelines until the next meeting. Passed 4:0.

Name	Aye	Nay	Abstain
Michelle Hurlbutt	X		
Timothy Martinez	X		
Edcelyn Pujol	X		
Garry Shay	X		

8. Future Agenda Items

No items proposed.

9. Adjournment

Chair Hurlbutt adjourned the Dental Hygiene Enforcement Subcommittee meeting at **2:40 p.m.**