



## Legislative & Regulatory Subcommittee 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:

Garry Shay, Chairperson, Public Member  
Noel Kelsch, Registered Dental Hygienist in Alternative Practice (RDHAP)  
Sandra Klein, Public Member  
Timothy Martinez, Public Health Dentist

#### 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:

Beth Wilson, California Dental Hygienist's Association (CDHA)  
Maureen Titus, CDHA, RDHAP  
Heidi Coggan, CDHA  
Karen Fischer, Executive Officer, Dental Board of California (DBC)  
Thomas Stewart, DDS, President, DBC  
JoAnn Galliano, MEd, RDH, DHCC Educational Consultant and Subject Matter Expert (SME)  
Debra Daniels, 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  
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, RDH  
Donna Smith, University of Southern California (USC)  
Linda Brookman, USC

## 1. Roll Call and Establishment of a Quorum

Garry Shay, Chairperson of the Legislative and Regulatory Subcommittee, called the meeting to order at **3:22 p.m.** Roll call was taken, and a quorum established with all four members present.

## 2. Public Comments for Items Not on the Agenda

Chair Shay requested comments from the public or the Subcommittee.

Maureen Titus, CDHA, requested mobile dental unit regulations to be placed on the agenda.

Noel Kelsch added infection control should be discussed regarding mobile dental units.

Timothy Martinez requested discussion on portable dental units placed on the agenda.

No further comments received.

## 3. Chairperson's Report

Chair Shay stated that he is looking forward to the experience as chair of this Subcommittee.

## 4. Approval of the November 17, 2017 Legislative and Regulatory Subcommittee Minutes

Chair Shay stated that not enough Dental Hygiene Committee of California (DHCC) Legislative and Regulatory Subcommittee Members were present at the November 17, 2017 meeting; therefore, the minutes could only be accepted rather than adopted.

Chair Shay requested comments from the public or the Subcommittee.

No comments received.

## 5. Status Report on Legislative Bills of Interest to the DHCC

Anthony Lum, Executive Officer of the DHCC, presented the staff's recommended positions on current bills before the California Legislature. The Subcommittee considered each bill and decided to vote to adopt the suggested positions for the bills they had agreed on, and then further discuss the remaining bills one by one.

***Motion: Noel Kelsch moved to adopt staff's recommendation on Assembly Bill 767, 1659, 2264, 2643; and Senate Bills 1137, 1465, and 1482 as follows:***

Bill	Position
AB 767, Master Business License	Watch
AB 1659, Healing Arts Boards: Inactive Licenses	Send Letter of Concern
AB 2138, Licensing Boards: denial of application: revocation or suspension of licensure: criminal conviction	Oppose
AB 2264, Professions and Vocations Fees	Oppose
AB 2483, Department of Consumer Affairs: Office of Supervision of Occupational Boards	Watch
AB 2643, Dentistry: General Anesthesia: Health Care Coverage	Support
SB 707, Medi-Cal: Denti-Cal Advisory Group	Support, if amended to include DBC and DHCC member
SB 1137, Veterans: Professional Licensing Benefits	Watch
SB 1148, Medi-Cal: Restorative dental services	Oppose
SB 1465, Professions and Vocations: Examinations	Watch
SB 1482, Dental Hygienists (DHCC Sunset Review Bill)	Support

Second: Sandra Klein

Chair Shay requested comments from the public or the Subcommittee.

There were no comments.

***Vote: The motion to adopt staff's recommendation on Assembly Bill 767, 1659, 2264, 2643; and Senate Bills 1137, 1465, and 1482. Passed 4:0.***

<b>Name</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>
<b>Susan Good</b>	X		
<b>Michelle Hurlbutt</b>	X		
<b>Nicolette Moultrie</b>	X		
<b>Garry Shay</b>	X		

**AB 2078, Sex Offenses: Professional Services:**

This bill would expand the crime of sexual battery to apply to a person who performs professional services which entail having access to another person's body, who touches an intimate part of that person's body while performing those services, and the touching was against the person's will for the purpose of sexual arousal, sexual gratification, or sexual abuse. This bill was ajenized because RDHs work in close proximity with patients and make intentional and non-intentional contact with them. Staff's recommendation is to "watch".

Chair Shay requested comments from the public or Subcommittee.

Ms. Kelsch stated that she is in favor of this bill.

Ms. Klein stated that she was also in favor of this bill.

Chair Shay expressed his concern for the bill regarding sodomy as sexual conduct. He would like to ask the author to amend this section to make it clearer that additional elements are needed to make sodomy a crime; sodomy is not a crime in itself.

No further comments received.

Motion: Noel Kelsch moved to support and send letter to the author of Assembly Bill 2078.

Second: Sandra Klein

**Vote: Motion to support and send letter to the author of Assembly Bill 2078. Passed 4:0.**

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein	X		
Timothy Martinez	X		
Garry Shay	X		

**AB 2138, Licensing Boards: Denial of Application: Criminal Conviction:**

This bill would deny an application for supervision of revocation to criminal conviction. The existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee or applicant if they have been convicted of a crime. The bill raises the provisions by only denying, revoking, or suspending a license if the applicant is currently incarcerated or if the crime occurred within the last 5 years, except for violent felonies and directly related to the qualifications of the profession. Staff recommends to “watch”.

Chair Shay requested comments from the Subcommittee.

Chair Shay stated that he did not agree with the provision that says, “A board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant’s criminal history.” He suggests that the author is may be confusing the idea of self-incrimination rather than reporting facts. Boards should be able to ask about criminal history if an individual is applying for a professional license.

Nancy Gaytan stated that currently, the DHCC can deny licensure to an applicant who does not disclose any criminal convictions.

Jason Hurtado, Department of Consumer Affairs (DCA) Legal Counsel for the DHCC, suggested that this bill does not prevent the board from obtaining criminal records by other means.

Chair Shay stated that criminal history can be obtained by other means, but it will most likely raise costs for the board to obtain such information.

JoAnn Galliano stated that there are several suspect statements throughout the bill. Section 4 of the bill stated that a probation term can only be two years or less. Additionally, in §481 it states each board shall develop criteria to determine whether a crime is directly or adversely related to the qualifications, functions, or duties of the business or profession the board regulates, and there is a list of criteria the board must go through to determine the outcome of licensure. She stated that it appears to make the board the judge and jury.

No further comments received.

Motion: Sandra Klein moved to oppose Assembly Bill 2138.  
Second: Noel Kelsch

Chair Shay requested comments from the public or the Subcommittee.  
No further comments received.

***Vote: Motion to oppose Assembly Bill 2138. passed 4:0.***

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein	X		
Timothy Martinez	X		
Garry Shay	X		

**SB 707, Medi-Cal: Denti-Cal Advisory Group.**

This bill establishes the Denti-Cal Advisory Group in the Department of Healthcare Services. CDHA supports the bill and its purpose is to study structure policy and priorities of Denti-Cal with the goal of raising the Denti-Cal utilization rate among eligible child beneficiaries to 60% or greater and improving the oral health of the Medi-Cal eligible population. In addition, it evaluates how Denti-Cal program policies align with and support the implementation of the state oral health plan. Staff recommendation is to support.

Ms. Kelsch stated that she would like the language amended that says there are eight members appointed by the governor to 10 members which includes one representative from the Dental Board of California (DBC) and one representative from DHCC.

Dr. Martinez clarified that there is no dental advisory committee at all working with the Denti-Cal program. Additionally, with an increase to 60% for eligible child beneficiaries, one must be very innovative, so the elected member must have a great understanding of how to increase access through unique programs.

Chair Shay requested comments from the public or the Subcommittee.

No further comments received.

Motion: Noel Kelsch moved to support and send letter to amend SB 707 to include one member from the DBC and one member from the DHCC.

Second: Timothy Martinez

***Vote: Motion to support and amend SB 707 to include one member from the DBC and one member from the DHCC. Passed 4:0.***

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Susan Klein	X		
Timothy Martinez	X		
Garry Shay	X		

**SB 762, Healing Arts License: License Activation Fee Waiver.**

This bill would waive the license renewal fee for inactive licenses for the sole purpose of providing voluntary, unpaid service to public agencies, not for profit agencies, institutions, or corporations that provides medical services to indigent patients in medically underserved or critical need population areas of the state. Staff recommendation is to “watch”.

Chair Shay requested comments from the public or the Subcommittee.

Ms. Kelsch stated that all consumers must be treated equally whether they are high or low income, and stated she disagrees with the language as it is written.

Chair Shay expressed his concern that the bill does not necessarily limit the licensees practice to the areas specified. It would be difficult to enforce this bill and track a licensees practice.

There were no further comments.

Motion: Noel Kelsch moved to oppose Senate Bill 762 as written.

Second: Timothy Martinez

***Vote: The motion to oppose Senate Bill 762 as written. Passed 4:0.***

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein	X		
Timothy Martinez	X		
Garry Shay	X		

**SB 984, State Boards and Commissions: Representation: Women.**

This bill requires that boards be comprised of at least 50% women. Staff recommends to “watch”.

Chair Shay requested comments from the public or the Subcommittee.

Chair Shay stated that recent legislation is recognizing the rights of transgender people and to use the term “women” is not sufficient in his opinion. He stated that the term “self-identified women” should be used instead.

There were no further comments.

Motion: Noel Kelsch moved to support and send letter to amend SB Senate Bill 984 to use the term “self-identified women” rather than “women”.

Second: Timothy Martinez

***Vote: Motion to support and amend Senate Bill 984 to use the term “self-identified women” rather than “women”. Passed 4:0.***

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein	X		
Timothy Martinez	X		
Garry Shay	X		

**SB 1148, Medi-Cal: Restorative Dental Services.**

This bill would expand the scope of benefits to allow the Denti-Cal provider the use of silver diamine fluoride (SDF) as a caries arresting agent after consultation with the beneficiary and obtains informed consent, and if the treatment is included as part of a comprehensive treatment plan. A RDH, RDHAP, RDHEF can use SDF as part of their treatments according to the current law.

Staff commented that the language in the bill is restrictive to prohibit hygienists from using it as a preventative and therapeutic agent to control caries. Staff recommendation is to oppose unless amended.

Chair Shay requested comments from the public or the Subcommittee.

Ms. Kelsch stated that this bill requires a comprehensive treatment plan, which an RDH in a public health setting and an RDHAP would not necessarily have, as it implies a patient should be seen by a doctor first to provide the comprehensive treatment plan. This contradicts the fact that an RDH in



a public health setting and RDHAPs are working in underserved areas where dentists are not readily available. Ms. Kelsch proposed sending a letter to the author which underlines how restrictive this bill is to hygienists and patients who require this type of preventative care.

Representative from CDA clarified that the purpose of this bill is to create a mechanism for dentists to use SDF as a restorative measure for caries rather than only using it for preventative measures. CDA does not believe that this bill restricts hygienists from using SDF as a preventative measure before a patient is seen by a dentist as it would be a separate billing code.

Ms. Galliano stated that this bill is specifically meant for reimbursement. So, if RDH and RDHAPs are currently allowed, by law, to use SDF for therapeutic purposes as well as the control of caries without the supervision of a dentist, RDH and RDHAPs should be able to bill the procedure, regardless if the patient uses private insurance or Denti-Cal. With this bill, which includes a comprehensive treatment plan, it creates a system where an RDH or RDHAP could not bill for the procedure unless there is a comprehensive treatment plan already in place.

Maureen Titus, CDHA, RDHAP, stated that this bill would essentially be withholding emergency care from patients in underserved areas. She continues that in her experience, it can take several months for a patient to be seen by a dentist in the public health setting. She felt very strongly that the author should be encouraged to change this bill.

There were no further comments.

Motion: Noel Kelsch moved to oppose SB 1148, Medi-Cal: Restorative Dental Services and send a letter to the author.

Second: Sandra Klein

***Vote: Motion to oppose SB 1148, Medi-Cal: Restorative Dental Services and send a letter to the author. Passed 4:0.***

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein	X		
Timothy Martinez	X		
Garry Shay	X		

Executive Officer Lum presented an **update on prior Legislative Bills of Interest to DHCC** with a chart of the bills and their status.

Chair Shay requested comments from the public or the Subcommittee.

No comments received.

6. Discussion and Possible Action, and Recommendation to the Full Committee to Amend 16 CCR, Division 11, § 1103 Definitions (To Update Reference to the Commission on Dental Accreditation’s Most Current Revision to Accreditation Standards for Dental Hygiene Educational Programs From 2015 to 2018)

Executive Officer Lum stated that this agenda item was a result of the November 2017 DHCC meeting.

The DHCC had approved to update these regulations to the current standards. At the time of the November 2017 DHCC meeting, it was presented that there would be an update that would go into effect as of February 2018. However, subsequent information indicated that there will be additional and new information coming from the Commission on Dental Accreditation (CODA) over the Summer of 2018. Staff recommendation is to postpone this agenda item until the next DHCC meeting.

Chair Shay requested comments from the public or the Subcommittee.

No comments received.

Motion: Noel Kelsch moved to postpone this agenda item until the next DHCC meeting.

Second: Sandra Klein

***Vote: Motion to postpone the Discussion and Possible Action, and Recommendation to the Full Committee to Amend 16 CCR, Division 11, § 1103 Definitions (To update Reference to the Commission on Dental Accreditation’s Most Current Revision to Accreditation Standards for Dental Hygiene Educational Programs From 2015 to 2018). Passed 4:0.***

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein	X		
Timothy Martinez	X		
Garry Shay	X		

## 7. Discussion and Possible Action, and Recommendation to the Full Committee to Adopt CCR, Title 16, Division 11, § 1105.5 Radiographic Decision-Making and Interim Therapeutic Restoration Course for RDH, RDHAP, and RDHEF

Executive Officer Lum stated that this regulation is not complete at this point. Staff recommendation is to postpone this agenda item until the next DHCC meeting.

Chair Shay requested comments from the public or the Subcommittee.

No comments received.

Motion: Noel Kelsch moved to postpone this agenda item until the next DHCC meeting.

Second: Timothy Martinez

***Vote: Motion to postpone the Discussion and Possible Action, and Recommendation to the Full Committee to Adopt CCR, Title 16, Division 11, § 1105.5 Radiographic Decision-Making and Interim Therapeutic Restoration Course for RDH, RDHAP, and RDHEF. Passed 4:0.***

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Sandra Klein	X		
Timothy Martinez	X		
Garry Shay	X		

## 8. Future Agenda Items

Chair Shay requested an explanation be provided with staff recommendations for future DHCC meetings.

Chair Shay requested comments from the public or the Subcommittee.

No comments received.

## 9. Adjournment

Chair Shay adjourned the Legislative and Regulatory Subcommittee meeting at **4:36 p.m.**